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DECISION



J. Chewby, PL-2
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-191390

DATE: July 26, 1978

MATTER OF: Hemet Valley Flying Service
Co., Inc. - Reconsideration

DIGEST:

Where bid does not contain minimum bid acceptance period required by IFB, bid must be rejected as nonresponsive even though agency could have awarded contract to bidder within the shorter, offered bid acceptance period since otherwise non-conforming bidder would have unfair advantage over other bidders.

Hemet Valley Flying Service Co., Inc. (Hemet Valley) of Hemet, California, has submitted a timely request for reconsideration of our previous decision B-191390, May 8, 1978, 78-1 CFD 344, which denied Hemet Valley's protest concerning the rejection of its bid. The bid was rejected because it provided a 20-day bid acceptance period instead of the 30-day period required by the invitation for bids (IFB).

In its request for reconsideration Hemet Valley contends that our prior decision did not address a primary argument made in connection with its protest. The argument is that a bid that fails to set forth the minimum acceptance period required by the IFB should not be held nonresponsive but should be considered responsive for the period set forth in the bid. Hemet Valley argues as follows:

"We are not advocating that bidders offering a shorter acceptance period be given an extra bite at the apple or, in fact, any advantage at all over their competitors. We do not ask your Office to rule that a deviating bidder can, as a matter of right, extend his bid acceptance period. We are simply asking your Office to hold that a bid is acceptable during the offered bid acceptance period."


Hemet Valley states that the necessary pre-award processing could have been accomplished and award made to Hemet Valley within its 20-day bid acceptance period.

In the prior decision, we pointed out that bid acceptance provisions are strictly enforced because a bidder may obtain an advantage over other bidders when it does not agree to the same minimum acceptance period required of and complied with by the other bidders." We then noted that the agency had indicated its need for a 30-day bid acceptance period, and that allowing Hemet Valley to extend its offered period from 20 to 30 days would be prejudicial to other bidders because Hemet Valley would thereby be given the option of deciding, after bid opening, "whether to have its bid rejected."

The reconsideration request is based on the premise that in fact the agency only needed a 20-day acceptance period and that it could have made award to Hemet Valley during the 20-day period after bid opening. We do not believe the record establishes that only a 20-day acceptance period was required. Nonetheless, even if that were the case, our conclusion would be no different, for even in that situation we believe other bidders would be prejudiced by permitting consideration of a bid which offers a shorter acceptance period than that mandated by the IFB. The reason is that the bidder submitting such a bid would be exposed to the uncertainties of the market place for a shorter period of time and would therefore be taking less risk than the other bidders.

Accordingly, we believe that, even where an agency could in fact make award in less time than the specified bid acceptance period, a bidder's failure to offer at at least that specified period must render the bid non-responsive. See Perry C. Herford, B-187666, December 6, 1976, 76-2 CPD 465; Miles Metal Corporation, 54 Comp. Gen. 750 (1975), 75-1 CPD 145; 48 Comp. Gen. 19 (1968), 46 Comp. Gen. 418 (1966).

The prior decision is affirmed.


Deputy Comptroller General
of the United States