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DECISION

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

[Protest of Bid Rejection as Nonresponsive] 5418

FILE: B-199920

DATE: November 12, 1980

MATTER OF: Paul F. Pugh & Associated Professional Engineers

DIGEST:

1. Salient characteristics must be met in order for proposed "equal" item to be acceptable and failure to comply with such characteristics renders bid non-responsive.

2. Protest challenging propriety of solicitation (unduly restrictive specifications) which is filed after bid opening is untimely under 4 C.F.R. § 20.2(b)(1) (1980) of our Bid Protest Procedures and not for consideration on merits.

3. Claim for bid preparation costs which is based upon issues raised in untimely protest will not be considered by our Office.

On May 20, 1980, the Department of the Army issued an invitation for bids (IFB) for the procurement of power cable, Okonite Company or equal. The IFB set forth various salient characteristics. Bids were opened on June 17, 1980. Paul F. Pugh & Associated Professional Engineers (Pugh) was the low bidder; however, Pugh's bid was found nonresponsive for failure to comply with the listed salient characteristics. An award was made to Industrial Components, Inc.

While Pugh contends that its offered item is equal in performance to the salient characteristics listed (offered aluminum conductors versus required copper conductors), these salient characteristics must be met in order for a bid to be responsive. Ohio Medical Products, B-192317, October 23, 1978, 78-2 CPD 295. A nonresponsive bid must be rejected even if the offered items function as well as the brand name units and satisfy the intent of the specifications.

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Environmental Conditioners, Inc., B-188633, August 31, 1977, 77-2 CPD 166, and A.A. Lasher, Inc., B-193932, March 14, 1979, 79-1 CPD 182.

Further, Pugh protests that the specifications are unduly restrictive and requests bid preparation costs. Since Pugh's protest was not filed until after bid opening, it is untimely under 4 C.F.R. § 20.2(b)(1) (1980), which provides in part:

> "Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening * * * shall be filed prior to bid opening * * *"

A claim for bid preparation costs which is based upon issues raised in an untimely protest will not be considered by our Office. Mil-Air, Inc., B-191424, July 20, 1978, 78-2 CPD 55.

The protest is denied in part and dismissed in part and the claim is dismissed.

Harry R. Van Cleve

For the Comptroller General
of the United States