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Roberts
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DECISION



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

[Protest of Forest Service Contract Award]

FILE: B-199850

DATE: October 31, 1980

MATTER OF: Emmit A. Kendall

DIGEST:

1. Where "acres" is unit of work in both solicitation schedule line items, statement that bid is "not to be considered for less than all acres of work" is reasonably interpreted as "all or none" bid, notwithstanding bidder's alleged actual intent to the contrary.
2. Bidder's attempt to explain bid qualification statement after bid opening was properly rejected by agency and mistake in bid procedures are not applicable.

Mr. Emmit A. Kendall protests under Department of Agriculture Forest Service solicitation No. R3-80-81 which invited bids for two schedule line items of "Poor-Fain Thinning and Piling" of forested acreage in the Coconino National Forest. Since the solicitation allowed for separate awards of each line item, Kendall, who submitted the low bid for one of the line items, contends that he should have received an award for that item. The Forest Service, however, determined that qualifying language contained in Kendall's bid made it an "all or none" bid which therefore could only be accepted for both line items. Because Kendall's total price for both items exceeded the combined prices of two other bidders' individual line item bids, Kendall received no award. Kendall disputes the Forest Service's determination that his bid was submitted on an "all or none" basis stating that it was never his intention to bid in such a manner. However, for the reasons discussed below, we believe that the Forest Service made the proper determination in this circumstance.

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In this instant solicitation, section 10(c) of the Solicitation Instructions and Conditions reads as follows:

"(c) The Government may accept any item or group of items of any offer, unless the offeror qualifies his offer by specific limitations. * * * THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD OF ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY OFFERED AT THE UNIT PRICES OFFERED UNLESS THE OFFEROR SPECIFIES OTHERWISE IN HIS OFFER." (Emphasis added.)

It is clear from this language that the bidder may qualify the acceptance of its bid to an "all or none" quantity and that such a limitation is not contrary to the specifications. See General Fire Extinguisher Corporation, B-181796, November 22, 1974, 74-2 CPD 278; Minnesota Mining and Manufacturing Company, B-185456, May 13, 1976, 76-1 CPD 321. Moreover, the solicitation contains the following clause with blank spaces in which bidders could insert appropriate figures to indicate any bid qualification:

"Qualification of this bid by Bidder

"To protect himself from being obligated for more than he can accomplish, he may qualify his bid by completing the statement below. Bids containing any qualification other than as stated below will be considered nonresponsive. 'I do not wish to be considered for award of more than \$ _____ total dollars or _____ acres of work. I do not wish to be considered for less than \$ _____ total dollars or _____ acres of work.'"

In his bid Kendall inserted the word "All" in the final blank of the bid qualification clause so that the final sentence reads, in pertinent part: "I do not wish to be considered for less than * * * All acres of work." Since "acres" was the basic unit for which bid prices were solicited and submitted for both schedule line items, the Forest Service determined that Kendall was submitting his bid on the basis that it could not be considered for less than the total acreage in both line items, in other words, that Kendall bid "all or none."

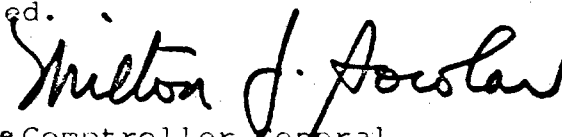
Kendall explains that by inserting the word "All" in the qualification clause he intended only to state that his bid should be considered for not less than all of the acreage

for which his bid was low. In our view, a plain reading of the qualification statement in Kendall's bid does not express this intent. Moreover, an intent to be bound for the quantities for which the bid is low is implicit in an unqualified bid and no additional statement or qualification is necessary to express such an intent. In other words, Kendall would have been considered for not less than all the acreage for which his bid was low if he would have left the solicitation's bid qualification statement blank, and it was only his filling the blank with the word "All" which altered this basic bid consideration scheme. We think that the only reasonable interpretation of Kendall's statement is that an "all or none" bid was submitted, and whether he actually intended to do so or not, therefore, Kendall offered no other basis for award. C. Martin Trucking, Inc., B-190277, March 10, 1978, 78-1 CPD 192.

We also believe that the Forest Service properly rejected Kendall's attempts to explain his bid qualification shortly after bid opening. In this connection, we note that a bidder may not explain the meaning of a bid after bids have been opened. The bidder's intentions must be determined from the contents of the bid itself at the time of bid opening. Aeroflow Industries, Inc., B-197628, June 9, 1980, 80-1 CPD 399. In this regard, Kendall contends that his inclusion of the word "All" in the qualification statement was essentially a mistake in his bid which he should have been allowed to correct after bid opening. However, since it is not apparent from the face of the Kendall bid that the word "All" was included in error, this is not a clerical mistake subject to post-bid opening correction under mistake in bid procedures. Federal Procurement Regulations § 1-2.406-2 (1964 ed.); Mil-Std Corporation, B-197610, March 7, 1980, 80-1 CPD 182.

Finally, Kendall alleges that he previously has had other bids improperly rejected by the Forest Service for reasons of late bid submission or the failure to acknowledge a solicitation amendment. To the extent that these allegations concern past procurements, they are not relevant to our decision in the instant protest; they also are untimely filed as protests in their own right. 4 C.F.R. § 20.2(a) (1980). In any event, Kendall has presented nothing in the record to indicate that these previous bid rejections were in error.

The protest is denied.



For the Comptroller General
of the United States