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Feb 1980

**DECISION**



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

*[Protest of Department of Justice Contract Award]*

FILE: B-196593                      DATE: April 15, 1980

MATTER OF: Nexus Incorporated

**DIGEST:**

1. Where RFP for brand name or equal item sets forth performance features of product, these features, although not explicitly denominated salient characteristics of brand name product, constitute essential material requirements of Government.
2. Government may accept offered "equal" product which is not identical to brand name product but which appears, as result of prior testing, to meet essential requirements spelled out in solicitation.

Nexus Incorporated (Nexus) protests the award of a contract for 22,000 connectors to General Connector Corporation (General) under request for proposals (RFP) 151PI-0002, issued by the Department of Justice, Federal Prison Industries, Big Spring, Texas (FPI). The RFP solicited offers for a Nexus connector "or equal."

Nexus argues that General's offered part GC107J is not an "equal" product because it is not interchangeable or identical with the Nexus connector. Further, Nexus maintains that without its drawings and specifications, another offeror cannot supply an acceptable item.

While it may be true, as the protester states, that the parts are not identical, generally, when a brand name or equal purchase description is utilized, an offered product need not be identical to the brand name product. Rather, it need only meet the same general

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standards of performance as the brand name item. 49 Comp. Gen. 347, 350 (1969); 38 Comp. Gen. 380, 383 (1958). More specifically, the regulations require that the solicitation list those particular salient characteristics of the brand name product which an equal product must meet. Federal Procurement Regulations (FPR) 1-1.307-4(b) (1964 ed. amend. 85).

Here, although the RFP did not contain a listing explicitly denominated as "salient characteristics," it did state "Connector, Jack, Nexus P/N:AJ-107XL, per USAEC DWG. SC-D-937438, or equal, providing equal meets requirements of referenced drawing." The drawing was not of a connector, but of an electrical branched cord assembly of which the connector is a component part. The drawing stated in note 4:

"Supplied by Nexus, Inc. , \* \* \* or equal. The axial force required to disengage the jack from the mating Nexus, Inc. connector plug shall be between 8 to 12 pounds."

We have held that when the RFP, as here, sets forth "particular features" of the item, these features must be presumed to be material and essential to the needs of the Government. See Parkson Corporation, B-187101, February 11, 1977, 77-1 CPD 103. Here we think that the drawing reasonably conveyed to offerors that the Government was seeking a connector jack that would mate with the companion Nexus plug and withstand the specified axial force, but that was not otherwise identical to the brand name product.

FPI explains that in finding General's part acceptable it relied on a previous evaluation conducted by Federal Prison Industries at McNeil Island, Washington in connection with a different procurement. That evaluation involved a form, fit and function analysis on the connector and on the complete electrical cord assembly of which the connector is a component part. McNeil Island found that the General part satisfies the agency's needs and that General's part meets

the requirements of the drawing. The protester has not established that this evaluation and finding that the General product is functionally equivalent to the Nexus part is erroneous. Thus, on the record, we have no basis for objecting to the agency's determination.

The protest is denied.

A handwritten signature in cursive script that reads "Milton J. Arosola".

For the Comptroller General  
of the United States