

DECISION

26557

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE:

B-212790

DATE: October 20, 1983**MATTER OF:**

Aqua Marine Constructors

DIGEST:

A bid that omits a unit price is not rendered nonresponsive where the bid includes the total price for the item(s) in question (even if an estimated quantity is utilized in the IFB) since the unit price that the bidder is committed to is obtainable by dividing the estimated quantity into the total price for the item(s).

Aqua Marine Constructors (Aqua Marine) protests the prospective award to E.W. Eldridge, Inc. (Eldridge), pursuant to invitation for bids (IFB) No. DACW09-83-B-0032 issued by the Department of the Army, Corps of Engineers (Corps). The IFB solicited bids for restoration of the outer breakwater at Crescent City Harbor.

Eldridge completed the bidding schedule as follows:

<u>"Item No."</u>	<u>Description</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Estimated Amount</u>
1.	MOBILIZATION AND DEMOBILIZATION	1	JOB	L.S.	<u>204,000.00</u>
2.	'A' STONE	16,600	TON	<u>52.50</u>	<u>871,500.00</u>
3.	'B' STONE	3,800	TON	<u> </u>	<u>199,500.00</u>

ESTIMATED TOTAL AMOUNT \$1,275,000.00"

It is Aqua Marine's position that Eldridge's bid is nonresponsive since it failed to include a unit price for item No. 3 which required pricing. Moreover, Aqua Marine emphasizes that the quantities listed in the IFB were estimated amounts. In this circumstance, it is Aqua

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Marine's contention that if the unit price is not filled in, such cannot be corrected since an estimated price is not a binding price and to insert a unit price would convert a unit-price contract to a lump-sum contract. Also, Aqua Marine alleges that Eldridge's obligation to perform item No. 3 is questionable. Furthermore, Aqua Marine argues that the Corps may not correct Eldridge's bid since it is impossible to compute the price actually intended from the bid itself.

We do not agree. Defense Acquisition Regulation (DAR) § 2-405 (Defense Acquisition Circular No. 76-17, September 1, 1978) provides for a waiver of any minor informality or irregularity in a bid. Waiver is permitted if the informality or irregularity is:

". . . merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids, having no effect or merely a trivial or negligible effect on price, quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the standing of, or be otherwise prejudicial to, bidders. . . ."

We have held that omission of unit prices will not render a bid nonresponsive when the low bid can be evaluated on a basis common to all bids and that the omission under such circumstances constitutes a minor informality that may be waived or cured under DAR § 2-405. Mountain Engineering and Construction and Weisz and Sons, a Joint Venture, B-194472, August 27, 1979, 79-2 CPD 153.

More specifically, we have allowed the consideration of bids where the omitted unit prices may be ascertained by dividing the total item prices by the number of units shown in the bidding documents. See B-176425, October 18, 1972, and Worldwide Services, Incorporated, B-187600, January 6, 1977, 77-1 CPD 12. We permitted this calculation since we found that the requirement for unit prices was not material in spite of a specific requirement for such prices and a warning that failure to provide those prices would render the bid nonresponsive. B-176425, supra.

While the latter two cases did not involve estimated quantities, the principles applied in those cases, contrary to Aqua Marine's position, are the same for this matter. The use of estimated quantities is standard in this type of procurement since the exact quantities required cannot be determined until the job is completed. However, by entering the total amount for an estimated quantity, the bidder is committed to provide the actual quantity used at a specific unit price which is obtainable by dividing the estimated quantity into the total amount bid for the item.

Eldridge did commit itself to a specific unit price (\$52.50) for "B" Stone since it submitted a total price for the quantity stated in the IFB's bidding schedule. In this circumstance, there can be no opportunity for Eldridge to subsequently allege mistake concerning the omission of the unit price for "B" Stone or to manipulate the situation in any way to change the contract from a unit-price basis to a lump-sum basis. Therefore, Eldridge's failure to specifically insert the unit price is immaterial and does not render its bid nonresponsive. The Corps may waive Eldridge's omission as a minor informality under DAR § 2-405, supra, and consider Eldridge's bid responsive.

Aqua Marine's protest is denied.

for Milton J. Saylor
for Comptroller General
of the United States