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

FILE: B-190277

DATE: March 10, 1978

MATTER OF: C. Martin Trucking, Inc.

DIGEST:

Statement in bidder's bid schedule that its "Total Bid of \$216,450.00 for Items #1 thru #4 is based upon award of items #1 thru #4" made bid an "all or none" bid and award on this basis proper since solicitation did not prohibit "all or none" bids.

By mail, from of September 28, 1977, from C. Martin Trucking, Inc. (Martin), as supplemented by a letter dated October 12, 1977, from its counsel, Martin protested the award of all items to another firm under invitation for bids (IFB) R6-5-77-40, issued by the Forest Service, United States Department of Agriculture.

The above invitation requested bids for the furnishing of four separate items of crushed rock and was issued on August 16, 1977, with bid opening scheduled for September 16, 1977. Four bids were received in response to the invitation. Martin was the low bidder for items 1 and 4, while West Company Construction Inc. (West) was the low bidder for items 2 and 3. However, West's bid schedule contained the following statement:

"Total Bid of \$216,450.00 for Items #1 thru #4 is based upon award of items #1 thru #4."

The record indicates that there was some question concerning the interpretation of the above

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statement. The contracting officer finally decided that it constituted an "all or none" bid. Award was made to West for all four items since its total bid was lower than any other possible combination of bids.

It is Martin's contention that the above statement did nothing more than give West's total for the four items and that since it (Martin) was the low responsive bidder on items 1 and 4, it should have received award for these two items. Martin further contends that even if West's bid was considered to be an "all or none bid," such a bid is contrary to the specifications and, therefore, unacceptable and should have been disallowed in its entirety.

In his report the contracting officer notes that Martin qualified its bid by the statement "plus sales tax if applicable" (which appeared below the total for each item). The contracting officer contends that because of this statement Martin's bid was not responsive, since the invitation contains the "Federal, State & local tax" clause which indicates that bid prices are to include these taxes.

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. UNLESS OTHERWISE PROVIDED IN THE SCHEDULE, OFFERS MAY BE SUBMITTED FOR ANY QUANTITIES LESS THAN THOSE SPECIFIED; AND THE GOVERNMENT RESERVES THE RIGHT TO MAKE AN AWARD ON 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.)

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It is clear from the language of the above provision that the bidder may limit 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 21, 1974, 74-2 CPD 278; Minnesota Mining and Manufacturing Company, B-185456, May 13, 1976, 76-1 CPD 321. We think the only reasonable interpretation of West's statement is that an "all or none" bid was intended. West's bid offered no other basis for award and whether it intended to do so or not, West submitted an "all or none" bid. Therefore, we are of the view that award to West on an "all or none" basis was proper.

In light of the above, the question of whether or not Martin's bid was responsive need not be answered.

Accordingly, Martin's protest is denied.

Deputy

R. J. Kettner
Comptroller General
of the United States