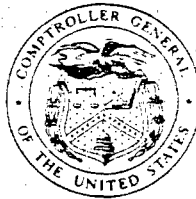


13987 PL-1
m. F. T. M. S. C.

DECISION



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

FILE: B-197628

DATE: June 9, 1980

MATTER OF:

Aeroflow Industries, Inc. DL6047 90

DIGEST:

[Protest Involving Bid Specifications]

Bid offering compressor designed for 140-175-p.s.i. pressure in response to IFB requirement of 175-200 p.s.i. was nonresponsive, but no corrective action is recommended, since contract has been fully performed.

Aeroflow Industries, Inc. (Aeroflow), protests the award of a contract to Hoffman Industries, Inc. (Hoffman) under invitation for bids (IFB) No. DTCG27-80-B-00120 issued by the Fifth Coast Guard District (Coast Guard), Portsmouth, Virginia. DL604792

The IFB solicited bids for one electric-powered air compressor capable of delivering 80 cfm (cubic feet per minute) at 175-200 p.s.i. (pounds per square inch). Aeroflow argues that the Hoffman bid should have been rejected as nonresponsive because (1) Hoffman failed to acknowledge amendment No. 0001 and (2) the Champion BR-25 model air compressor which Hoffman proposed to supply does not meet the IFB's air pressure requirement of 175-200 p.s.i.

The IFB as amended notified bidders that three brand name air compressor products--the Champion BR-25; the Emglo Model T; and the Quincy D5120--were "acceptable basic units" and that the requested air compressor must be "capable of delivering 80 cfm at 175-200 psi." When bids were opened, Hoffman's offer to supply a Champion BR-25 was determined to be low. The only other responsive bid was submitted by Aeroflow, which offered to supply the Quincy D5120.

Aeroflow contends that the Hoffman bid is non-responsive because the Champion BR-25 is designed only for a pressure range of 140-175 p.s.i. and not the 175-200-p.s.i. range required by the IFB. The Coast Guard,

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however, maintains that its specification was not intended to require a compressor capable of achieving a pressure of 200 p.s.i. Rather, all that was required was a compressor capable of performing at a pressure level of at least 175 p.s.i. The Coast Guard states that since the Champion BR-25 can achieve a pressure level of 175 p.s.i., Hoffman's bid was responsive.

Although the drafting of specifications to meet the Government's minimum needs and the determination whether the items offered meet the specifications are properly the functions of the procuring agency, our Office will determine whether the interpretation of a specification is reasonable where, as here, the procuring agency and the protester reach different interpretations of the same specification. Picker Corporation; Ohio-Nuclear, Inc., B-192565, January 19, 1979, 79-1 CPD 31.

From the descriptive literature submitted, as well as from various comments made by the parties involved, it is clear that it is common commercial practice for pressure levels to be stated in terms of a range such as 140-175 p.s.i. or 175-200 p.s.i. The specification here clearly states a range of 175-200 p.s.i. In light of this, we do not believe that the Coast Guard is correct in claiming that this specification simply means that any pressure level from 175 p.s.i. up to 200 p.s.i. would be adequate. We believe that the specification required an air compressor that would perform within the pressure range of 175 to 200 p.s.i. and would be capable of achieving a maximum pressure level of 200 p.s.i.

This conclusion is supported by the fact that, when initially responding to Aeroflow's protest, Hoffman explained in a letter to the Coast Guard that it would change the pressure switch setting from 140-175 p.s.i. to 175-200 p.s.i. in order to furnish the Champion BR-25 with "a control setting of 175 PSI-200 PSI." This indicates that it was generally understood that the specification called for a pressure range of 175-200 p.s.i.

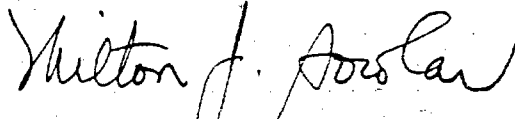
In this connection, we note that a bidder may not explain the meaning of its bid after bids have been opened. The bidder's intention to comply with all IFB specifications must be determined from the face of the

bid itself at the time of bid opening. United McGill Corporation and Lieb-Jackson, Inc., B-190418, February 10, 1978, 78-1 CPD 119. Therefore, Hoffman's explanation after bid opening of how the Champion BR-25 would be modified to comply with the IFB's pressure requirement cannot be used to make the bid responsive.

In view of the above, we believe that the Hoffman bid was nonresponsive. This conclusion renders academic Aeroflow's other contention that Hoffman failed to acknowledge amendment 0001 and was nonresponsive because of that. Therefore, we will not consider that contention.

Protest sustained.

However, since the compressor has been delivered and accepted by the Coast Guard, the contract is fully performed and, therefore, we are unable to recommend any corrective action.



Acting Comptroller General
of the United States