



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Memorex Corporation

File: B-230111

Date: February 19, 1988

---

## DIGEST

1. Protest that awardee's bid of the brand name item is nonresponsive because the item does not meet four Federal Information Processing Standards (FIPS) referenced in the solicitation has no merit where the protester concedes that three of the FIPS are obsolete and the fourth does not apply to the type of equipment being purchased.
2. Contention that contracting agency improperly awarded contract to bidder that did not furnish certain information with its bid has no merit where the information clearly was not required for bid evaluation and had no effect on the bidder's promise to perform as specified.

---

## DECISION

Memorex Corporation protests the Department of Agriculture's award of a contract for a cartridge drive tape controller to Storage Technology Corporation (STC) under invitation for bids (IFB) No. 00-88-I-1001WB. STC and Memorex were the only bidders for the tape controller, which the IFB specified as an STC or equal. Memorex contends that STC's bid is nonresponsive for two reasons: STC offered equipment that does not comply with four Federal Information Processing Standards (FIPS) included in the solicitation, three of which Memorex further points out are obsolete, and STC failed to furnish certain information required by the IFB.

We dismiss the protest without requiring the submission of an agency report, pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.3(f) (1987), because information received from the contracting agency shows the protest lacks merit.

We think it is irrelevant that STC's equipment somehow may not comply with three obsolete FIPS. Further, the fourth FIPS, number 62, applies to open reel tape equipment and not to cartridge tape equipment; since the IFB specified cartridge tape equipment, FIPS 62 is inapplicable. In this respect, Agriculture advises that it was unaware that the solicitation referenced obsolete or inapplicable FIPS.

To the extent Memorex thinks the FIPS should not have been included in the IFB, our Bid Protest Regulations require the filing of protests based upon such an alleged solicitation impropriety before bid opening, 4 C.F.R. § 21.2(a)(1), to enable the contracting agency or our Office to decide an issue while it is most practicable to take effective action where the circumstances warrant. See Ratcliffe Corp.-- Request for Reconsideration, B-220060.2, Oct. 8, 1985, 85-2 CPD ¶ 395. Memorex raised the issue well after that date, however.

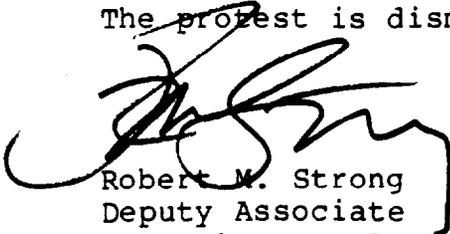
The protester also contends that the awardee's bid is nonresponsive because STC failed to complete, or mark as inapplicable, certain system life cost information tables used for equipment leases and rentals. The agency advises, in response, that the information was unnecessary, and STC's failure to provide it immaterial, because the IFB clearly informed bidders that the government was purchasing the equipment and not leasing or renting it. We have held that where requested pricing information is not relevant to bid evaluation, and failure to provide it does not affect the bidder's promise to perform as specified, the requirement for the pricing information should not be viewed as a matter of bid responsiveness. American Spare Parts, Inc., B-224745, Jan. 2, 1987, 87-1 CPD ¶ 4. It follows that STC's failure to provide the inapplicable information, or designate that it is inapplicable, is of no consequence.

Finally, the protester complains that the awardee did not provide required heating/cooling and electrical data. Agriculture advises that this information was only required when a bidder offered an "equal" product.

There is no merit in the protester's position. The awardee offered the brand name equipment specified in the solicitation, with thermal and electrical characteristics known to the agency, and there is no indication that the agency specified thermal and electrical characteristics that went beyond those of the designated brand name so that a modified

brand name product was required. See Tel-Med Information Systems, B-225655, June 2, 1987, 66 Comp. Gen. \_\_\_\_, 87-1 CPD ¶ 561 (agency must reject brand name offer not showing compliance with modified characteristics). This matter thus had no effect on the responsiveness of STC's bid.

The protest is dismissed.



Robert M. Strong  
Deputy Associate  
General Counsel