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DECISION



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

*E. W. Winter
Proc II*

FILE: B-187964

DATE: January 13, 1977

MATTER OF: City Ambulance of Alabama, Inc.

DIGEST:

1. Completion after bid opening of various standard representations and certifications is proper since they do not relate to bid responsiveness and failure to submit them with bid may be waived as minor informality.
2. Failure of low bidder to list ambulances and equipment it would use in performing ambulance service contract did not render low bid nonresponsive as omission relates to responsibility of bidder rather than to responsiveness of bid, since procurement was for furnishing of services and not for furnishing ambulances and equipment, except as incident to furnishing services, and since bidder is legally obligated to furnish ambulances and equipment having acceptable minimum characteristics.

The Veterans Administration (VA) has requested an advance decision as to whether it can accept the apparent low bid for ambulance service under invitation for bids (IFB) No. 619-10-77 issued by the VA Hospital, Montgomery, Alabama. The low bidder, City Ambulance of Alabama (City), and the second low bidder, Haynes Ambulance Service (Haynes), failed to complete various certifications and representations in their bids. Both bidders failed to complete the "Equal Opportunity" and "Affiliation and Identifying Data" provisions on Standard Form 33, as well as the certifications in the Special Conditions of the IFB for "Affirmative Action Compliance Program," "Minority Business Enterprise," and "Employment of the Handicapped". In addition, City also left blank the "Contingent Fee" representation on Standard Form 33.

VA has recommended that it be permitted to waive Haynes' failure to complete the various certification and representations as minor informalities. We are of the opinion that the omissions on the part of both City and Haynes may be properly waived as minor informalities or irregularities under section 1-2.405 of the Federal Procurement Regulations (1964 ed.).

Our Office has consistently held that completion of the subject representations and certifications is not required to determine whether a bid meets the requirements of the specifications or other solicitation provisions and therefore does not affect responsiveness

B-187984

of the bid, with the result that the failure to complete such items may be waived or cured after bid opening. Bryan L. and F. B. Standley, B-186573, July 20, 1976, 76-2 CPD 60 and cases cited therein. Accordingly, post opening completion of the certifications would not be legally objectionable.

City also failed to comply with a Special Condition of the IFB requiring each bidder to submit with his bid a letter fully describing the make of vehicle, model and year which he is to use in performance of the contract; the location and telephone numbers of the establishment where calls are received and vehicles are available for dispatch; and information as to the metering device or method the bidder proposes to use in determining mileage. VA is of the opinion that this information goes to the substance of the bid and affects both quality and price. VA argues that if a bidder is allowed to submit the required information after bid opening, the effect would be to make an otherwise nonresponsive bid responsive and would permit a bidder to select both the vehicle and method of metering mileage after price has been established. VA recommends that the low bid be rejected as nonresponsive and award made to Haynes after it completes the certifications.

Whether the failure to supply the required letter is a matter of responsiveness or responsibility depends upon the impact of the information. To affect responsiveness, it must be of such consequence that failure to submit the information with the bid will materially alter the legal obligations that flow from any resultant contract. Control Power Systems, Incorporated, B-183603, September 16, 1975, 75-2 CPD 149. On the other hand, if the letter deals with information as to whether City has the ability to comply with the IFB requirements, it is a matter of responsibility, 52 Comp. Gen. 389 (1972). Information concerning responsibility may be supplied after bid opening until award. Securities Exchange Commission, B-184120, July 2, 1975, 75-2 CPD 9.

We note that the IFB requires any ambulance used in the performance of this contract to meet certain minimal requirements established by a Federal Specification. The solicitation also provides for the contractor to be paid on a per mile basis for trips beyond the city limits of Montgomery, Alabama. We believe that the requirement for listing the type of equipment to be used in performing services relates to the capacity and ability of prospective contractors to supply the required equipment, and thus is a matter of responsibility. The contract is for the furnishing

B-187984

of services and not for the furnishing of ambulances, except as incident to furnishing the services. The failure of City to list ambulances does not affect the contractor's obligation to furnish the service with equipment meeting certain minimum prescribed requirements. See 55 Comp. Gen. 396 (1973). Similarly, the failure to specify the method for determining mileage does not affect the Government's obligation to pay an additional amount for trips beyond the city limits.

Here, City unqualifiedly offered to meet all requirements for the service, including minimum requirements for equipment to be used in the service. Its bid must, therefore, be considered responsive.

P. J. K. 11
Deputy Comptroller General
of the United States