



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: C.B.C. Enterprises, Inc.

File: B-246235

Date: October 31, 1991

Gary G. Stevens, Esq., Bogle & Gates, for the protester.
Amy J. Brown, Esq., General Services Administration, for the agency.
Linda S. Lebowitz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposed awardee's failure to date its certificate of procurement integrity is properly waivable as a minor informality where the certification's applicability to the particular bid is clear.

DECISION

C.B.C. Enterprises, Inc. protests the proposed award of a contract to Forterra Corporation under invitation for bids (IFB) No. GS-03P-91-DXC-0038, issued by the General Services Administration for alterations and renovations to the federal courthouse in Norfolk, Virginia. C.B.C. argues that Forterra's bid should be rejected as nonresponsive because its signed certificate of procurement integrity was not dated.

We dismiss the protest.

The IFB, issued on August 13, 1991, contained the certificate of procurement integrity at Federal Acquisition Regulation (FAR) § 52.203-8, required by the Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C.A. § 423(e)(1) (West Supp. 1991). The IFB stated that failure of a bidder to submit a signed certificate with its bid would render its bid nonresponsive.

Ten bids were received by the amended bid opening date of October 8. Forterra, whose bid was dated October 8, 1991, was the apparent low bidder. While Forterra included with its bid a certificate of procurement integrity signed by its president, the corporate officer responsible for the preparation of its bid, and inserted the name of the firm,

the solicitation number, and a statement that Forterra's president was aware of no violations of the OFPP Act during the conduct of this procurement, the certificate was not dated.

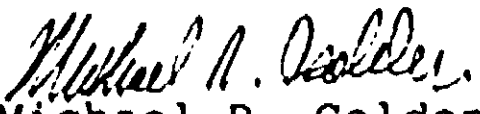
C.B.C., the apparent second low bidder, argues that Forterra's bid should be rejected as nonresponsive because its signed certificate of procurement integrity was not dated. C.B.C. maintains that Forterra's signed, but undated certificate is unenforceable because it leaves the time of the certification uncertain.

A responsive bid is one that unequivocally offers to provide the exact thing called for in the IFB, such that acceptance of the bid will bind the contractor in accordance with all the IFB's material terms and conditions. Ed A. Wilson, Inc., B-244634, July 12, 1991, 91-2 CPD ¶ 53; Mid-East Contractors, Inc., B-242435, Mar. 29, 1991, 70 Comp. Gen. ___, 91-1 CPD ¶ 342. The procurement integrity certification requirement is such a material term because it imposes substantial legal duties on the bidder, and without completion of the certificate, the bidder's commitment to the obligations is unclear. Id. Accordingly, failure to complete the certificate is a material deficiency requiring that the bid be rejected as nonresponsive. Id.; FAR § 14.404-2(m).

Here, while the IFB warned that a bid would be rejected as nonresponsive for failure of the bidder to sign the certificate of procurement integrity, the IFB did not state that a bid would be rejected if the bidder did not date the certificate. The bid shows that Forterra's president, the corporate officer in charge of preparing Forterra's bid for this procurement, signed the certificate, identifying IFB No. GS-03P-91-DXC-0038 as the solicitation for which the certificate was completed and for which Forterra was simultaneously submitting a bid. The bid was signed and dated by Forterra's president. Accordingly, we think the certification's applicability to the particular bid is clear. We thus conclude that Forterra's failure to date its signed certificate does not render its bid nonresponsive and this omission is properly waivable as a minor informality pursuant to FAR § 14.405. See, e.g., C Constr. Co., Inc., B-227640, Sept. 8, 1987, 87-2 CPD ¶ 226 (omission of date of execution of bid bond properly is waivable as minor informality where other information provided on form

establishes enforceability of bond); C. R. Hipp, Inc.,
B-212093, Oct. 4, 1983, 83-2 CPD ¶ 418 (failure to date bid
is waivable as minor informality where bid form elsewhere
establishes bidder's intent to be bound).

Accordingly, the protest is dismissed.


Michael R. Golden
Assistant General Counsel