

**DECISION**

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

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FILE: B-209800

DATE: August 23, 1983

MATTER OF: Bailey Controls Company

**DIGEST:**

1. Complainant's bid is nonresponsive where it does not include a price on an item which agency considered for award in accordance with the solicitation.
2. Complainant does not have the direct and substantial interest that is necessary to make it an interested party to object to award to another bidder where its bid is properly rejected as nonresponsive, no basis for resolicitation is found, and there is a third apparently acceptable bidder entitled to award.

Bailey Controls Company (Bailey) complains of the award of a contract to Westinghouse Electric Company (Westinghouse) under invitation for bids (IFB) No. 13359-PO-10 issued by the Arab Republic of Egypt, Egyptian Electric Authority (EEA), for a panels and controls system for a power station. Funds for this procurement are being provided to EEA by the Agency for International Development (AID) under a grant agreement. Bailey claims that its bid was improperly rejected as nonresponsive, and the Westinghouse bid was improperly accepted. Alternatively, Bailey requests cancellation and resolicitation of the requirement.

The complaint is denied in part and dismissed in part.

Although the Bailey bid was rejected for several reasons, we need discuss only the fact that Bailey's bid did not price item 6.1 of the solicitation's bidding schedule. Item 6.1, one of 10 items under item 6.0 (optional prices), required a lump-sum price

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for operational spare parts. In this regard, paragraph 17 of the bidding instructions provided that the lowest evaluated bid would be determined by adding the total system price (item 5.0) and the item 6.1 price. Under paragraph 18, EEA reserved the right to exercise any optional prices included in item 6.0, which, as mentioned above, includes item 6.1.

Bailey acknowledges that it did not price item 6.1. To excuse this failure, the firm points out that Westinghouse also did not meet the requirement, that it provided the price after bid opening and that the IFB permitted award to Bailey despite the failure to price that item because paragraphs 17 and 18 allegedly are ambiguous.

Initially, we note that the above paragraphs are not ambiguous but, as Bailey admits, gave EEA, as its interests dictated, the option to select a variety of item 6.0 options in addition to the critical item 5.0 base bid. Despite this, EEA chose to evaluate the low bidder as set forth in paragraph 17. No reasonable interpretation of the IFB could either justify Bailey's omission of an item 6.1 price or require award to Bailey merely because it was the low base bidder. Since EEA had the clear right to award based on a combination of items 5.0 and 6.1, the protester's bid was properly found to be nonresponsive. Lyon Shipyard, Inc., B-208978, September 27, 1982, 82-2 CPD 287. The fact that only item 5.0 prices were read at bid opening is irrelevant.

Bailey's assertion that Westinghouse did not price item 6.1 is incorrect since our copy of that bid plainly demonstrates that Westinghouse priced the item. Further, Bailey's submission of the omitted item 6.1 price after bid opening and after bids were exposed may not be allowed due to the adverse impact on the integrity of the competitive bidding system. Northeast Contracting Associates, Inc., B-211370, May 10, 1983, 83-1 CPD 500.

In view of the nonresponsiveness of the Bailey bid, Bailey is not eligible for an award. In view of our finding of no ambiguity in paragraphs 17 and 18, Bailey is not entitled to an opportunity to rebid. Because of this and the fact that there is another apparently acceptable bidder entitled to award, if Westinghouse were not entitled to the

award, the complainant does not have the direct and substantial interest for us to consider this complaint concerning the alleged lateness of the Westinghouse bid and Westinghouse's alleged failure to price the breakdown schedule for item 6.1. (The agency denies that either of these allegations has merit.) See Hydro-Clear Corporation, B-189486, February 7, 1978, 78-1 CPD 103; Bradley Construction, Inc., B-206152, January 24, 1983, 83-1 CPD 76; Association of Citizens from Alpine, Texas, B-211704, May 26, 1983, 83-1 CPD 569; GAO Public Notice, 40 Fed. Reg. 42406 (1975).

*Harry R. Van Cleave*  
for Comptroller General  
of the United States