



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: T & T Products, Inc.

File: B-243895

Date: August 7, 1991

Sam Zalman Gdanski, Esq., for the protester.
Greg H. Petkoff, Esq., Department of Air Force, for the agency.
Christine F. Bednarz, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly rejected bid as nonresponsive on a brand name or equal invitation for bids, where the low bidder submitted descriptive literature with its bid indicating that the equal product had a cable diameter of ".75 inches," while the salient characteristics required a cable diameter between .80 and .875 inches.

DECISION

T & T Products, Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. F08650-91-B-0025, issued by the Department of Air Force, Eastern Space and Missile Center, Patrick Air Force Base, Florida, for the acquisition of cable assemblies. The Air Force rejected T & T's bid because it did not conform to the stated salient characteristics of the specified brand name product.

We deny the protest.

The IFB required bidders to furnish cable of the brand name Alpha No. 2219/51 or its equal.^{1/} The IFB listed several salient characteristics that the cable must possess, including a cable diameter between .80 and .875 inches. The IFB stated that bidders offering equal cable were responsible for submitting sufficient descriptive literature with their bids to demonstrate the product's compliance with the salient characteristics, and cautioned that the agency was not

^{1/} The cable is a component of the cable assemblies.

responsible for locating or securing any information that did not accompany the bid.

The Air Force received 20 bids in response to the IFB. The two lowest bids were nonresponsive. T & T submitted the third low bid of \$263,797. T & T's bid offered an "equal" cable manufactured by Madison Cable Corporation, described by accompanying literature as having a cable diameter of "0.75 inches nominal."

On April 22, 1991, the contracting officer rejected T & T's bid as nonresponsive because the diameter of the offered Madison cable was outside the .80 and .875 inch range required by the IFB.^{2/} T & T replied that, while its bid and descriptive literature did identify a Madison cable possessing a .75 inch diameter, its bid actually relied upon Madison's quote for a cable with an acceptable .820 inch diameter. T & T explained that, since its bid specifically stated that the offered Madison cable was equal to the brand name cable, it should be considered responsive. On April 25, 1991, the contracting officer confirmed his determination that T & T's bid was nonresponsive. This protest followed on May 3.

To be responsive to a brand name or equal IFB, a bid offering an equal product must conform to the salient characteristics of the brand name product listed in the solicitation. Trail Equip. Co., B-241004.2, Feb. 1, 1991, 91-1 CPD ¶ 102. Where the solicitation requires it, a bidder must include sufficient descriptive literature with its bid to demonstrate the offered product's compliance with all specified salient characteristics. Joaquin Mfg. Corp., B-240777, Dec. 18, 1990, 90-2 CPD ¶ 498; CNC Co., B-239328, July 30, 1990, 90-2 CPD ¶ 86. If the descriptive literature does not show compliance with all salient characteristics, the contracting activity must reject the bid as nonresponsive. AZTEK, Inc., B-229897, Mar. 25, 1988, 88-1 CPD ¶ 308.

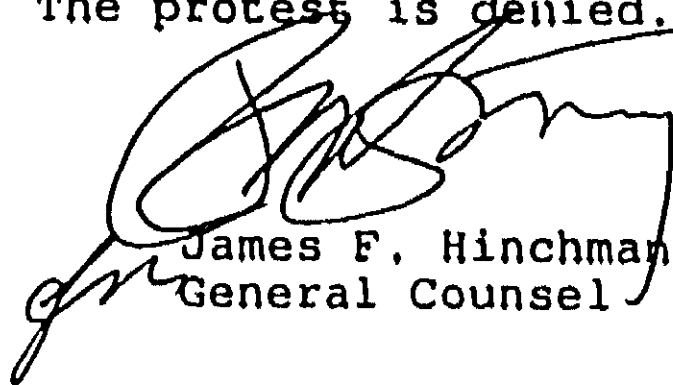
In the present case, T & T's descriptive literature admittedly does not demonstrate the offered product's compliance with the cable diameter requirements. To the contrary, it directly conflicts with the IFB's cable diameter requirements. The statement in T & T's bid that the offered cable was equal to

^{2/} The contracting officer also found that T & T did not comply with the IFB color coding requirements, a matter which T & T also disputes. We need not decide this issue, however, since we find T & T's bid was properly found nonresponsive to the cable diameter requirements.

the brand name cable does not constitute an acceptance of all salient characteristic requirements. See Trail Equip. Co., B-241004.2, supra; BRS & Assocs., Inc., B-236883, Dec. 11, 1989, 89-2 CPD ¶ 539.

The protester argues that the agency should find its bid responsive because T & T disclaimed the unacceptable specification after bid opening, explaining that its bid actually relied upon a subcontractor's quote for cable with a conforming .820 inch diameter. Where the bid as submitted lacks sufficient literature demonstrating compliance with the salient characteristics, the bidder cannot cure its nonresponsiveness by promising compliance after bids have been exposed. AZTEK, Inc., B-229897, supra.

The protest is denied.



James F. Hinchman
General Counsel