

DECISION

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

PLI

12115

FILE: B-195861

DATE: November 26, 1979

MATTER OF: W. S. Jenks & Son - DLG 03427

[Protest of Bid Rejection as Nonresponsive]
DIGEST:

1. Failure to identify product offered in response to qualified products list requirement renders bid nonresponsive. Nonresponsiveness may not be cured through bid correction.
2. Fact that parties responding to requests for quotations may have been permitted to submit additional information is not relevant to question of nonresponsiveness of bid submitted in response to invitation for bids since concept of responsiveness does not apply to quotations.

W. S. Jenks & Son (Jenks) protests the rejection of its bid as nonresponsive under an invitation for bids (IFB) issued by the General Services Administration (GSA). Jenks' bid was rejected for its failure to furnish required qualified products list (QPL) data. For the reasons stated below, we deny Jenks' protest. 00017

The IFB in question solicited bids for the furnishing of electricians' tool kits containing numerous individual items. Two of the listed items, item No. 2, hacksaw blades, and item No. 10, hand files, were required to be on a QPL. The IFB provided space for bidders to insert the identification and QPL data on these two items and advised that failure to furnish this information would lead to rejection of the bid. Jenks' bid provided no information whatsoever on the hacksaw blades to be included in its kit and, consequently, it was rejected as nonresponsive.

Jenks states that the omission of the requested information from its bid was due to a clerical error and contends that it should have been afforded the opportunity to correct its bid rather than being rejected as nonresponsive. We do not agree.

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As we stated in D. Moody & Co., Inc., et al., 55 Comp. Gen. 1 (1975), 75-2 CPD 1: "[A] bidder's failure to indicate the identity of the product it is offering in such a manner as to permit the procuring agency to determine that its product is qualified must be considered a material omission rendering its bid nonresponsive." 55 Comp. Gen. 1, 14. As we noted above, Jenks' bid provided no identification whatsoever of its offered hacksaw blades, a QPL-required item. Consequently, GSA was correct in determining Jenks' bid to be nonresponsive. Nonresponsiveness may not be cured through bid correction. Patriot Oil, Inc., B-191607, September 7, 1978, 78-2 CPD 177; Fire & Technical Equipment Corp., B-192408, August 4, 1978, 78-2 CPD 91; General Electric Company, B-184873, May 4, 1976, 76-1 CPD 298.

Jenks also argues that "bidders" have been allowed to furnish requested information on requests for quotations (RFQ) after the "bids" were opened, suggesting that the situation here is analogous. Responsiveness, however, is a legal concept which relates to whether a bid constitutes an offer to perform the exact thing called for and upon acceptance will obligate the contractor to perform in accordance with all of the terms and conditions of the invitation. 49 Comp. Gen. 553 (1970). The response to an invitation for bids, as here, is an offer, to which the concept of responsiveness applies. On the other hand, the response to an RFQ is not an offer but is merely a quotation indicating the terms on which the party making the quotation might accept an offer. The concept of responsiveness does not apply to quotations because any defects in a quotation can be cured during the ensuing negotiations leading to a contract. Consequently, Jenks' contention in this regard is not relevant to our consideration of the responsiveness of its bid.

The protest is denied.



For the Comptroller General
of the United States