

2011

Kuprecht
PC-II

DECISION



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

FILE: B-219825 **DATE:** November 29, 1985
MATTER OF: Training, Operations and Procedures Video Corporation

DIGEST:

Bidder's failure to state tariff for foreign end product as required by invitation may be waived as a minor informality where the only use of the tariff is to provide an evaluation preference for domestic end products and end products of certain qualifying countries, and all bidders offered end products from the same country.

Training, Operations and Procedures Video Corporation (Top Video) protests the award of a contract to Pierce-Phelps, Inc. under invitation for bids (IFB) No. DABT56-85-B-0028, issued by the Department of the Army for 43 19-inch television receiver/monitors. The Army received eight bids in response to the IFB. The contracting officer initially determined that two bids were nonresponsive; one for lack of a signature and another for failure to submit required descriptive literature. Of the six remaining bids, Pierce-Phelps, Inc. submitted the apparent low bid. Top Video contends that its bid was responsive, and that since none of the five lower bidders complied with the IFB's requirement that bids offering foreign end products state the tariff for the product, their bids should be rejected.

We deny the protest.

In response to Top Video's contention that the other bids be rejected for failure to state the tariff as required by the IFB, we agree with the Army that such failure may be waived as a minor informality since in this case the provision had no effect on the evaluation of bids. As noted, all the bidders offered foreign end products from the same country--Japan, and therefore no bid would receive a preference under the evaluation scheme. Applicable regulations permit the waiver of immaterial defects in a bid--that is, defects having a negligible

033895

B-219825

effect on price, quantity, quality or delivery. Federal Acquisition Regulation, 48 C.F.R. § 14.405 (1984); Engineered Air Systems, B-218367, June 17, 1985, 85-1 CPD ¶ 690.

Accordingly, we deny Top Video's protest.

for Seymour E. Egan
Harry R. Van Cleve
General Counsel