

Kauffman

DECISION



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

FILE: B-221332 **DATE:** April 7, 1986
MATTER OF: HEDCO, Hughes Electronic Devices Corp.

DIGEST:

Bid proposing equal product in response to brand name or equal invitation for bids is nonresponsive when it fails to establish that the product will meet all of the salient characteristics specified in the solicitation.

Hughes Electronic Devices Corporation (HEDCO) protests the rejection of its low bid, submitted in response to invitation for bids (IFB) No. DAAC09-85-B-0745 issued by Sacramento Army Depot, Sacramento, California (the Army), for 65 brand name or equal audio/video switchers. We deny the protest.

The Army rejected HEDCO's bid, offering a specific model as equal to the brand name model, as nonresponsive after determining that the bid and accompanying descriptive literature did not show that four of the salient characteristics listed in the IFB would be met.

The Army now contends that HEDCO's bid further is nonresponsive because it failed to state whether the offered model would have a speaker output on the rear panel and a headphone jack in the front panel, with the outputs capable of being used simultaneously, as also required by the salient characteristics.

HEDCO disagrees with the Army's evaluation. With respect to the Army's later contentions, HEDCO contends that it was unnecessary to identify the location of the headphone jack and speaker outputs because the location of the speaker outputs, and presumably the headphone jack, is universal in the video industry. In terms of whether the headphone jack and the speaker outputs could be used simultaneously, HEDCO responds that its bid did not state that the headphone and speaker could not be used simultaneously.

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We have frequently held that bids offering "equal" products must conform to the salient characteristics of the brand name equipment listed in the solicitation in order to be regarded as responsive. E.g., Andrew Corp. et al., B-217024 et al., Mar, 25, 1985, 85-1 CPD ¶ 344. It is not enough that the bidder believes its product is functionally equal to--or even better than--the brand name product. Wayne Kerr Inc., B-217528, Apr. 18, 1985, 85-1 CPD ¶ 445. Rather, the bidder must submit with its bid sufficient descriptive literature to permit the contracting agency to assess whether the equal product meets all the salient characteristics specified in the solicitation. If the descriptive literature or other information reasonably available to the contracting activity does not show compliance with all salient characteristics, the bid must be rejected. Dakota Woodworks, B-220806, Oct. 29, 1985, 85-2 CPD ¶ 486.

Where, as here, the bid offering a purportedly equal item specifies a particular model number, the contracting agency may consider information in existence before bid opening that describes the model and demonstrates its compliance with the salient characteristics. Central Power Engineering Corp., B-215658.2, Jan. 23, 1985, 85-1 CPD ¶ 85. The agency is under no obligation, however, to seek information which is not reasonably available to it. Id. In this connection, the IFB contained a clause cautioning that it is each bidder's responsibility to furnish adequate information to permit the purchasing activity to determine whether the product meets the salient characteristic requirements of the solicitation. Moreover, even if an offered item will meet the activity's needs, the agency may not waive compliance with a clearly stated salient characteristic. C.M. & W.O. Sheppard, B-219376, Sept. 24, 1985, 85-2 CPD ¶ 329.

The rejection of HEDCO's bid was proper because regardless of whether the location of the headphone jack and speaker outputs are common knowledge, the bid did not establish compliance with the salient characteristic stipulating that these outputs must be capable of being used simultaneously. Since HEDCO's bid was nonresponsive on this basis, it is not necessary for us to consider whether the descriptive data HEDCO submitted with its bid sufficiently demonstrated compliance with the other salient characteristics. G.A. Braun, Inc., B-216645, Feb. 21, 1985, 85-1 CPD ¶ 218.

The protest is denied.

Harry R. Van Cleve

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General Counsel