



Comptroller General
of the United States

Washington, D.C. 20548

152453

Decision

Matter of: New Environment, Inc.

File: B-258060

Date: August 18, 1994

DECISION

New Environment, Inc. (NEI) protests the rejection of its bid as nonresponsive under Department of the Army invitation for bids (IFB) No. DAKF24-94-B-0013, to provide hazardous material training. NEI's bid was rejected for failure to offer the required 120 day bid acceptance period; the IFB stated "The bidder allows the following acceptance period:____," and NEI inserted "60" days in the space.

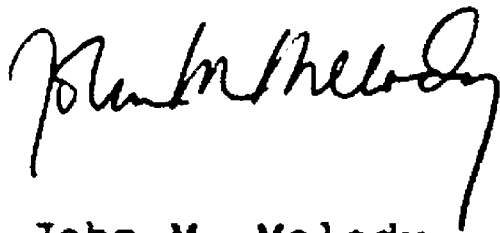
We dismiss the protest because bids that specify an acceptance period that is shorter than the minimum period expressly required by the solicitation are nonresponsive on their face. Thus, the protest fails to state a valid legal challenge to the agency's rejection of the protester's bid.

A minimum acceptance period in an IFB requires bidders to share the same business risks of leaving their bids open for acceptance by the government for the same amount of time. A bidder allowed to specify a shorter acceptance period would have an unfair advantage over its competitors by being able, on the one hand, to refuse the award after the bid acceptance period expires should the firm decide it no longer wants the award because of unanticipated cost increases, or, on the other hand, to extend the bid acceptance period after competing bids have been exposed if the firm wants the award. Sac & Fox Indus., Ltd., B-231873, Sept. 15, 1988, 88-2 CPD ¶ 250. Consequently, it is well-established that an IFB requirement that a bid remain available for acceptance by the government for a prescribed period of time is a material requirement, and a failure to comply with it cannot be waived or corrected after bid opening. See, e.g., Taylor Lumber & Treating, Inc., B-229715, Dec. 23, 1987, 87-2 CPD ¶ 625. This is the case even if the bid would provide savings to the government; we have long recognized that the public interest in maintaining

the integrity of the competitive bidding process outweighs any monetary benefit to be gained from waiving bidding deficiencies. Id.

NEI argues that it did not specify an acceptance period shorter than the 120 days required because, although it completed the acceptance period clause by inserting 60 days, this was intended to indicate 60 days in addition to the required 120 days. NEI maintains this interpretation of its bid is reasonable since the IFB specifically stated that bidders "may specify a longer acceptance period than the Government's minimum requirement" in the space provided. This argument is without merit. While bidders were free to specify a longer bid acceptance period than 120 days, it still had to be clear from their bids that at least the minimum period was being offered. NEI's bid was not clear in this regard; the manner in which the firm allegedly chose to specify a longer bid acceptance period left its bid subject to the interpretation that only a 60-day acceptance period was being offered. Indeed, given the language of the clause--"The bidder allows the following bid acceptance period"--we think it should have been clear that the number included in the space provided would be deemed to be the total number of days being offered. The fact that other language in the IFB permitted bidders to insert a longer period in the space did not warrant a different interpretation of the bid acceptance period clause.

The protest is dismissed.



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Assistant General Counsel