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**DECISION**



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

*[Protest of Army Contracts Award]*

FILE: B-199551

DATE: March 18, 1981

MATTER OF: Cohu, Inc.

DIGEST:

1. In "brand name or equal" procurement, where "bright light limiter" feature is listed in IFB as salient characteristic of protester's brand name TV camera, bidders offering other than brand name item need not provide design approach of brand name limiter since this particular salient characteristic is only general descriptive term requiring camera to perform certain function.
2. General salient characteristic of brand name product identified as "environment resistant housing" is met with product which in terms of temperature range and humidity resistance is substantially equivalent to brand name camera since precise operating features of brand name product are not required when agency uses general descriptive characteristic.
3. Specification for input voltage of "95 VAC to 130 VAC 50/60 HZ," reasonably construed, does not require item to meet entire voltage range but merely to fall within voltage range.
4. Contracting officer cannot in effect waive specification and accept nonresponsive bid when product offered by that bid satisfies Government's needs. Rather, invitation should be canceled and specification revised.

Cohu, Inc. [protests the award of contracts] to Bass Electronics, Inc. and McCarthy Manufacturing Company [under invitation for bids (IFB) No. DAAA03-80-B-0030 issued

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by the Department of the Army. The IFB solicited bids for six TV cameras and related equipment and four TV monitors for installation as a TV monitoring system in an explosives manufacturing facility at Pine Bluff Arsenal, Arkansas. The specifications for the TV cameras and for some related equipment, such as camera/lens control module, camera lens, and pan/tilt control, called for "brand name or equal" bids, and identified Cohu as the brand name manufacturer; the specifications for the TV monitors were not so restricted. After a technical evaluation, the Army awarded a contract to Bass for the General Electric (GE) TV cameras and other related equipment it offered; McCarthy received an award for furnishing Panasonic TV monitors.

Cohu contends that the TV camera offered by Bass does not comply with two of the salient characteristics of its brand name item listed in the IFB - "the bright light limiter" and "environment resistant housing" features. Cohu also asserts that the TV monitor offered by McCarthy does not meet certain specification provisions of the IFB purchase description. We deny the protest in part and sustain it in part.

The "brand name or equal" purchase description provided:

"Cohu Self-Contained TV Camera Model #2850C-205 or equal. The following salient characteristics are provided: low-light level automatic camera in 6" diameter environment resistant housing, a sync generator, Genlock, bright light limiter \* \* \*."

The Army found the camera proposed by Bass to be technically acceptable and in conformance with the salient characteristics. Cohu complains, however, that the GE camera to be furnished by Bass does not have the bright light limiter which it describes as "an additional feature which eliminates the effects of bright lights within the scene," and does not have an environment resistant housing because it is not 100 percent humidity resistant, as is the Cohu camera, and does not operate in the same temperature range as does the Cohu camera.

We find Cohu's position on these matters to be without merit. It is well-established that when a "brand name or

"equal" purchase description is used, bidders need not furnish an exact duplicate of the brand name product in detail or performance. 38 Comp. Gen. 291 (1958). Rather, the "equal" product offered must be substantially equivalent to the brand name product, 45 Comp. Gen. 462 (1966), and must meet the salient characteristics of the brand name product which are specified in the solicitation. Spectrum Leasing Corporation, B-195857, February 7, 1980, 80-1 CPD 104.

When a specified salient characteristic is a precise performance feature such as operating ranges, speed, sensitivity, etc., the "equal" product must meet that precise requirement. See, e.g., Bow Industries, Inc., B-196667, March 25, 1980, 80-1 CPD 219 (requirement for minimum of 96 percent effective cleaning of magnetic tape); A.A. Lasher, Inc., B-193932, March 14, 1979, 79-1 CPD 182 (specified temperature range). Similarly, when a design feature, such as a maximum size or weight is specified, the "equal" product must also meet that requirement precisely. See Hutchison Brothers Excavating Co., Inc., B-197812, August 6, 1980, 80-2 CPD 93 (requirement to have 18-cubic yard capacity); Save-On Wholesale Products, B-194510, July 5, 1979, 79-2 CPD 9. On the other hand, when salient characteristics are stated in more general terms, the "equal" product need not meet the characteristic exactly as the brand name product does; it need only be functionally equivalent to the brand name product in meeting that characteristic. 45 Comp. Gen., supra. Thus, the first question posed by the protester is whether the reference to bright light limiter in the purchase description reasonably can be read as requiring any camera offered to have a feature which operates as Cohu's does or whether the requirement for a bright light limiter can be satisfied in other ways.

We think the bright light limiter requirement reasonably can be construed as a general descriptive term requiring bidders to propose cameras with a feature(s) functionally equivalent to Cohu's bright light limiter (but not necessarily one which operates as Cohu's does). We note that Cohu's descriptive literature identifies bright light limiter as an electronic circuitry designed to eliminate the effects of blooming. (Blooming is the defocusing of a television picture area where excessive brightness results in halation and enlargement of the light source, thereby obstructing objects around the source.) We understand, however, that anti-blooming electronic circuitry is not the only method by which the effects of blooming can be eliminated. Frequently, camera manufacturers will equip their cameras with

automatic iris circuitry and a reduced blooming silicone diode vidicon tube, as Bass did, to achieve the same result. We further understand that in some cases cameras equipped in this manner actually are more expensive than a camera with the electronic circuitry alone; in addition, some cameras, depending on the needs of the buyer, may be equipped with both the automatic iris and anti-blooming circuitry. Under the circumstances, we think the term bright light limiter reasonably could encompass varying design approaches to reduce blooming; therefore, we have no basis to question the Army's determination that the camera proposed by Bass was technically acceptable.)

With regard to the "environment resistant housing" characteristic, Cohu contends that unlike the Cohu camera which is 100 percent humidity resistant and operates in a temperature range of -40 to 60 degrees Centigrade, the GE camera is only 95 percent humidity resistant operating within a -30 to 60 degree temperature range. The purchase description, however, only listed "environment resistant housing" as a salient feature; it did not impose precise temperature and humidity specifications. Thus, while Cohu's camera may be more "environment resistant" than the GE camera, we believe a camera with the ambient temperature range and humidity resistance of the GE camera is substantially equivalent to the Cohu camera for purposes of meeting the salient characteristic. Thus, the alleged failure of the GE camera to conform to Cohu's camera exactly in this respect affords no basis for rejection of Bass' bid. Omni-Spectra, Inc., B-184341, April 14, 1976, 76-1 CPD 251.

With respect to the TV monitor, Cohu contends that the Panasonic TV monitor McCarthy proposed does not meet the voltage specification of the IFB which specifies: "Input Voltage: 95 VAC to 130 VAC 50/60 HZ." Cohu takes this position because it construes the specification to require a monitor to operate over the entire 95-135 voltage range. We think that construction of the specification is unreasonable and that, as the Army report indicates, all that was sought was a monitor with an input voltage within the specified range. Indeed, the Army reports that the voltage specification represents the normal operating range for all TVs, that only 60 HZ is used in the United States, and that "120 VAC, 60 HZ [the Panasonic input voltage] is an average and depend[s] on voltage variations and line

fluctuations \* \* \*." Cohu does not contest this explanation. Thus, we find no merit to this aspect of the protest.

However, we do find merit to Cohu's complaint that the Panasonic TV monitor offered by McCarthy only has 700 lines horizontal center resolution while the specifications required 800 lines. The contracting officer concedes that the Panasonic monitor has only the 700 lines resolution but asserts that this satisfies the Army's minimum requirements. However, the contracting officer cannot, in effect, waive the specification requirement for 800 lines resolution and award a contract to a nonresponsive bidder such as McCarthy merely because the bid satisfies the Government's needs. See Seaward International Inc., B-199040, January 16, 1981, 81-1 CPD 23. Rather, when a contracting agency finds it has overstated its needs, the proper course of action is to cancel the solicitation and revise the specifications to reflect the agency's minimum needs and permit competition on a common basis. Canadian Commercial Corporation, B-196325, July 28, 1980, 80-2 CPD 70; Engineered Handling Systems; Litton Unit Handling Systems, B-184227, March 9, 1976, 76-1 CPD 163.

The Army contends that Cohu was not prejudiced by this situation because Cohu's TV cameras can generate only 700 lines resolution and "are incapable of generating degree of center line resolution that would cause the TV monitors to operate at full design potential." Thus, the Army concludes that Cohu's system could operate only with 700 lines horizontal center resolution. While that may be so, the specifications nonetheless required monitors with 800 line resolution capacity and Cohu offered to meet that specification requirement. If the IFB properly had described the Government's minimum requirements, Cohu could have considered offering a TV monitor with the lesser capacity. Therefore, we cannot conclude that Cohu was not prejudiced.)

Since the contract has been completed, we cannot recommend corrective action for this procurement. Nevertheless, we are bringing this matter to the agency's attention.

The protest is sustained in part and denied in part.)

*Milton J. Fowler*  
Acting Comptroller General  
of the United States