

DECISION



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

Ship
21720

118230

FILE: B-206015

DATE: May 3, 1982

MATTER OF: Chemray Coatings Corporation

DIGEST:

Designation in bid schedule of responsive qualified products list product by manufacturer's product designation and a non-responsive product by superseded qualified products list test number with no means of determining from the bid which item was intended render bid nonresponsive.

Chemray Coatings Corporation (Chemray) protests award of a requirements contract to Enterprise Chemical Coatings Company (Enterprise) for the Forest Green camouflage paint portion of invitation for bids (IFB) No. 10PR-XMS-5083, issued by the General Services Administration (GSA). Enterprise was the low bidder and Chemray was the second low bidder for the Forest Green paint. Chemray contends that the bid of Enterprise is nonresponsive. We sustain the protest.

The IFB specified Forest Green paint manufactured in accordance with "Military Specification MIL-E-52798A (ME), dated May 21, 1976, and Amendment No. 2, dated March 3, 1980. Type I regular formulation. * * * QPL [Qualified Products List] Qualification required." All items were required to have been tested and approved for inclusion on QPL-52798-5, which superseded QPL-52798-4. Bidders were required to insert in the spaces provided in the schedule of items, the name of the manufacturer, the production designation, and the QPL test or qualification reference number of each product offered.

Both Chemray and Enterprise had products on the applicable QPL with individual test numbers and manufacturer's designations. The Type I Forest Green paint of Enterprise on the QPL bears test number TB141 and manufacturer's designation 900-G-002. In the schedule of items, Enterprise listed "900G002," the correct manufacturer's product designation, but an incorrect QPL

test number, TB12, rather than TB141. In addition, Enterprise initialed all nine product designation numbers in the schedule, including the one at issue.

Chemray alleges the bid of Enterprise is nonresponsive because the QPL test number listed was not the QPL test number on the current QPL and refers to a different product. Therefore, Chemray alleges that, because of the conflict, the Enterprise bid does not clearly evidence which product Enterprise proposes to supply.

The agency contends that Enterprise properly identified the product by manufacturer's designation and confirmed the designation by initialing. The product identified in the bid by production designation is listed on the applicable QPL and, this fact is viewed by the contracting officer as substantially complying with the letter and intent of the IFB. The agency alleges that the test number entered by Enterprise has no meaning in connection with QPL-52798-5 and concludes that no material ambiguity is created by the insertion of a "meaningless" test number. Therefore, the citation of the incorrect QPL test number is waivable as a minor informality.

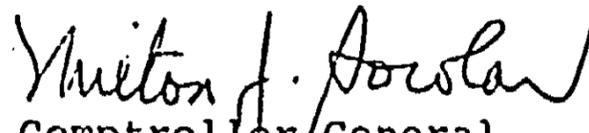
Although, as alleged by GSA, the QPL test number (TB12) inserted by Enterprise in the bid schedule has no meaning in connection with QPL-52798-5, the number is not meaningless. It is the Government laboratory number given to the sample of Forest Green paint designated by Enterprise as product GA2-011 on the superseded QPL. In Chemray Coatings Corporation, B-201873, August 17, 1981, 81-2 CPD 146, involving a prior solicitation for the same paint, Enterprise offered its product GA2-011, TB12, on QPL 52798-4. The solicitation there called for paint in accordance with the identical amended military specification in the instant IFB and QPL52798-5, which had not been formally issued, but under which bidders had received new qualification numbers. There, we held that the paint offered by Enterprise differed materially from the paint for which the solicitation called, and we held that the bid was nonresponsive.

In the present instance, Enterprise has offered by production designation a paint which is responsive to the solicitation, but, by QPL test number, a paint which is nonresponsive with no means of determining from the bid which product is being offered. Therefore, the bid is ambiguous and nonresponsive. Lektro Incorporated, B-202212, June 15, 1981, 81-1 CPD 484.

We do not subscribe to GSA's view that Enterprise's initialing of the Forest Green product designation overrides the accompanying incorrect test number. The solicitation, paragraph 2(b) of standard form 33-A, provides only for initialing of erasures or other changes. As mentioned above, in the bid schedule, Enterprise initialed all production designations even though only one of the nine designations, not the Forest Green paint designation, appears to have been changed, and all product designations are correct. On the pricing portion of the schedule, only changed unit prices were initialed. Therefore, there does not appear to be a consistent pattern for initialing an item, and the bid does not show clearly the purpose of such initialing.

The contract is for requirements from February 1, 1982, to January 31, 1983, but was not awarded until on or about March 5, 1982. Since only about 1 month of performance has occurred, we recommend that the agency consider the feasibility of terminating the contract for Forest Green paint for the convenience of the Government and awarding the contract to Chemray, if Chemray is otherwise eligible for award.

We sustain the protest.



Acting Comptroller General
of the United States