

**DECISION**

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

*26768*

**FILE:** B-212448

**DATE:** November 15, 1983

**MATTER OF:** Potomac Iron Works, Inc.

**DIGEST:**

Agency rejection of low bid on basis of suspected mistake was reasonable despite bidder's assertion that no error was made, where the bid in question is substantially below the government estimate, bidder did not explain factors raised by agency during verification and it is clear that bidder erred in interpreting specifications.

Potomac Iron Works, Inc., protests the rejection of its bid for the construction of an oil spill containment boom system under invitation for bids (IFB) No. N62472-83-B-1614, issued by the Naval Facilities Engineering Command, Davisville, Rhode Island.

Eight bids were received and opened on April 7. The four lowest bids were:

American Marine, Inc.	\$ 876,810.00
Potomac Iron Works, Inc.	\$ 887,480.00
Intertrade Industries	\$1,233,950.00
Offshore Devices	\$1,506,724.50

(Government estimate - \$1,478,350.00)

The Navy rejected American Marine, Inc.'s bid as nonresponsive for failure to comply with the technical requirements of the solicitation.

Because Potomac's bid was 40 percent below the government estimate and 28 percent lower than the next low bid, the contracting officer suspected a mistake. Thus, the Navy, by letter dated April 13, requested Potomac to review its bid for a possible mistake and to confirm its bid, or in the event the bidder found a mistake, to either request permission to withdraw or correct the bid. In response, Potomac listed its major suppliers, as well as its estimated quantities and cost of the materials

*027169*

necessary to fabricate the boom system, and stated that it found no mistake and that its bid price was firm.

Concerned that the system could not be supplied at the price bid, the Navy met with Potomac and listed the areas where it suspected a mistake. These areas included Potomac's estimate of the amount of boom fabric required, its level-of-effort estimate and the type of elastomer coating to be used. At the meeting, the Navy reports that it raised additional areas of concern, including its belief that Potomac's proposed repair kit container would not comply with the specifications and its view that the packing proposed by Potomac would not protect the boom system in shipment. Although Potomac still insisted that its bid was not the result of a mistake, the agency, based on a comparison of Potomac's prices with the government estimate and the other bids as well as on other "clear indications of significant error," decided to reject Potomac's bid and make award to the next low bidder.

Potomac explains here that its price was low, in part, because the elastomer supplier used by all the bidders misread the specification requirement for elastomer coating thickness over the boom to be 0.03 inch on each side of the fabric, while it reads the specification as requiring only a total coating thickness of 0.03 inch (0.015 inch on each side). This, says Potomac, resulted in a material cost of \$150,000 plus labor cost to be added to all the other bids. The protester also asserts that the requirement for packing the boom system was misinterpreted by all the other bidders, which allegedly added approximately \$130,000 to their prices.

The agency responds that the solicitation clearly requires an elastomer thickness of 0.03 inches on both sides of the fabric boom and that it is the protester who has misinterpreted the specifications. The Navy states that in view of Potomac's misinterpretation of the elastomer requirement as well as the other matters (including the packing requirement) raised during the earlier communication with the protester, rejection of the bid was proper. We agree with the Navy.

Where a contracting officer suspects there is an error in a bid the regulations require that the contracting officer contact the bidder, call attention to the suspected errors and request verification of the bid. Defense Acquisition Regulation § 2-406.3(e)(1). In such cases, where it is apparent that an error has been made even

B-212448

though the bidder denies it, the bidder may not remain in contention for award--rather the bid must be rejected. 51 Comp. Gen. 498 (1972); KenCom, Inc., B-200871, October 5, 1981, 81-2 CPD 275.

Here, we think it is clear that Potomac erred in its interpretation of specification requirement for elastomer coating thickness. Paragraph 3.4.9.1 of the technical specification provides:

"3.4.9.1 Thickness. The elastomer thickness shall be as follows:

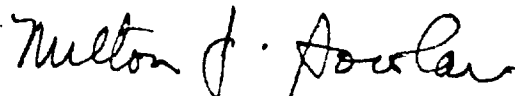
- (a) 0.06 inches over flotation ballast and tension members.
- (b) 0.03 inches over remaining area."

Potomac interprets this provision to mean that 0.015 inch of elastomer coating are required on each side of the fabric for a total thickness of 0.03 inch. This interpretation, however, is unreasonable. Paragraph 3.4.9.1 refers only to elastomer thickness as opposed to the total thickness of the coated fabric. Both sides of the fabric boom are exposed to seawater, both sides are to be coated, and the specified thickness is to be .03 inches. We think it would be contrary to common practice and common understanding to read the specification as permitting the thickness of the coating on each side to be half of that stated.

With respect to the packaging of the boom, Potomac offers no explanation for its assertion that all other bidders and the Navy misinterpreted the specifications. Therefore, on this record, we cannot conclude that there is any merit to this allegation.

Since it appears that the protester has indeed misinterpreted the specifications, since the protester's price was so significantly below what would be a reasonable price for the required work, and since the agency had significant doubts about Potomac's understanding of what was required with respect to the boom packaging and repair kits, none of which has been adequately explained by the protester, we think the Navy had a reasonable basis for rejecting the bid on the basis that the bidder made a mistake.

We deny the protest.



Acting Comptroller General  
of the United States