

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

FILE: B-185868

DATE: April 30, 1976

MATTER OF: International Signal & Control Corp.;
Stewart-Warner Corporation - Reconsideration**DIGEST:**

Reference in one of acknowledged amendments to IFB to page 6, Section "B" of IFB did not operate to incorporate by reference Table of Contents, on page 3, Section "B," and thereby incorporate by reference all invitation provisions. Similarly, other two acknowledged amendments contained no reference to page 3, Section "B," or Table of Contents. Accordingly, prior decision of March 16, 1976, concluding that bid which omitted pages of IFB containing material provisions is nonresponsive, notwithstanding it contained every page which required an entry, is affirmed.

By letter dated March 18, 1976, counsel for International Signal & Control Corp. (ISC), requests that we reconsider our decision B-185868, March 16, 1976, 55 Comp. Gen. ____, in which we provided the appropriate contracting officer of the Department of the Navy, Naval Electronic Systems Command (NAVALEX), with an advance decision that the low bid submitted by ISC under invitation for bids (IFB) No. N00039-75-B-0056 was nonresponsive and not acceptable for award.

The ISC bid included all those pages of the IFB upon which it was required to place an entry, but none of the remaining pages. A cover letter submitted with its bid stated in part:

"International Signal & Control Corporation (ISC) is pleased to submit herewith the original and one (1) copy of applicable documents in complete response to subject solicitation."

The bid also included page 1 of the IFB, Standard Form (SF) 33, evidencing the submission of the bid in compliance with the Solicitation Instructions and Conditions, the Schedule, and such other provisions, representations, certifications, and specifications as were

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incorporated by reference or listed in the schedule as attachments. See the "OFFER" and "SOLICITATION" portions of SF 33.

Considering specifically page 1 of SF 33, as well as the cover letter, we found nothing in the ISC bid which served to clearly incorporate by reference the material terms and conditions of the IFB (including section "L") omitted from the bid. Therefore, we concluded that the bid was nonresponsive and not acceptable for award.

In the request for reconsideration, counsel for ISC substantially restates the arguments (except for the matter discussed below) that were addressed in our earlier decision. Because of this restatement, counsel has presented no new factual information or demonstrated through argument or precedent any errors of law made.

The only new argument offered in ISC's request for reconsideration is as follows:

"The March 16, 1976, decision in this case also refers to the fact that in the prior case [49 Comp. Gen. 289 (1969)] the contractor submitted the page which contained the Table of Contents for the bid package. It states that International Signal did not do so. * * * The fact is that International Signal included in its bid as submitted all those required pages which acknowledged receipt of [the three] amendments to the IFB. These sheets specifically referred to and incorporated by reference the Table of Contents [page 3 of the IFB, Section 'B'] and the entire IFB package. Amendment No. 0002 to the IFB was acknowledged by International Signal, executed and returned; it referred to and incorporated Section B of the IFB -- The Table of Contents -- which in turn, of course, referred to the entire bid package, including Section L."

The language in amendment 0002 to which counsel apparently refers is: "Page 6, Section B, clause titled 'PREVIOUSLY SUPPLIED PARTS OR COMPONENTS (E-APR 73)', delete in its entirety."

But for this language from amendment 0002, there is no reference in any of the three amendments to page 3, Section "B" or

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the Table of Contents of the IFB. The above language from amendment 0002 merely refers to a different page of the IFB in Section "B," which also contains the Table of Contents. Thus, there is no basis to conclude that the Table of Contents was incorporated by reference by virtue of the amendment acknowledgements in the ISC bid. Also, the contents of the amendments did not impact on, and therefore did not identify, substantial portions of the IFB, including Section "L," to result in a finding that the omitted portions of the ISC bid were incorporated by reference. Compare Leasco Information Products, Inc., 53 Comp. Gen. 932 (1974), 74-1 CPD 314.

In view of the above, our decision is affirmed.


Deputy Comptroller General
of the United States