

Kratzer

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-213688

DATE: March 13, 1984

MATTER OF: Dictaphone Corporation

DIGEST:

Bid which included an unsolicited model number should be rejected as nonresponsive where commercial literature available prior to bid opening does not demonstrate that the model conforms to the specifications.

The Veterans Administration (VA) requests an advance decision concerning the award of a contract under invitation for bids No. 623-19-83. The VA issued the solicitation to secure a central dictation system. Lanier Business Products, Inc. and Dictaphone Corporation submitted the low and second low bids, respectively, in response to the solicitation. Dictaphone has filed a protest with the VA questioning the responsiveness of Lanier's bid. We find that Lanier's bid should be rejected as nonresponsive.

The solicitation requires the central dictation system to be a current standard product of the bidder and requires all components of the system to be those normally furnished with the basic system. The solicitation sets forth eight components which are to comprise the system and requests a price for each component as well as a total system price. The solicitation requests the model number of the overall system, but does not solicit model numbers for each individual component. Rather than merely inserting its price for each component in the form provided in the solicitation, Lanier included in its bid a separate price schedule that set forth the price and model number of each component.

The inclusion of an unsolicited model number in a bid generally creates an ambiguity as to whether the bidder is offering to comply completely with the specifications or is offering to supply specified equipment which may or may not

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conform to the specifications. See 50 Comp. Gen. 8 (1970); Sentinel Electronics, Inc., B-185681, June 24, 1976, 76-1 CPD 405. Therefore, a contracting agency must reject such a bid unless the agency can determine from commercial literature that was publicly available prior to bid opening that the model conforms to the specifications. Dictaphone Corporation, B-204966, May 11, 1982, 82-1 CPD 452.

Dictaphone questions whether the model designated by Lanier for the component transcribe station, Model LX-301, conforms to the solicitation requirement that this component have a digital display. At least two versions of this model, the LX-301-0 and the LX-301-2, are currently commercially available. Commercial literature for LX-301-0 reveals that it does not feature a digital display. Lanier asserts, however, that it intends to supply LX-301-2 which, as an examination of the model by the VA confirms, has a digital display. Lanier provides no commercial literature relating to this model, but has submitted literature on its Model LX-302 which depicts a transcribe station with a digital display. Lanier points out that the exterior appearance of the LX-302 and the LX-301-2 are the same.

Clearly, the commercial literature does not establish that the model offered conforms to the digital display requirement. The literature on the LX-301-0 provides a firm basis for concluding that the offered component does not have a digital display. The literature on the LX-302, despite asserted similarity in appearance with the LX-301-2, logically cannot be relied upon to establish the conformity of the LX-301-2 with the specifications. Moreover, even if the available literature established that the LX-301-2 conformed to the digital display requirement, the bid is ambiguous as to whether Lanier is offering LX-301-0 which does not comply with the specifications, or the LX-301-2, which purportedly does comply with the specifications.

Since the bid is ambiguous concerning the digital display requirement, we conclude that Lanier's bid should be rejected as nonresponsive.

for 
Comptroller General
of the United States