



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Warren Corporation
File: B-229669.2
Date: March 10, 1988

DIGEST

Protest that fabric bid sample of low, responsive bidder did not conform to dimensions required of bid samples is denied where bid sample dimension is not a salient characteristic of the fabric sought by the invitation for bids.

DECISION

Warren Corporation protests the award of a contract to Wyoming Weavers under invitation for bids (IFB) No. IPI-0001-8, issued by Federal Prison Industries, Inc., a federally owned corporation trading as UNICOR. The IFB sought a source for the supply of nylon upholstery fabric. Warren, the third lowest bidder, contends that Wyoming Weavers, the low bidder, and Absecon Mills, the second lowest bidder, failed to submit proper bid samples and were nonresponsive.

We deny the protest.

The IFB contemplated the award of a requirements contract for 1 basic and 4 option years. Bidders were instructed to provide unit and extended prices for estimated quantities of two groups of fabric. Section C of the IFB set forth the fabric specification requirements, including flammability, width, color and patterns, tensile and tear strength, seam slippage, lightfastness and abrasion.

The IFB also required bidders to submit samples with their bids:

"Samples: A minimum of four woven, finished samples, each 36 by 54 inches, must be submitted with the bid: one solid and one multicolor from Group A, and one solid and one multicolor from Group B."

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The IFB contained the standard bid samples clause which provided that samples had to be received by the time specified for receipt of bids and would be evaluated to determine compliance with the characteristics listed for examination in the IFB. Bidders were further informed that samples that failed to conform would require rejection of the bid.

By bid opening, UNICOR had received five bids, all with fabric samples. The three lowest bidders bid as follows:

	Group A	Group B	Total
Wyoming Weavers	\$ 937,500	\$157,000	\$1,094,500
Absecon	987,000	134,000	1,121,000
Warren	1,017,000	139,000	1,156,600

Warren contends that both Wyoming Weavers and Absecon are nonresponsive because their bid samples failed to conform to the requirements stated in the IFB. With respect to the samples submitted by Wyoming Weavers, Warren states that the "04 China Blue" sample submitted does not conform to the "04 China Blue" color required by the IFB. With respect to Absecon, Warren states that the "C26 Woodrose" sample submitted by Absecon does not measure 36 by 54 inches as required by the IFB.^{1/} UNICOR states that the color of Wyoming Weavers' "Blue China" sample is unacceptable but that Absecon's samples meet the IFB requirements. Because we deny Warren's protest as to Absecon's bid responsiveness, it is not necessary to decide the merits of Warren's contention that the bid of Wyoming Weavers is nonresponsive.^{2/}

Warren argues that it measured the "C26 Woodrose" sample submitted by Absecon and found it to be 35 by 54 inches rather than the 36 by 54 inches required by the IFB. Warren is correct in asserting that where a solicitation lists definitive specifications and requires that bid samples

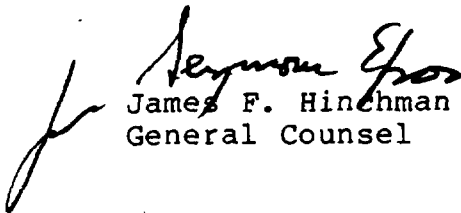
^{1/} We summarily dismissed Warren's initial protest on November 24, 1987, as premature after being informed by UNICOR that the agency had not yet made a responsiveness determination. On December 21, 1987, we reinstated Warren's protest in response to its request for reconsideration.

^{2/} On February 11, 1988, Wyoming Weavers filed its own protest, B-229669.3, of UNICOR's determination that its bid was nonresponsive.

strictly comply with those specifications, a sample that does not comply renders a bid nonresponsive. See ADT-American Co., B-227134, July 17, 1987, 87-2 CPD ¶ 58. The failure of a bid with bid samples to meet salient characteristics is therefore a proper ground for bid rejection. Easton Box Co., B-213423, Apr. 10, 1984, 84-1 CPD ¶ 406. Here, the 36 by 54 inch dimension is not a salient characteristic of the fabric sought by the IFB. While the IFB requires rolls of fabric to be 54 inches in width, the 36 inch length for the samples was stated for the purpose of obtaining a sample of adequate size to perform necessary testing.

In any event, UNICOR states that its Metal and Wood Products Division has measured Absecon's "C26 Woodrose" sample and found it to be 36 by 54 inches. While Warren comments that UNICOR's Metal and Wood Products Division does not state in its report that it was Absecon's "C26 Woodrose" sample which was measured, UNICOR has informed us that it was the "C26 Woodrose" sample that was measured and found to be 36 by 54 inches.

The protest is denied.


James F. Hinchman
General Counsel