

15322

Lieberman

T

DECISION



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

FILE: B-199821

DATE: November 3, 1980

MATTER OF: Fiesta Corporation

[Protest Alleging Awarded's Bid Was Nonresponsive]
DIGEST:

Where solicitation invites bids on both F.O.B. origin basis and F.O.B. destination basis, or on either one, bid offering both which is non-responsive on F.O.B. origin basis for failure to provide required information necessary to evaluate transportation costs remains eligible for award on F.O.B. destination basis, in which respect it is low responsive bid.

Fiesta Corporation (Fiesta) protests the award of any contract to Abbott Products, Inc. (Abbott), under invitation for bids (IFB) No. DLA 700-80-B-1824 issued by the Defense Logistics Agency (DLA) for space heaters. Fiesta asserts that Abbott's bid is nonresponsive for failure to complete four sections of the IFB which require information necessary to the agency in order to evaluate bids as to transportation costs.

DLA asserts that while this omission may render Abbott's F.O.B. origin bid nonresponsive, Abbott's F.O.B. destination bid remains the low responsive bid and may be considered for award. We agree.

The IFB solicits the heaters for shipment to two different locations. Item 0001 is for shipment to New Cumberland, Pennsylvania. Item 0002 is for shipment to Ogden, Utah. The IFB specifically states that "offers are solicited on both F.O.B. origin and F.O.B. destination basis." The IFB also incorporates by reference Defense Acquisition Regulation (DAR) § 7-2003.24(d) (1976 ed.), which provides:

"Bids (Offers) are invited on the basis of both, f.o.b. origin and f.o.b. destination, and the Government will award on such basis

~~012678~~ 113671

as the Contracting Officer determines to be most advantageous to the Government. A bid (An offer) on the basis of f.o.b. origin only or f.o.b. destination only is acceptable, but will be evaluated only on the basis submitted."

[Fiesta and Abbott were the only two bidders; each submitted bids on the basis of both F.O.B. origin and F.O.B. destination.] Abbott's bid was \$155 per unit, F.O.B. origin, for both items. Abbott's bid, on an F.O.B. destination basis, was \$165 per unit for item 0001 and \$171.25 per unit for item 0002. Fiesta's bid was \$187.50 per unit, F.O.B. origin, for both items and \$191.50 per unit, F.O.B. destination, for both items.

[Abbott's bid did not respond to four sections of the IFB: BO5 "Guaranteed maximum shipping weights and dimensions;" BO6 "Freight classification description;" BO7 "Transportation transit privilege credits;" and BO8 "F.O.B. origin (with differentials)."]

The IFB specifically indicates that sections BO6, BO7 and BO8 only relate to "Bid A," the designation for F.O.B. origin. While no such specific limitation is present on the IFB with respect to section BO5, the guaranteed weights and dimensions clause, it is clear that this information also is germane only to the F.O.B. origin bid. DAR § 19-210 (1976 ed.) mandates inclusion of the clause "when shipping weights and dimensions are required to evaluate offers as to transportation costs." [Since an F.O.B. destination bid itself includes the cost of transportation, evaluation of transportation costs can only have relevance in the context of an F.O.B. origin bid.] See United States Coast Guard, B-200217, October 14, 1980, 80-2 CPD; General Fire Extinguisher Corporation, B-186954, November 15, 1976, 76-2 CPD 413.

[Assuming, arguendo, that Abbott's F.O.B. origin bid was nonresponsive for failure to provide guaranteed dimensions, this would not have any effect on its F.O.B. destination bid. Our Office has held that the inclusion of a nonresponsive alternative proposal does not preclude

consideration of other proposals submitted in the same bid which conform to the IFB requirements. P&N Construction Company, Inc., 56 Comp. Gen. 328, 333 (1977), 77-1 CPD 88; Mueller & Wilson, Inc., B-193008, March 7, 1979, 79-1 CPD 156.

(Here, it is clear that Abbott's F.O.B. destination bid for both items, which includes transportation costs, is not only lower than Fiesta's F.O.B. destination bid, but is also lower than Fiesta's F.O.B. origin bid for both items even before the addition of transportation costs.)

Accordingly, the protest is denied.

For the



Comptroller General
of the United States