

**DECISION**

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

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**FILE:** B-213253**DATE:** March 13, 1984**MATTER OF:** InterRoyal Corporation**DIGEST:**

In a brand name or equal procurement, where the solicitation specifies the thickness dimension for corner plates, the contracting officer improperly accepted a bid deviating from the dimension.

InterRoyal Corporation (InterRoyal) protests the award of a contract to American Desk Manufacturing Company (American Desk) issued under invitation for bids (IFB) No. DAAD05-83-B-0313, by the Army Test and Evaluation Command (TECOM) for demountable bunk beds, wardrobes, chests, and desk carrels. InterRoyal contends that American Desk's bid was non-responsive for failure to comply with the dimensional salient characteristics of the brand name (InterRoyal) or equal specifications.

We sustain the protest.

Paragraph C.3.8. of the specifications provides:

"Corner plates and diagonal corner brace-shall be fabricated from 3/16 inch thick HRS plate."

American Desk offered a bunk bed corner plate that is 11 gauge (less than 1/8 inch thick) and a wedge lock that is 3/8 inch thick.

InterRoyal argues that American Desk deviated from the specifications by offering 11-gauge corner plates. InterRoyal submits the results of an engineering test which show that 3/16-inch steel fatigued at 1,190 pounds, while 11-gauge steel fatigued at 450 pounds. InterRoyal further contends that unless American Desk's two-piece corner lock system is welded into a unitized plate, the stresses and point of fatigue will revert to the weakest point, which is the 11-gauge corner plate.

TECOM contends that American Desk's corner lock system (corner plate and wedge lock combined) results in an overall

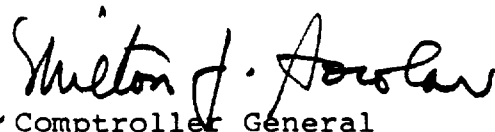
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thickness of 5/16 inch, exceeding the 3/16-inch thickness required in the specifications. TECOM asserts that it determined that this difference in design would not affect the suitability of the product for its intended use and that, thus, the difference was waivable.

We agree with InterRoyal that American Desk's bid should have been determined nonresponsive for failure to comply with the corner plate dimension requirement. When a specified salient characteristic is a design feature, such as maximum size or weight, the "equal" product must meet the requirement precisely. On the other hand, when the salient characteristic is stated in general terms, the "equal" may be functionally equivalent in meeting that characteristic. Cohu, Inc., B-199551, March 18, 1981, 81-1 CPD 207. Here, the salient characteristic called for corner plates to be a 3/16-inch thickness. Accordingly, American Desk has not met the design requirement for thickness for its corner plates. Cf. Ebsco Industries, Inc.; American of Martinsville, B-206401; B-206401.2, June 2, 1982, 82-1 CPD 524.

Since American Desk's bid was nonresponsive on the above basis, we need not consider the other areas of alleged nonconformance.

We sustain the protest. However, because performance has been completed, no remedial action is practical but we are advising the Secretary of the Army that this shortcoming be brought to the attention of the procurement personnel involved to prevent a repetition in future procurements.

*for*   
Comptroller General  
of the United States