



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Hutchinson Construction Services

File: B-274685

Date: November 4, 1996

Alan M. Grayson, Esq., and James S. DelSordo, Esq., Alan M. Grayson & Associates, for the protester.

Thomas C. Papson, Esq., McKenna & Cuneo, L.L.P., for Magnum, Inc., an intervenor.
Christopher M. Bellomy, Esq., Department of the Navy, for the agency.

Katherine I. Riback, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Bidder's failure to enter the entire solicitation number on Certificate of Procurement Integrity form does not render bid nonresponsive where the completed certificate was physically submitted with the bid and the project title and the procuring activity were identified on the preprinted legend on the top of the bidder's certificate.

DECISION

Hutchinson Construction Services protests the award of a contract to Magnum, Inc. under invitation for bids (IFB) No. N62472-96-B-0440, issued by the Department of the Navy for the construction of a hazardous waste handling facility at the Naval Base in Philadelphia, Pennsylvania. Hutchinson, the second low bidder, argues that the low bid submitted by Magnum, Inc. is nonresponsive because Magnum failed to properly execute the required Certificate of Procurement Integrity.

We deny the protest.

The IFB was issued on July 19, 1996. The IFB contained the full text of the Certificate of Procurement Integrity Clause, Federal Acquisition Regulation § 52.203-8. At bid opening on August 29, Magnum's bid was low and Magnum received the award. Hutchinson protests that Magnum's bid should be rejected as nonresponsive because on the space provided on the certificate for the solicitation number, Magnum inserted "96-B-0440," rather than the entire solicitation number.

The certification requirement of the Office of Federal Procurement Policy (OFPP) Act, as amended, 41 U.S.C. § 423(e) (1994), implemented in the Certificate of Procurement Integrity Clause, imposes substantial legal obligations and is thus a

material solicitation term which constitutes a matter of responsiveness. See Mid-East Contractors, Inc., 70 Comp. Gen. 383 (1991), 91-1 CPD ¶ 342. Where a bid's responsiveness is challenged, we view the bid to determine whether the bid represents an unequivocal commitment to perform without exception the specifications called for in the IFB so that the bidder will be bound to perform in accordance with all the material terms and specifications. Contech Constr. Co., B-241185, Oct. 1, 1990, 90-2 CPD ¶ 264.

Despite its failure to insert the entire solicitation number, it is clear that Magnum unequivocally committed itself to the certification requirements. As noted above, Magnum inserted the partial designation, "96-B-0440," on the space provided on the certificate for the solicitation number. The agency states that the only purpose of the segment of the solicitation number omitted by Magnum is to identify the contracting activity. However, both the title of the solicited project and the procuring activity, "HAZARDOUS WASTE HANDLING FACILITY, NAVAL BASE, PHILADELPHIA, PA," were already identified on Magnum's certificate on the preprinted legend at the top of the page. In addition, Magnum completed and physically submitted with its bid the actual certificate form furnished by the Navy for this IFB. Under these circumstances, there is sufficient evidence to identify the certificate with this particular IFB. Woodington Corp., B-244579.2, Oct. 29, 1991, 91-2 CPD ¶ 393.

The protest is denied.

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