

DECISION



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

Curry

123063

FILE: B-212449

DATE: December 13, 1983

MATTER OF: Byrd Tractor, Inc.

DIGEST:

1. Protest is timely when it is submitted within 10 days after protestor learns that agency is interpreting solicitation in a way which is different than protestor's interpretation.
2. Protester's interpretation of confusing solicitation descriptive phrase of item requested is not reasonable where protester fails to consider the specifications which describe this item.

Byrd Tractor, Inc. (Byrd), protests the proposed award of a contract to Gaithersburg Ford Tractor Company (Gaithersburg) under Department of the Army (Army) invitation for bids (IFB) No. DALT56-83-B-0048. Byrd, the fifth low bidder, alleges that the first four bids are nonresponsive.

The protest is denied.

Item number 0002 of the IFB requested bidders to supply three general purpose industrial tractors. Byrd offered to supply a Ford model number 4610 LCG, an industrial tractor. The first four low bidders offered to supply general purpose tractors. The Army found that all five bids were responsive and it intends to award a contract to Gaithersburg, the low bidder. Byrd contends that the first four low bids should be rejected as nonresponsive because they do not offer industrial tractors.

The Army first contends that Byrd's protest should be dismissed as untimely because it concerns an impropriety in the solicitation which was apparent prior to bid opening and Byrd did not submit its protest until after bid opening. See 4 C.F.R. § 21.2(b) (1983). We disagree. Byrd did not learn the basis for its protest until after bid opening when Byrd became aware that bids offering general purpose tractors were considered responsive. Since Byrd protested

within 10 days of this date, Byrd's protest is timely. See Conrac Corporation, B-205562, April 5, 1982, 82-1 CPD 307, 4 C.F.R. § 21.2(b)(2).

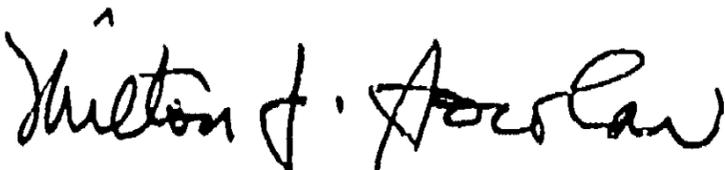
Byrd argues that the solicitation clearly requested bidders to supply an industrial tractor because section "B," the schedule of items, requested a "general purpose industrial" tractor.

Acknowledging that the schedule of items calls for a "general purpose industrial" tractor, the Army responds that this description has no meaning until the IFB specifications of the tractor are considered. In this respect, although section "B" lists the requested tractor as a "general purpose industrial" tractor, section "B" also notes that the desired tractor is described by the specifications contained in section "C." Section "C.2" specifically states that it contains the specifications for a "general purpose industrial" tractor. The Army alleges that it was seeking to procure tractors which met these specifications and that the tractors offered by the four low bidders did so. The Army thus concludes that the four low bidders submitted responsive bids.

Solicitations must be read as a whole in a reasonable manner. Tymshare, Inc., B-193703, September 4, 1979, 79-2 CPD 172. Although the solicitation is somewhat confusing because "general purpose" and "industrial" describe different types of tractors, a reasonable reading of the solicitation demonstrates that bidders were being requested to supply "general purpose industrial" tractors which met the specifications. Thus, Byrd should have been on notice that the Army was requesting bids for a tractor which met these specifications. Byrd and the Army agree that the difference between a general purpose tractor and an industrial tractor is that an industrial tractor has a heavier front axle. The specifications, however, do not request a tractor with a heavy front axle. While Byrd argues that there would be no need to specify a heavy front axle because it is standard equipment on an industrial tractor, we do not find this argument persuasive. The specifications list a number of tractor components, which are obviously standard equipment; and some of the specifications note that the tractor should have the manufacturer's standard parts. Thus, we believe that it was unreasonable for Byrd to assume that only an industrial tractor met the specifications. Moreover, we note that the seven bidders other than Byrd offered general purpose tractors, four of which offered the same tractor line (Ford) as Byrd.

Since the Army alleges and Byrd does not dispute that the tractors offered by the four low bidders met these specifications, we will not disturb the Army's finding that these bids were responsive.

The protest is denied.

for 
Comptroller General
of the United States