

Ms. Curcio



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Kumar Mechanical Inc.

File: B-240433

Date: November 13, 1990

Patricia A. Dyslin for the protester.
Thomas C. Komarek, Department of Labor, for the agency.
Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protest that agency improperly rejected protester's bid for failure to include a price for work that was not required by the solicitation is denied where reasonable reading of the solicitation indicates that the work was required.

DECISION

Kumar Mechanical Inc. protests the rejection of the bid it submitted in response to invitation for bids (IFB) No. 90-DDA-19-JC, issued by the Department of Labor for the installation of a kitchen exhaust system at the Hubert H. Humphrey Job Corps Center.

We deny the protest.

The IFB was issued on March 27, 1990, and requested bids to furnish and install a fire protection system, a kitchen exhaust system, and a steam heating and air ventilation system. Bidders were required to provide all labor, materials, equipment, and services necessary for the installation and completion of these systems. Section 15010 of the IFB, entitled "Supplementary Conditions for Mechanical Work," provided in part as follows:

"PERMITS AND FEES

Include 'Utility Availability Charges' along with fees, permits, etc. required in Article 3.7.1 General Conditions."

Bid opening was held on April 26, at which time six bids were submitted ranging in price from Kumar's low bid of \$51,000 to

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\$92,249. The architect-engineering (A-E) firm involved in the project on behalf of Labor estimated the cost of the work under the IFB at \$62,602. In reviewing Kumar's bid the A-E firm was concerned that because the bid was so much lower than the estimate, Kumar may not have included all the required costs in its bid. The A-E firm specifically questioned whether Kumar included in its bid a city water availability charge for a sprinkler system, which the A-E firm estimated would cost \$4,325. Accordingly, Kumar was requested to verify its bid.

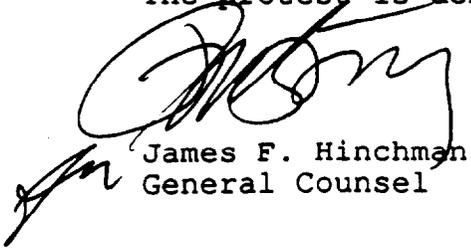
By letter dated May 2, Kumar verified that its bid price was \$51,000, but admitted that this price did not include utility availability charges. With regard to the language in section 15010 concerning such charges, Kumar explained that because there was no "Article 3.7.1 General Conditions" anywhere in the IFB, it concluded that there was no need to include the utility availability charges in its bid. Kumar agreed to perform the work which it believed was required by the bid documents for \$51,000, the price it bid.

On July 13, the contracting officer rejected Kumar's bid because it did not obligate Kumar to perform all the required work. On July 16, Kumar filed its protest with our Office. Kumar argues that since the General Conditions Article 3.7.1 was not included in the IFB, utility availability charges were not required to be included in its bid, and its bid thus was improperly rejected. In response, Labor agrees that the general provisions section of the IFB did not include an Article 3.7.1, but disputes Kumar's contention that the utility availability charges need not be included in the bid. According to the agency, the clause in the permits and fees provision of section 15010, referring to utility availability charges, stands alone, and the subsequent reference to Article 3.7.1 modifies only the immediately preceding phrase "fees, permits, etc." Thus, Labor argues, utility availability charges had to be included in the bid, without regard to any other "fees, permits, etc." that may have been listed in Article 3.7.1.

In our view, the agency's interpretation of the permits and fees provision in section 15010 is the only reasonable one. The specific reference to utility availability charges indicates that they are a separate item from the rest of the items listed in the provision, i.e., the "fees, permits, etc. required in Article 3.7.1 General Conditions." If, as Kumar argues, the utility charges were merely one of the items included in Article 3.7.1, there would be no reason to separately list them. The structure of the provision thus indicates that the reference to the utility availability charges was included in the clause because those charges are not included in Article 3.7.1. This interpretation, unlike

Kumar's, gives effect to the provision as a whole, without rendering it redundant. The absence of an Article 3.7.1 from the IFB thus did not eliminate the requirement that bidders include the utility availability charges in their bids. Since Kumar did not include those charges in its bid, Kumar did not agree to perform all the work required by the IFB. As a result, its bid was properly rejected. See Tark Int'l, B-228170.4, Jan. 13, 1988, 88-1 CPD ¶ 26.

The protest is denied.



James F. Hinchman
General Counsel