



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: IFR Systems, Inc.--Request for Reconsideration
File: B-222533.2
Date: November 24, 1986

DIGEST

Prior decision holding that bid was responsive even though bid contained unsolicited model number is affirmed where bidder has not shown that decision was based on error of law or information not previously considered.

DECISION

IFR Systems, Inc., has requested us to reverse our denial of the company's protest in IFR Systems, Inc., B-222533, Aug. 26, 1986, 86-2 C.P.D. ¶ 224.

We affirm our prior decision.

In its protest, IFR contended that the low bid of Comtest, Inc. should not have been accepted under Marine Corps invitation for bids (IFB) No. M00027-86-B-0014 for radio test equipment because Comtest's cover letter to its bid stated that Comtest was bidding its "model 3000B." IFR argued that the insertion of the "3000B" model number rendered the bid ambiguous as to whether the model complied with the specifications. Comtest's cover letter also stated that "since [Comtest's] model met or exceeded all specifications, we have taken no exceptions [to the specifications]." We concluded that the reference to the model number in the context of Comtest's above-quoted statement in its cover letter did not create any ambiguity as to whether Comtest intended to comply with the IFB specifications. Thus, we found this situation distinguishable from the facts in Dictaphone Corp., B-204966, May 11, 1982, 82-1 C.P.D. ¶ 452, where the questioned bid was rejected because it did not contain an express statement that the proposed model complied with all specification requirements, and we found no merit in IFR's ambiguity argument.

In its current request, IFR argues that the above statements from Comtest's bid are ambiguous by their wording which, in Comtest's view, is "obviously self-serving and commercial

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puffing." IFR also argues that we did not follow the principles discussed in Sentinel Electronics, Inc., B-185681, June 24, 1976, 76-1 C.P.D. ¶ 405. However, that decision expressly acknowledges the principle that the initial ambiguity caused by the insertion of a model number in a bid may be cured by an express statement in the bid that the model conforms to the IFB requirements. In our view, Comtest's above-quoted express statement was unambiguous, and we therefore reject IFR's argument as well as IFR's misplaced reliance on Sentinel Electronics, which clearly supports our decision.

Next, IFR attempts to question the principle that a model number's ambiguity may be clarified by an express bid statement. IFR apparently insists that, regardless of an express, conforming bid statement, examination must also be made of the bidder's literature on the model to determine conformity. We disagree. The issue is whether a bidder has qualified its bid by including a reference to a model number in the bid. As noted previously, in our decision we found, consistent with prior case law, that Comtest's statement in its bid cover letter that it was offering a specific model did not create an ambiguity since it was accompanied by a further express statement that the model met or exceeded all specification requirements.

IFR also argues that when we stated that Comtest's cover letter "essentially" affirmed Comtest's intention to comply with the specifications we admitted that Comtest's commitment was not absolute. On the contrary, our use of the word "essentially" merely emphasized our conclusion that Comtest's express statement showed its intent to comply with the specifications. In our decision, we stated that reference to a model number in the context of statements that the model meets or exceeds "all specifications" and "we have taken no exceptions" does not create any ambiguity as to whether the bidder intends to comply with the IFB specifications.

We affirm our prior decision since the protester has not shown that the decision was based on an error of law or information not previously considered. Randolph Engineering, Inc.--Request for Reconsideration, B-221510.2, June 25, 1986, 86-1 C.P.D. ¶ 589.

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