

**DECISION**

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

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**FILE:** B-212343**DATE:** October 12, 1983**MATTER OF:** Wright Tool Company**DIGEST:**

1. A bid that contains unsolicited part numbers must be rejected as nonresponsive unless either it contains an express statement that the designated parts conform to the specifications, or data available to the contracting officer before bid opening demonstrates that the parts conform.
2. An improper award in one or more procurements does not justify repetition of the same error.

Wright Tool Company protests the rejection of its bid for hand tools under solicitation No. FEN-SP-A5129-A-4-4-83 issued by the General Services Administration (GSA). Wright asserts that the contracting officer improperly determined the firm's bid to be nonresponsive.

We deny the protest.

The solicitation sought bids for 11 different items, each of which was described separately. Among other things, the description cited the applicable federal specification and stock numbers and included a blank space where the bidder was to specify the appropriate unit price. The solicitation also incorporated by reference GSA Form 1424, which stated in part that, where a bid was accompanied by unsolicited part numbers, the bid would be rejected unless it was clear from the bid that the parts fully conformed to the specifications.

At bid opening, Wright was the low bidder on 6 of the 11 items. Upon noticing that Wright had penciled in a part number next to the federal stock number for each item in its bid, the contracting officer requested that technical officials determine whether those numbers represented tools that complied with the specifications. The technical officials were unable to do so from information on hand and the

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contracting officer consequently rejected Wright's bid as nonresponsive.

Wright contends that its bid complied with the essential elements of the solicitation and thus was responsive. The firm asserts that the notation of part numbers was solely for its own internal record keeping and in no way qualified its bid since the tools it offered conformed to the specifications. Wright believes that the contracting officer should not have summarily rejected the bid but rather should have asked the firm for clarification, noting further that, as a result of the rejection, the government will now pay a much greater price for the hand tools. Finally, Wright submits evidence showing that it was recently awarded a GSA contract based on a bid with similar notations.

We conclude that Wright's protest is without legal merit. We have long recognized that the insertion of unsolicited part numbers in a bid, even where included merely for a bidder's internal control purposes, creates an ambiguity in the bid. 50 Comp. Gen. 8 (1970); B-175178, May 25, 1972; J. S. Staedtler Inc., B-188459, June 1, 1977, 77-1 CPD 379. The ambiguity arises because the inclusion of part numbers is not a clear indication of whether the bidder is offering to comply completely with the specifications, or whether he merely is offering to supply equipment that may or may not conform to the specifications. Dictaphone Corporation, B-204966, May 11, 1982, 82-1 CPD 452. A contracting officer must therefore reject such a bid as nonresponsive unless either the bid contains an express statement, or the contracting officer determines from data available before bid opening, that the specified equipment conforms to the specifications. Sentinel Electronics, Inc., B-185681, June 24, 1976, 76-1 CPD 405.

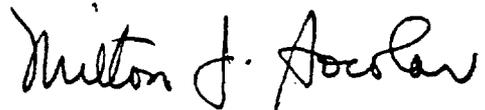
In this case, Wright's bid was ambiguous because it contained unsolicited part numbers, and nothing in the bid itself or in data available to the contracting officer resolved the ambiguity. While Wright argues that the contracting officer should have contacted the firm for clarification before rejecting the bid, we point out that a bidder

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may not explain its ambiguous bid after bid opening since it would then be in a position to either disavow or affirm the bid. See Hub Testing Laboratories, B-207352, August 17, 1982, 82-2 CPD 136. In addition, the fact that Wright may have recently been awarded a GSA contract under similar circumstances is irrelevant here since an improper award in one or more procurements does not justify repetition of the same error. 36 Comp. Gen. 535 (1957); Aerol Company, B-195376, October 24, 1979, 79-2 CPD 287. We conclude therefore that the contracting officer properly rejected Wright's bid as nonresponsive.

Wright complains that the contracting officer's letter notifying the firm of rejection did not comply with Federal Procurement Regulations § 1-1.318-4(b). We note that that regulation deals with contract claims and thus is inapplicable here. In any event, any deficiency in the notice would be merely procedural and consequently would not affect the validity of any award under the solicitation. See Blurton, Banks & Associates, Inc., B-206429, September 20, 1982, 82-2 CPD 238.

The protest is denied.

*for*   
Comptroller General  
of the United States