

DECISION



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

FILE: B-211211

DATE: June 20, 1983

MATTER OF: Paulmar Inc.

DIGEST:

1. Rejection of bid which failed at least in one respect to meet salient characteristics required by brand name or equal IFB was proper.
2. Since bid was nonresponsive vis-a-vis the IFB, fact that it was lowest in price and offered equipment that may have been acceptable under previous solicitation is irrelevant.
3. Protest against contracting agency's choice of salient characteristics in brand name or equal IFB must be filed before bid opening to be timely.

Paulmar Inc. protests the rejection of its bid as nonresponsive to invitation for bids (IFB) No. DAAG08-83-B-0162 issued by the Sacramento Army Depot.

We deny the protest in part and dismiss it in part.

The IFB requested bids on an aggregate basis for a film previewer and eight film inspection machines. The IFB specified Research Technology, Inc., equipment or equal and listed certain required salient characteristics. The brand name or equal clause in the IFB provided that bids offering equal products will be considered for award if the products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics referenced in the IFB.

One of the salient characteristics in the IFB required a three-motor transport system. Paulmar admits that the system it offered is a two-motor

rather than a three-motor system. Although the contracting agency found additional deviations from the salient characteristics, which deviations Paulmar disputes and contends it should have been allowed to clarify after bid opening, these will not be considered because Paulmar's bid could be rejected solely on the basis of the deviation from the motor requirement. A. A. Lasher, Inc., B-193932, March 14, 1979, 79-1 CPD 182.

We have held that bids offering "equal" products must conform to the salient characteristics listed in the IFB in order to be regarded as responsive. A. A. Lasher, Inc., supra. A nonresponsive bid must be rejected even if the offered items function as well as the brand name units and satisfy the intent of the specifications. A. A. Lasher, Inc., supra. Therefore, the rejection of Paulmar's bid, which failed at least in one respect to meet the salient characteristics required by the IFB, was proper. A. A. Lasher, Inc., supra.

Paulmar suggests that it should receive the award because it is the low bidder and the bid is for the same kind of equipment previously purchased by the contracting office. However, since the bid was nonresponsive vis-a-vis the IFB, the fact that it was lowest in price and offered equipment that may have been acceptable under a previous solicitation is irrelevant. Johns Holding Co., B-210237, May 31, 1983, 83-1 CPD ____.

Paulmar contends that the salient characteristics were restrictive of competition. A protest against a contracting agency's choice of salient characteristics must be filed before bid opening to be timely. 4 C.F.R. § 21.2(b)(1) (1983); Military Services of Monterey, B-207704, August 24, 1982, 82-2 CPD 175.

for 
Comptroller General
of the United States