

DECISION

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

27364

FILE: B-212332

DATE: February 7, 1984

MATTER OF: Applied Optic Kinetics, Ltd.

DIGEST:

1. Shipping container dimensions which awardee inserted into its bid did not reflect the thickness of the specified container. But given that the inserted dimensions are exactly the same as the internal dimensions of the specified container described in the IFB's packaging data sheet, it is reasonable to conclude that the awardee intended to furnish the specified container. Therefore, the awardee's bid was responsive to the IFB's shipping container requirements.
2. Contracting officer acting in good faith has a right to rely on transportation evaluation made by transportation experts; moreover, the contracting officer is not obligated to furnish the protester with a copy of the rate tariff documents used in the transportation evaluation.

Applied Optic Kinetics, Ltd. (AOK), protests the award made to Machine Products Company, Inc. (MPC), under United States Army Tank-Automotive Command invitation for bids No. DAAE07-83-B-A716.

The bases of the AOK protest are twofold. First, AOK contends that MPC's bid took exception to the required outside dimensions for the item and that this exception rendered MPC's bid nonresponsive. Second, AOK believes that the agency bid evaluation was defective as regards transportation costs.

We deny the protest.

AOK argues that the shipping container dimensions (52" x 28-1/4" x 30-1/8") which MPC inserted into the "Guaranteed Maximum Shipping Weights and Dimensions" clause of its bid showed a deviation from the required outside dimensions of

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the container and, thus, rendered MPC's bid nonresponsive. As argued by AOK:

". . . the bid submitted by Machine Products . . . took exception to the mandated carton size[.] [A]s pointed out in [AOK's] July 29 letter[:] '. . . Machine Products inserted a guaranteed shipping weight per container of 180 pounds . . . The container was described as Fiber Box, size 52" x 28-1/4" x 30-1/8" high.'

"The bid required these as inside dimensions not outside dimensions; in fact the packaging data sheet was quite specific about the outside dimensions as . . . [52.92" x 30.72" x 35.4"] equalling to 30 cu ft, and 190 lbs. This is found on the right side of the data sheet."

The Army replies that the "outside dimensions" cited by AOK are not the outside dimensions of the fiber box shipping container required under the IFB, but the outside dimensions of a wooden shipping container which was not required in this procurement. Both types of shipping containers were described in the IFB's "packaging data sheet" which, according to the Army, "is not individually prepared or reviewed for each procurement, but exists in a standard form as an established set of specifications at the time it is included in a presolicitation package." It is the Army's position in a recent report that one can determine the outside dimensions of the required fiber box from a reading of the IFB's applicable specifications and drawings.

The Army also states that the required outside dimensions of the fiber box reflect only the thickness (5/16") of the box added to the inside dimensions (52" x 28-1/4" x 30-1/8") found in the IFB's packaging data sheet and inserted by MPC into its bid. This addition results in required outside dimensions of 52-5/16" x 28-9/16" x 30-7/16".

AOK has not specifically questioned the Army's recent report concerning the required outside dimensions other than generally insisting that MPC bid a "smaller carton than required." MPC comments that:

". . . it appears we erred in using the inside dimensions of the box . . . but this is the trade custom and also in accordance with [IFB] specifications PPP-B-636 and PPP-B-621, both of which

state that unless otherwise specified the dimensions of a container shall be inside measurements."

We agree with the Army's view that a reading of the specifications and drawings shows that the required outside dimensions of the shipping container were to be 52-5/16" x 28-9/16" x 30-7/16" and not the larger dimensions of the wooden container used by AOK. Specifically, IFB specification PPP-B-636 shows the thickness of the required fiber box to be 5/16", and IFB specification PPP-B-621 describes the wooden box which yields the larger outside dimensions used by AOK. Further, since the IFB clearly required a fiber box--a requirement which AOK acknowledges--we consider that bidders should have reasonably disregarded the outside dimensions of the wooden box which were also found on the packaging data sheet.

We recognize that MPC's bid did not reflect the 5/16" thickness of the fiber box. But given that the dimensions which MPC inserted into its bid are exactly the same as the internal dimensions of the fiber box described in the IFB's packaging data sheet, it is reasonable to conclude that MPC intended to furnish the specified box. Therefore, we conclude that MPC's bid was responsive to the IFB's shipping container requirements.

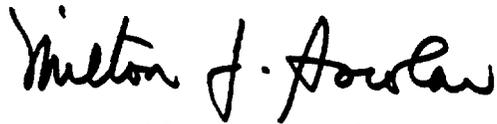
As to the Army's evaluation of transportation costs, AOK questions the accuracy of the freight rates used which resulted in the selection of MPC as the low evaluated bidder. And AOK insists that the Army should have "furnished a copy of the freight rates." In reply, the Army notes that the Military Traffic Management Command has confirmed the accuracy of the rates used and that even if the transportation evaluation of AOK's bid is made based on the size and weight of AOK's shipping container, MPC would remain the lowest bidder.

Our Office has held that a contracting officer, acting in good faith, has a right to rely on a transportation evaluation made by transportation experts. General Fire Extinguisher Corporation, B-186954, November 15, 1976, 76-2 CPD 413. Since there is no allegation or showing of bad faith, we accept the Army's transportation cost evaluation.

Finally, contrary to AOK's suggestion, the fact that AOK underwent a preaward survey for this procurement does not have any bearing upon the validity of the award to MPC. While we do not specifically know why the survey was made on

AOK (other than, apparently, to obtain information on a company within range for award), the award to MPC was properly made; therefore, we need not be concerned with the precise reason why the Army conducted the survey.

Protest denied.

for 
Comptroller General
of the United States