



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Photographic Analysis Company, Inc.

File: B-223787

Date: December 1, 1986

DIGEST

1. Contracting agency's determination that an offered "equal" camera under a brand name or equal procurement did not meet the invitation for bids salient characteristic requiring equal cameras to accept all ASA standard type "C" mount lenses is reasonable where the bid at best was ambiguous as to whether an adaptor necessary to accept "C" mount lenses was included.

2. A nonresponsive bid may not be made responsive by post-bid opening explanations by the bidder regarding the meaning of the bid.

DECISION

Photographic Analysis Company, Inc. (PAC), protests the rejection of its low bid to supply three "Hy-Cam-Camera[s] Redlake PN 41-0064 or equal" under Kirtland Air Force Base invitation for bids (IFB) No. F29650-86-B0029. PAC offered a Photec No. PSI-164-8-115AC camera and submitted descriptive literature required by the IFB to establish that offered equal items complied with the salient characteristics of the brand name item set forth in the IFB. The Air Force determined that PAC's descriptive literature failed to establish that its offered camera complied with the salient characteristic requiring that the camera accept all ASA standard type "C" mount lenses and rejected PAC's bid as nonresponsive.

We deny the protest.

PAC states that the descriptive literature submitted with its bid included a price list that included, among other items, a lens adaptor necessary for using "C" mount lenses. Although the adaptor was priced on the list at \$80.40, PAC states that its bid included the adaptor, and argues that its bid therefore did show that its offered camera accepted all ASA standard type "C" mount lenses. PAC further states that even

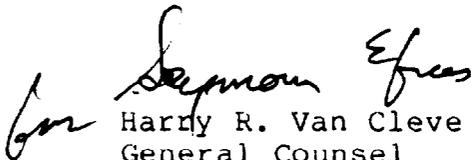
if the bid was unclear, PAC informed the agency after bid opening that its bid did include the adaptor at no additional cost.

To be responsive to a brand name or equal solicitation, a bid offering an equal product must contain sufficient descriptive material to permit the contracting officer to assess whether the offered product possesses the salient characteristics specified in the solicitation. Rocky Mountain Trading Co., B-221060, Jan. 24, 1986, 86-1 CPD ¶ 88. When a specified salient characteristic is a precise performance feature, the offered equal product must meet that precise requirement. Motorola, Inc. et al., B-223391.2 et al., May 20, 1986, 86-1 CPD ¶ 471. It is not enough that the bidder believes its product is functionally equal to the brand name product, and if the descriptive literature or other information reasonably available to the contracting activity does not show compliance with all salient characteristics, the bid must be rejected. HEDCO Hughes Elec. Devices Corp., B-221332, Apr. 7, 1986, 86-1 CPD ¶ 339.

PAC's bid did not expressly indicate that PAC intended to furnish an adaptor. The only mention of an adaptor was made on a standard price list, where the adaptor was listed with numerous other items that had no bearing on PAC's bid. That listing also stated that Photec's factory should be contacted for pricing on the mounts to be needed for the lenses specified. Moreover, the literature advised that prices and specifications were subject to change without notice and listed a price for the camera to be supplied higher than that in its bid schedule. PAC's bid therefore was at best ambiguous as to whether adaptors were included at the bid price. Because of this, the bid, therefore, did not unequivocally demonstrate compliance with the salient characteristics and properly was rejected as nonresponsive. See Caprock Vermeer Equip., Inc., B-217088, Sept. 3, 1985, 85-2 CPD ¶ 259.

Finally, regarding PAC's explanation to the contracting agency after bid opening as to what it intended to offer in its bid, a bidder may not be afforded an opportunity after bid opening to explain or clarify its bid so as to make it responsive. A bidder's intention must be determined from the bid and material available at bid opening. Caprock Vermeer Equip., Inc., supra. Thus, PAC's post-bid opening explanation of its bid may not be considered.

The protest is denied.


Harry R. Van Cleve
General Counsel

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