



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: IRT Corporation

File: B-233134

Date: February 21, 1989

DIGEST

1. Where invitation for bids for sophisticated X-ray imaging system contains standard descriptive literature clause, rejection of protester's bid, which admittedly failed to contain descriptive literature on a key component of the system, was proper since the government's minimum needs were clearly identified and enumerated in the solicitation and standard clause provides for rejection of a bid for the failure of descriptive literature to show that the product offered conforms to the solicitation requirements.
2. A blanket promise to supply customized equipment which will meet specification requirements is an insufficient substitute for required descriptive literature.

DECISION

IRT Corporation protests the rejection of its apparent low bid and the award of a contract to Realtime X-Ray Imaging Operations, Division of Schonberg Radiation Corporation, under invitation for bids (IFB) No. 13-NSTL-B-88-11, issued by the National Aeronautics and Space Administration (NASA) at the John C. Stennis Space Center, Mississippi. IRT contends that its low bid was improperly rejected for failing to contain a descriptive literature.

This procurement is for a microfocus X-ray system with realtime X-ray imaging capability. The system permits the inspection and analysis by X-ray of extremely small and difficult-to-access areas of an object. The object to be inspected is placed in a lead-lined enclosure the size of a small room in which the object's position can be manipulated robotically by an operator seated outside at a control console. The operator can view on a monitor the X-ray image generated, manipulate that image in various ways, and extract data from the system. NASA states that the system

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is needed to "augment NASA's non-destructive evaluation capabilities" on, for example, the electron beam welds on the Space Shuttle's main engine as well as on the engine's complex heat exchanger assemblies.

The "minimum specifications" for the system were contained in exhibit A to the IFB, in which appeared headings for each major component of the system^{1/} or task to be performed (documentation, acceptance testing, inspection, installation and warranty, and training). Beneath each heading appeared one or more "bullets" beside each of which was listed a particular specification requirement relating to that element of the work. Incident to this description, the IFB also contained the standard descriptive literature clause (Apr. 1984) which appears at Federal Acquisition Regulation (FAR) § 52.214-21 (FAC 84-5).^{2/} No other references to the descriptive literature requirement appeared in the solicitation.

Five bids were received and opened on August 11, 1988. IRT was the lowest bidder at \$269,500 and Realtime was the fourth low bidder at \$452,231. Bidders' descriptive literature was evaluated on a "yes," "no," or "not enough information to make determination" basis against a checklist of the agency's minimum requirements in the order they had been listed in exhibit A to the IFB. IRT's "descriptive literature" consisted of pre-printed commercial brochures and information which were not correlated with specific requirements of the IFB. NASA's technical manager found that IRT's descriptive literature did not provide enough information for evaluation on two of the required components of the system, namely: the image intensifier and the image

^{1/} The system consists of a microfocus X-ray system, a radiation-shielded enclosure, a parts manipulator, an image intensifier, a "real-time" digital image processor and analysis system, a processor memory and control board, a spatial filter board, system software, and a video camera.

^{2/} NASA states that it inserted the descriptive literature clause because: (1) the literature was required to evaluate the technical acceptability of the "offered products;" (2) the required information would not be readily available unless submitted by bidders; and (3) the system was a "customized and complex integrated system" without available samples for trial and testing.

processor.^{3/} Further, the technical manager found IRT's bid failed to "provide the necessary documentation, and [failed] to demonstrate ability to meet acceptance test criteria, ability to meet inspection, installation and warranty requirements."

The next two higher bids of RTS Technology, Inc., and of Penn Video, Inc., were then evaluated. RTS' bid was found not to meet minimum requirements and Penn Video's bid was considered to contain "insufficient information." Nevertheless, RTS submitted 14 pages of technical narrative and Penn Video submitted four pages of schematic drawings concerning its proposed system. By contrast, NASA found Realtime's bid to be "technically acceptable" (or responsive) based on a review of Realtime's descriptive literature which consisted of a "technical proposal" containing 14 pages of detailed narrative description concerning its proposed system. Finally, NASA has reported that the fifth (and highest) bid, which was not evaluated because it contained an unacceptable delivery schedule, nevertheless contained 6 pages of detailed technical narrative about the company's proposed system.

Based on this review of bids, NASA awarded the contract for the requirement to Realtime and informed IRT of the award and the reasons for rejecting IRT's bid by letter, which incorporated the substance of the rationale set forth in NASA's evaluator's memorandum. IRT thereafter protested the award to our Office, maintaining that as the low bidder and as a firm which was capable of satisfying NASA's requirements, it should have received the award. IRT also disputed NASA's determination that IRT's bid did not meet minimum specifications for the proposed image processor, noting that its bid was accompanied by a cover letter in which it had made a blanket statement that its image processor would be "completed in accordance with the IFB," a statement which it considered sufficient since the IFB had not required the supply of a particular brand of processor.^{4/} By letter filed with our Office on the same day on which a bid

^{3/} The evaluator's memorandum also stated that IRT's image processor did "not meet" the IFB's minimum specifications. After IRT's protest was filed, NASA deleted this latter sentence.

^{4/} IRT also protested NASA's rationale for rejecting IRT's bid for failing to provide certain information in non-technical areas noted above, but it is unnecessary to discuss these other areas.

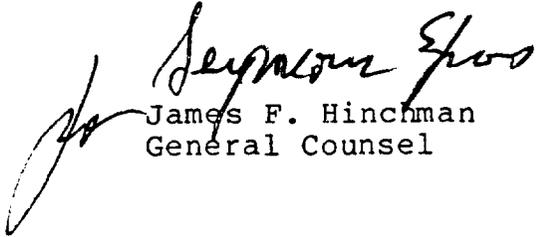
protest conference was held on IRT's protest, IRT amended its protest to also contend that the nonresponsiveness of its bid was attributable to NASA's failure to more explicitly inform bidders as to what descriptive literature was specifically required.

Here, the IFB contained the standard descriptive literature clause which cautions bidders that the failure of descriptive literature to show that the government's requirements would be met would require rejection of the bid. Although the clause was not supplemented by additional instructions to bidders as to what elements for which descriptive literature was required, we note that the solicitation left no doubt as to what NASA's "minimum" requirements were since they were specifically identified as such and itemized in Exhibit A to the IFB. The image processor was one of the 15 specific minimum requirements listed in exhibit A, along with applicable "bullets."

We think the record shows a recognition among the bidders of the need to respond to the minimum requirements NASA set forth in the solicitation. Three of the five bidders submitted detailed narrative descriptions with their bids in an attempt to show compliance with the technical requirements. A fourth bidder, while not submitting a narrative, submitted schematic drawings, as noted above. Given the admitted complexity of the required system, the specific enumeration of a limited number of minimum requirements involved, and the lack of an indication in the IFB's list of requirements that some were less significant than others, we conclude that bidders reasonably should have expected to submit descriptive literature consisting of a narrative description or other specially prepared submissions addressing all the government's minimum requirements as identified in the IFB. Three bidders attempted this approach although only one, the awardee--who took a thorough and comprehensive approach--was completely successful in accomplishing this task. Further, we note that IRT admittedly did not submit detailed descriptive data on the image processor for the system, providing only a blanket promise to "accomplish all work in accordance with the IFB." Blanket promises to furnish customized equipment like the system being procured, however, are insufficient. See NJCT Corp., B-224246, Feb. 13, 1987, 87-1 CPD ¶ 159, where we said that if a bidder submits literature with its bid describing a product that it intends to modify to meet the specifications, the bidder cannot merely state that it intends to modify its product to meet the specifications where the contracting agency lists precise performance or design features, as here.

Since IRT admittedly did not submit descriptive literature on a key component of the system, the image processor, and since the IFB did not reasonably prevent IRT from submitting this literature, we consider that IRT's bid was properly rejected.

Protest denied.



James F. Hinchman
General Counsel