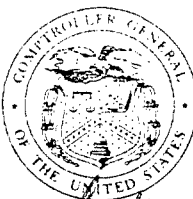


PL-1

13999

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES

WASHINGTON, D. C. 20548

[Protest Alleging Awarder's Bid Was Nonresponsive]

FILE: B-197202

DATE: June 11, 1980

MATTER OF: Bertan Associates, Inc. *DLG0480*

DIGEST:

1. Low bid, which takes no exceptions to specifications, offers to supply compliant equipment in accordance with all terms and conditions of IFB and is therefore responsive.
2. Whether equipment provided is compliant with specifications is matter of contract administration, which is responsibility of contracting agency, not GAO.

On September 27, 1979, the Federal Aviation Administration (FAA) issued invitation for bids (IFB) No. AC3A-9-0716 for the procurement of 43 dual-range, high-voltage power supplies in accordance with FAA specifications. *AC00030*

Bids were opened on December 11, 1979, with the following results:

Bertan Associates, Inc.	\$905 each
Semtech Corporation	\$805.26 each

In response to an FAA inquiry, Semtech Corporation (Semtech) verified its bid. FAA made an affirmative determination of Semtech's responsibility and awarded it the contract on December 18, 1979. *DLG048*

Bertan Associates, Inc. (Bertan), has protested the award contending Semtech's bid was nonresponsive because it was based on an unsatisfactory bid sample which was submitted to the FAA before issuance of the IFB. Based on this fact, Bertan contends it

010861

W2538

appears that Semtech intends to provide noncompliant equipment and if Bertan knew it could have supplied other than compliant equipment, Bertan could have submitted a lower bid.

In its bid Semtech took no exception to the specifications and therefore agrees to provide equipment in accordance with all the terms and conditions of the IFB. Accordingly, its bid as submitted is responsive as the FAA contends. 49 Comp. Gen. 553, 556 (1970). Moreover, whether the equipment eventually supplied by Semtech complies with FAA specifications is a matter of contract administration for the contracting agency and not GAO. Masoneilan Regulator Company, B-188900, February 24, 1978, 78-1 CPD 154.

The FAA asserts that the IFB did not require the submission of bid samples and none were submitted. It appears from the record that the items Bertan believed were bid samples were actually power supplies purchased by the FAA under a prior purchase order to Semtech. These power supplies were not used in evaluating the instant bids.

Finally, Bertan objects to the FAA making an award so quickly after bid opening when Bertan had advised FAA officials at bid opening that it was considering filing a protest. As noted above, bid opening was December 11, 1979, and Bertan protested by telex of December 14, 1979, to the FAA. The FAA received the telex on December 17, 1979, but the contracting officer did not receive the notice until after award had been made on December 18.

Given the 1-week lapse between bid opening and award, the FAA's stated urgent need for the equipment and a low responsive and responsible bidder available for award, we find nothing improper in the FAA making an expeditious award.

B-197202

3

In light of the above, the protest is denied.

Milton J. Forster

For the Comptroller General
of the United States