



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Heritage Medical Products, Inc.

File: B-223214

Date: August 5, 1986

DIGEST

Where a solicitation for surgical evacuators required bid samples to conform to the specifications listed in the solicitation, the agency properly rejected as nonresponsive a bid that was accompanied by a sample that did not meet those specifications. Moreover, the bid cannot be corrected after bid opening to make it responsive.

DECISION

Heritage Medical Products, Inc. (Heritage), protests the Veteran Administration's (VA) decision to reject Heritage's bid under solicitation No. M1-83-86 for surgical wound evacuators. We deny the protest.

The solicitation provided that bid samples were required and would be evaluated to determine compliance with the characteristics listed in the bidding schedule. The solicitation also provided that failure of these bid samples to conform to the required characteristics would result in rejection of the bid. Included in the schedule description for the surgical wound evacuators was a requirement for a patient attachment clip. Although Heritage submitted the lowest bid, its bid sample did not contain the patient attachment clip and the VA, therefore, rejected Heritage's bid as nonresponsive.

Heritage challenges the VA's rejection of its product based on the potential savings to the government if the VA were to award the contract to the firm and has offered to supply a patient attachment clip at no charge. Heritage also believes that it should be awarded the contract because its product had been approved in previous dealings with the VA.

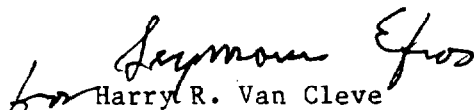
Where a solicitation lists definitive specifications and requires that bid samples strictly comply with those specifications, a sample that does not so comply renders a bid nonresponsive. Cherokee Leathergoods, Inc., B-205960, Aug. 13, 1982, 82-2 C.P.D. ¶ 129. The failure of a bid with bid samples to meet salient characteristics is therefore a proper ground

for bid rejection. Easton Box Co., B-213423, Apr. 10, 1984, 84-1 C.P.D. ¶ 406. Here, the specifications required that the surgical evacuators include a patient attachment clip; Heritage's bid sample did not conform to the VA's specifications, and thus was nonresponsive.

It is not relevant that the VA could save money by accepting Heritage's bid and offer to furnish the clip. First, to permit a bidder the opportunity to change, correct or explain a nonresponsive bid after bid opening would allow the firm to accept or reject the contract after bids have been exposed by correcting or refusing to correct the bid. Sullair Corp., B-214121, Apr. 17, 1984, 84-1 C.P.D. ¶ 436. Thus, it is well-settled that a nonresponsive bid may not be corrected to make it responsive. Id. Jewel Associates., B-213456, Mar. 20, 1984, 84-1 C.P.D. ¶ 335. Heritage therefore cannot cure its bidding deficiency through its post-bid-opening offer. Second, the possibility that the government might realize monetary savings if a material deficiency is allowed to be corrected or waived is outweighed by the importance of maintaining the integrity of the competitive bidding system. See Lane Blueprint Co., B-216520, Oct. 23, 1984, 84-2 C.P.D. ¶ 454; Union Metal Mfg. Co., Electroline Division, B-209161, Nov. 2, 1982, 82-2 C.P.D. ¶ 402.

Heritage also asserts that its product had been approved in previous dealings with the VA. That Heritage's product may have been approved or purchased by the VA previously is irrelevant, however, since a bid has to be responsive to the particular solicitation to which it responds in order to be considered for award. Federal Acquisition Regulation, 48 C.F.R. §§ 14.301, 14.404-2 (1984).

The protest is denied.


for Harry R. Van Cleve
General Counsel