

DECISION



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

When
29054

FILE: B-215381

DATE: August 13, 1984

MATTER OF: Camtec (Cambridge Technologies, Inc.)

DIGEST:

Where bidder fails to designate location where supplies were to be inspected but invitation for bids provides that inspection will occur at contractor's plant and bidder certifies location of its plant where performance will occur, then the omission does not render the bid nonresponsive but instead is merely a minor informality which contracting officials may either waive or allow the bidder to cure after bid opening.

Camtec, also known as Cambridge Technologies, Inc., protests any award of a contract to Auto Skate Co., Inc., under invitation for bids (IFB) No. DLA120-84-B-0908, issued by the Defense Logistics Agency (DLA) for adjustable surgical instrument stands. Camtec alleges that Auto Skate's failure to designate the place where the stands would be inspected as requested by the IFB rendered its bid nonresponsive. We deny the protest.

DLA received eight bids in response to its solicitation. Although Auto Skate submitted the apparent low bid, with Camtec submitting the apparent second low bid, an examination of Auto Skate's bid revealed that the firm had failed to complete clause No. E25, "INSPECTION AND ACCEPTANCE BY THE GOVERNMENT," of the solicitation. That clause provided in relevant part that:

"(a) Saving and reserving to the Government all rights under the inspection provision, the following is applicable to this acquisition:

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Inspection ☒ Contractor's Plant

☐ Destination

and Acceptance at ☒ Contractor's Plant

☐ Destination

Upon execution of DD Form 250 by the authorized Government representative.

(c) Information To Be Furnished by Offeror:
Location where supplies will be inspected:
(Plant, Street Address, City, State, Zip Code).

. . . ."

Auto Skate failed to list the location of its plant under section (c) of the clause.

Nevertheless, on Standard Form 33 of the solicitation, Auto Skate listed a location in Union, New Jersey as its business address. In addition, under clause No. K17, "ELIGIBILITY FOR PREFERENCE AS A LABOR CONCERN," Auto Skate certified that 100 percent of the manufacturing or production costs of performance would be incurred at its Union, New Jersey address. Likewise, under clause No. K39A, "PLACE OF PERFORMANCE," Auto Skate certified that 100 percent of the contract would be performed at the address of its plant or facility in Union, New Jersey.

The contracting officer, considering the omission a minor informality, requested the information from Auto Skate after bid opening. Camtec thereupon filed this protest with our Office.

Camtec alleges that:

The insertion of the information in the bid is a material requirement inasmuch as it is a commitment by the offeror to guarantee a physical location at which the government can certify the quality, quantity, and delivery date of the products tendered for acceptance. . . ."

Camtec states that it is essential to the formation of a contract that the nature and extent of the obligations be certain and questions whether a contract can be performed with Auto Skate without the omitted information since the omission allegedly created an ambiguity as to Auto Skate's obligations under any contract.

Federal Acquisition Regulation, § 14.405, 48 Fed. Reg. 42180 (to be codified at 48 C.F.R. § 14.405), defines a minor informality as:

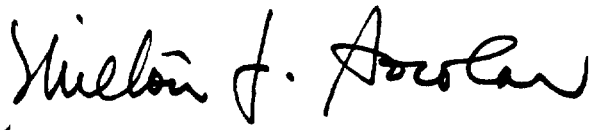
"one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired. The contracting officer either shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the Government."

Auto Skate's failure to list its plant under section (c) of clause E25 did not qualify or render ambiguous its commitment to perform in regards to price, quantity, quality or delivery. Section (a) of clause E25 provided that inspection would occur at the contractor's plant and Auto Skate elsewhere certified that its plant for this contract was the plant in Union, New Jersey listed as its business address. Thus, upon acceptance of the bid by the

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government and award to Auto Skate, that firm would be obligated to accept inspection of the instrument stands at Auto Skate's Union, New Jersey plant. Accordingly, the omission did not render Auto Skate's bid nonresponsive, but instead merely constituted a minor informality which DLA could either waive or allow Auto Skate to cure after bid opening. See K.P.B. Industrial Products, Inc., B-210445, May 24, 1983, 83-1 CPD ¶ 561.

The protest is denied.

for 
Comptroller General
of the United States