

DECISION

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

FILE: B-208071**DATE:** October 19, 1982**MATTER OF:** Sound Truck Equipment, Inc.**DIGEST:**

When bidder fails to provide evidence of compliance with 13 out of 17 salient characteristics in a brand name or equal specification, bid may properly be rejected even though it is low.

Sound Truck Equipment, Inc. protests the award of a \$25,024 contract for five steel service truck bodies to Utility Equipment Co., Inc. under solicitation No. R6-9-82-39, issued by the Forest Service, Department of Agriculture. The equipment is to be used in the Olympic National Forest. We deny the protest.

The protester alleges that the agency incorrectly determined that four out of five bids submitted were non-responsive because they failed to conform to the brand name or equal clause of the solicitation. This clause requires bidders who offer a substitute for the brand name equipment to submit evidence that their product possesses the salient characteristics of the equipment specified. Federal Procurement Regulations § 1-1.307-7 (1964 ed. amend. 117).

The solicitation in question originally listed Service Manufacturing Company truck bodies by model number, and, by amendment, the Forest Service specified 17 characteristics to be met:

1. Minimum 29-31 inch floor to top height;
2. 18 inch deep compartments;
3. 52-60 inch floor width;
4. 88-96 inch total width;
5. 12-gauge diamond tread floor;
6. 20-gauge double-panel doors;
7. 16-gauge exterior;

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8. 14-gauge, diamond plate top exterior surface;
9. 18-gauge interior panels;
10. 14-gauge, minimum 11 inch high tailgate;
11. 12-gauge diamond plate bumper;
12. 12-gauge crossmembers;
13. vise bracket;
14. 500 lb. capacity ladder rack;
15. specific electrical system;
16. exterior painting; and
17. 5/16 inch door hinges.

Sound Truck Equipment listed Morrison truck bodies as the "equal" product and submitted Morrison literature describing the equipment with its acknowledgment of the amendment. The firm argues that it took no exception to any of the specifications, and contends that any of the lowest bidders could have supplied truck bodies "so close to the specifications that * * *[they] could have been used with no problem."

The Forest Service, however, found that the Morrison truck bodies conformed to only items 2, 3, 4, and 16 of the specified characteristics. The descriptive literature provided with the bid showed that item 1 would not be met, as the height of the Morrison product was 27-3/4 inches from floor to top. More importantly, the literature gave no indication of whether the gauges for the Morrison truck bodies were equivalent to those specified for items 5 through 12. Further, no mention was made of item 13; item 14 was listed as optional; item 15, the electrical system, was not specified; and no mention was made of door hinge diameters as required under item 17.

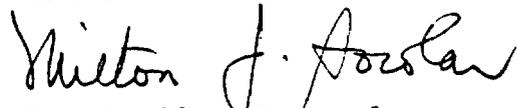
Although Sound Truck Equipment's bid of \$14,262 was the lowest of the five submitted and was nearly \$11,000 below the awardee's, the record clearly indicates the following:

1. Sound Truck Equipment's truck bodies could be determined to meet only four out of 17 specifications;
2. Of the three other bids deemed nonresponsive, one met seven specifications, one met four specifications, and one met none;
3. The awardee's bid, although the highest, was for the brand name equipment, and the Forest Service found that it met all 17 specifications.

We have held that the burden of providing the information necessary to permit a finding of responsiveness rests with the bidder. Sutron Corporation, B-205082, January 29, 1982, 82-1 CPD 69. In brand name or equal procurements, when salient characteristics are listed in terms of precise performance standards or design features, the "equal" product must meet those requirements precisely. Squibb-Vitatek, Inc., B-205306, July 27, 1982, 82-2 CPD 81. Since Sound Truck Equipment failed to provide sufficient information to enable the Forest Service to determine whether it met the majority of the specifications, we find that the agency properly rejected its bid despite the price difference between it and Utility Equipment Co.'s bid.

To the extent that Sound Truck Equipment alleges that the Forest Service's specifications were unduly restrictive, the brand name or equal requirement and the 17 salient characteristics were apparent on the face of the solicitation and, under our Bid Protest Procedures, any protest on this basis is, of course, untimely, since it was not filed before bid opening. See 4 C.F.R. § 21.2 (1982).

The protest is summarily denied.



Acting Comptroller General
of the United States