

Goddard



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: NJS Development Corporation

File: B-230871

Date: July 18, 1988

DIGEST

An ambiguity as to the low bidder's intended price does not render the bid nonresponsive or otherwise unacceptable where the bid would be low by a significant margin under the least favorable interpretation. The intended price may be verified after bid opening.

DECISION

NJS Development Corporation protests the award of a contract to RCR General Contractors, Inc., under invitation for bids (IFB) No. N62474-86-B-0253 issued by the Naval Facilities Engineering Command for the construction of MCON Project P-459, a multi-purpose range complex at the Marine Corps Air Ground Combat Center, Twenty-nine Palms, California. NJS asserts that RCR's bid is ambiguous.

We deny the protest.

NJS contends that RCR's bid is ambiguous and should be rejected as nonresponsive because the bid documents contain discrepancies, and RCR's bid price cannot be positively determined. RCR submitted an original and two copies of its bid as required by the solicitation. RCR had written in the bid schedule prices not only on the bid bearing an authorized original signature, but also on the two photocopies. The contracting officer designated the bid with the original signature as the original bid and the other two bids as copies. RCR's original bid contained entries of \$1,898,000, for base bid item 1, \$3,039,000 for additive bid item 1A, \$144,000 for additive bid item 1B and \$82,000 for additive item 1C. Of RCR's two bid copies, one had the same price entries as those on the original bid, but the other copy varied by showing an entry of \$1,890,000 for base bid item 1.

NJS submitted a bid of \$2,091,935 for base bid item 1, \$204,695 for additive bid item 1A, \$86,520 for additive bid item 1B, and \$65,835 for additive bid item 1C.

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Paragraph 22 of the IFB's instructions to bidders provides that when the total of the base bid item and any additive item exceeds the control amount, (that is, the amount of funds available) that additive bid item "shall be skipped and the next subsequent additive bid item in a lower amount shall be added." The control amount was set at \$2,204,000, which was exceeded by all bids for the base bid item plus additive item 1A. In accordance with paragraph 22, the contracting officer skipped additive bid item 1A. RCR's bid for base bid item 1 plus additive bid items 1B and 1C was \$2,124,000, which was less than the control amount. NJS' bid for the same bid items was \$2,244,290, which was higher than RCR's bid and the control amount. On March 25, 1988, the day after bid opening, RCR submitted bid verification including bid sheets and an affidavit which indicated that its intended bid for the base bid item was \$1,898,000, and its intended bid for additive bid item 1A was \$339,000.

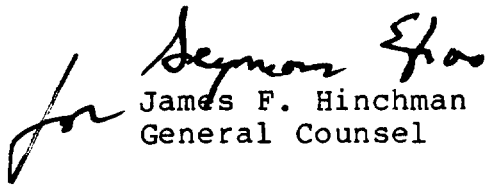
NJS asserts that the ambiguity as to RCR's intended bid is evident from the Navy's bid abstract on which RCR's base bid item 1 was first entered as \$1,890,000 then rewritten as \$1,898,000, and additive bid item 1A was originally entered as \$3,039 then rewritten as \$3,039,000. NJS further contends that on one copy of RCR's bid, additive bid item 1A could be read as \$30,090.

Our review of the original and two copies of RCR's bid shows that RCR entered a bid in the amount of \$3,039,000 on all three copies for additive bid item 1A. It appears that the contracting officer suspected a mistake in this item, as the government's estimate was \$185,000 and the range of other bids was from \$129,000 to \$325,403. Apparently confused by the excessive bid for additive bid item 1A and prior to confirming RCR's intended bid, which RCR stated was \$339,000, the contracting officer entered the amount of \$3,039 on the bid abstract. However, additive bid item 1A was not evaluated by the contracting officer because all of the bids exceeded the control amount when this additive was included. This is consistent with the principle that under a solicitation which includes additives, bids must be evaluated only on the basis of the work actually awarded. Rocky Ridge Contractors, Inc., B-224862, Dec. 19, 1986, 86-2 CPD ¶ 691. Accordingly, RCR's mistake under additive bid item 1A is of no consequence.

There is a clerical error in RCR's base bid item 1 since the original and one copy of RCR's bid state \$1,898,000 and the other copy states \$1,890,000. However, this ambiguity as to RCR's price does not, by itself, render the bid nonresponsive or otherwise unacceptable. Energy Maintenance Corp., Turbine Engine Service Corp., 64 Comp. Gen. 425 (1985), 85-1 CPD ¶ 341. A bid which is ambiguous as to price need not be

rejected if it is low under all reasonable interpretations. Central Mechanical Construction, Inc., B-220595, 85-2 CPD ¶ 730; Vrooman Constructors, Inc., B-218610, Oct. 2, 1985, 85-2 CPD ¶ 369. Here, since RCR's bid would be low by a significant margin even under the least favorable interpretation, it was a matter which properly could be verified by RCR after bid opening. Energy Maintenance Corp., Turbine Engine Service Corp, 64 Comp. Gen. 425, supra. Since RCR has submitted its bid worksheets showing that the correct amount it intended to bid for item 1 was \$1,898,000, its bid, which is substantially lower than NJS', was properly accepted by the Navy.

The protest is denied.


James F. Hinchman
General Counsel