



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Margaret Greenidge

File: B-265979

Date: January 11, 1996

Margaret Greenidge for the protester.

Hal J. Perloff, Esq., Army Corps of Engineers, for the agency.

Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly rejected bid as nonresponsive where handwritten notation on the bid schedule that "yearly increases is based on 3% or COLA, whichever is greater" is subject to interpretation that protester failed to offer a firm, fixed-price bid.

DECISION

Margaret Greenidge protests the rejection of her bid as nonresponsive under invitation for bids (IFB) No. DACW35-95-B-0030, issued by the Army Corps of Engineers (Corps) to provide mailroom services at the Corps's Detroit District office. The protester alleges that the agency improperly rejected her low bid as nonresponsive.

We deny the protest.

The IFB, issued on June 23, 1995, contemplated the award of a fixed-price contract and solicited lump-sum bids for a base year with 4 option years. It included a bid schedule that contained five bid items and provided that bids would be evaluated for award by adding the total price for all the options to the total price for the base year.

Greenidge submitted the apparent low bid at \$203,102, but the firm placed the following handwritten notation at the bottom of the bid schedule: "Note: Yearly increases is based on 3% or COLA, whichever is greater." The reference to a "COLA" was not defined or explained in the bid. Thus, it is not clear if the COLA refers to a nationally recognized index or some index internal to the bidder. In any event, the contracting officer concluded that Greenidge's notation created uncertainty as to whether the option year prices were firm (each was approximately 3 percent higher than the preceding year price), or would vary if the undefined cost of living exceeded 3 percent for any option year due to inflation. Since the

contracting officer was unable to determine from the face of the bid that Greenidge had submitted firm, fixed prices as required by the IFB, Greenidge's bid was rejected as nonresponsive. This protest followed.

The protester insists that the notation on the bid schedule was simply an "explanatory statement" that a cost of living adjustment was already included in her bid prices as submitted. The protester also states that the notation was never intended to apply to any future increases in her bid prices. Greenidge further argues that the contracting officer was required to, but did not, seek clarification of the bid from Greenidge pursuant to Federal Acquisition Regulation (FAR) § 14.405-2(e).

Greenidge's bid was properly rejected as nonresponsive. We agree with the agency that by submitting a bid with the notation that the yearly increases were based on "3% or COLA, whichever is greater", Greenidge introduced doubt as to whether she was bound to perform the mailroom services at the option year prices listed on the bid schedule or whether she would seek an upward price adjustment from the agency based on the notation. Bid responsiveness requires an unequivocal offer to provide without exception exactly what is required at a firm, fixed price. See Southern Atlantic Servs., Inc., B-252419, June 2, 1993, 93-1 CPD ¶ 418. Here, the protester's bid is subject to the reasonable interpretation that it is not a firm, fixed price bid, thereby rendering it nonresponsive. M.A. Barr, Inc., B-189142, Aug. 3, 1977, 77-2 CPD ¶ 77.

Moreover, since only information available at bid opening may be considered in making a determination of responsiveness, Greenidge's explanation as to what she intended could not be considered. Roy McGinnis & Co., Inc., B-239710, Sept. 24, 1990, 90-2 CPD ¶ 251. Nor would it be proper for the contracting officer to seek clarification from the protester because a bidder is not permitted to clarify information affecting a material requirement--the bidder's price--after bid opening. See Basil Equip. Corp., B-237335, Feb. 13, 1990, 90-1 CPD ¶ 187.

Accordingly, the protest is denied.

Comptroller General
of the United States