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DECISION

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

FILE: B-196456

DATE: February 13, 1980

MATTER OF: ~~A~~ Integrated Research & Information Systems

DIGEST: DL 903948

Bid was properly rejected as nonresponsive where IFB required bids on F.O.B. destination basis and bidder noted in bid that procuring agency shall pay shipping costs.

[Protest Against

Integrated Research & Information Systems (IRIS) has protested the rejection of its bid under invitation for bids No. F04689-79-B-0028 issued by the United States Air Force.

The IFB was for various types of automatic data processing equipment on a brand name or equal basis and required bidders to submit descriptive literature sufficient to allow the Air Force to determine the acceptability of any product other than the brand name.

Suprotester's

IRIS's bid was rejected because of insufficient descriptive literature and because IRIS attempted in its bid to shift the burden of the State sales tax and shipping costs to the Air Force.

The IFB noted that the items were to be delivered F.O.B. destination and incorporated by reference Defense Acquisition Regulation § 7-104.71 (1976 ed.) which reads, in pertinent part, as follows:

"Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved prior to the actual delivery (or 'constructive placement' as

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defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity * * *."

Additional Provision No. 2 of IRIS's bid stated "The Air Force shall pay shipping costs." IRIS contends it was improper to reject its bid for this reason since the shipping cost only amounts to \$200 in a \$24,000 procurement wherein it was low by \$4,000.

GAOLWS
~~We have~~ consistently taken the position that, to insure the benefits of free and open competition, it is mandatory that awards of contracts for required services or supplies be made upon the basis of advertised specifications submitted for competition, including delivery and other performance requirements, and that only inconsequential or immaterial defects or variations which do not affect the price, quantity or quality of the articles offered may be waived. By taking *(exception)* to the F.O.B. destination requirement, IRIS *has shifted* liability for the cost of transportation and for damage in transit of the goods from the bidder to the Government. See the discussion in Prestex Inc., B-191919, *(protester's)* September 18, 1978, 78-2 CPD 205. Therefore, IRIS's bid was properly rejected; the same reasoning also applies, insofar as cost is concerned, to ~~IRIS's~~ *protester's* attempt to shift the State sales tax burden from itself to the Air Force.

Because the bid was properly rejected ~~for the above~~ ~~reasons~~, it ~~is~~ unnecessary to resolve the issue involving the descriptive literature and the protest ~~is~~ denied.

R. J. K. Miller
 Deputy Comptroller General
 of the United States