

DECISION

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

FILE: B-221060 **DATE:** January 24, 1986
MATTER OF: Rocky Mountain Trading Company

DIGEST:

1. Statement in bid that offered model is a replica of the brand name item in IFB with the same keyboard layout and functionality is not viewed as satisfying requirement in IFB for descriptive material showing that offered product is equal to brand name.
2. Award to responsible bidder who was both low and responsive in the aggregate was proper where IFB was specific that award would be made on that basis.

Rocky Mountain Trading Company (RMT) protests the rejection of its bid submitted in response to invitation for bids (IFB) 263-85-B(68)-0131 issued by the National Institutes of Health (NIH) for the procurement of various items of automatic data processing hardware and software on a brand name or equal basis.

We deny the protest.

The IFB contained a standard brand name or equal clause which essentially required bidders offering an equal product to identify it and to provide descriptive material with their bids that was sufficient to permit the government to determine if the product met the salient characteristics of the brand name product.

One of the items for which bids were solicited in the IFB was a model 5151 keyboard manufactured by Keytronic or an equal having listed salient characteristics. RMT offered an OEM KB5151 keyboard. The only information that RMT furnished for this item was the following statement:

"RMT will supply a replica of the Keytronics KB5151 keyboard. It will have the same keyboard layout and functionality, but will not have the Keytronics logo."

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NIH rejected RMTC's bid as nonresponsive because RMTC did not submit descriptive literature to show that the keyboard offered complied with the salient characteristics in the IFB.

RMTC contends that its bid should not have been rejected because the Keytronic keyboard is a standard keyboard, replicas or copies of which are produced by many sources and are available as "generic" products.

To be responsive to a brand name or equal solicitation, a bid offering an allegedly equal product must contain sufficient descriptive material to permit the contracting officer to assess whether the offered alternative possesses the salient characteristics specified in the solicitation. Dakota Woodworks, B-220806, Oct. 29, 1985, 85-2 C.P.D. ¶ 486, and Bearse Mfg. Co., B-218220, May 7, 1985, 85-1 C.P.D. ¶ 509. A blanket offer merely to meet the specifications does not satisfy this requirement. There must be some showing that the equal product, in fact, meets the salient characteristics. CNC Company, B-208703, Sept. 30, 1982, 82-2 C.P.D. ¶ 303.

RMTC's bid did not demonstrate that the product offered as an equal, in fact, meets the salient characteristics. RMTC's offer to furnish a replica of the brand name product which would have the same keyboard layout and functionality is, at best, a blanket offer to meet the salient characteristics. Therefore, we do not view RMTC's offer as satisfying the requirement for descriptive material.

RMTC also contends that, if its bid on the keyboard was unacceptable, it should have been awarded a contract for the other items in its bid because its bid price was more than \$13,000 lower than the awardee on those items. However, the IFB was specific that award would be made to the responsible bidder who was both low and responsive in the aggregate. Maintenance of the competitive bid procedure required by law is more in the public interest than obtaining a pecuniary advantage in a particular case by violation of the rules. Consolidated Installations Corp., B-202630, Apr. 20, 1981, 81-1 C.P.D. ¶ 301.

for Seymour E. Givens
Harry R. Van Cleve
General Counsel