



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Suma Corp.  
**File:** B-233132  
**Date:** February 2, 1989

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### **DIGEST**

Protester's bid was properly rejected as nonresponsive to a brand name or equal invitation for bids where the bid for a generator set powered by a diesel engine offered a 6-cylinder engine rather than a 12-cylinder engine as specified in the solicitation, which the agency reasonably determined was necessary for the desired performance.

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### **DECISION**

Suma Corp. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. F41652-88-B-0017, issued by the Department of the Air Force for a generator set powered by a certain brand name diesel engine, or equal. Suma contends its bid of an equal item improperly was rejected for failing to conform to the IFB specifications, and that it is entitled to be awarded the contract as the low bidder.

We deny the protest.

The IFB called for a 500 KW generating set with two sets of operating and maintenance manuals, all in accordance with the description and specifications in Schedule C. Schedule C required that the electric generator be powered by a diesel engine with the following description, in relevant part: "Design: Four-cycle; VEE 12 cylinder; replaceable wet liners; 13.7 to 1 compression ratio; 1649 cu. in. [cubic inch] piston displacement; piston speed 1800-rpm and 750-bhp minimum at 1800-rpm. Caterpillar, turbocharged and intercooled engine, 3412 or equal."

Thirteen bids were received, and after rejection of the low bid as nonresponsive, Suma was left as the low bidder. The Air Force also determined Suma's bid nonresponsive, however, since it offered an "in line 6 cylinder" Cummins Diesel engine instead of the specified 12-cylinder engine. (The

C44516/137855

smaller Cummins engine also had only 1,150 cubic inches of piston displacement instead of the required 1,649 cubic inches.) Award was subsequently made to H2O Tank, Inc. (which bid a 12-cylinder Cummins engine) as the low responsive, responsible bidder.

Suma argues that the 6-cylinder Cummins Diesel engine it offered in fact meets the specification for the Caterpillar model 3412, or equal, engine. Suma contends that, although the Cummins engine does not satisfy the 12-cylinder design feature, the engine qualifies under the "or equal" language because it performs at least as well as the Caterpillar engine specified. In its comments on the agency report, Suma asserts that 12 cylinders are not needed and that the specification for a 12-cylinder engine is not identified by the Air Force as a "salient characteristic."

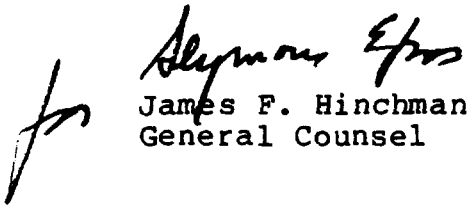
To be responsive to a brand name or equal solicitation, any allegedly equal product bid must possess the salient characteristics specified in the solicitation. Rocky Mountain Trading Co., B-221060, Jan. 24, 1986, 86-1 CPD ¶ 88. When salient characteristics are listed in terms of specific performance standards or design features, the equal product must meet these requirements precisely. Cohu, Inc., B-199551, Mar. 18, 1981, 81-1 CPD ¶ 207. Further, a brand name or equal solicitation describing various aspects of a particular firm's approach as salient characteristics is not to be interpreted as expressing only a functional requirement. Castle/Division of Sybron Corp., B-219056, Aug. 7, 1985, 85-2 CPD ¶ 142; MII Lundia, Inc., B-214715, Jan. 3, 1985, 85-1 CPD ¶ 14. On the contrary, technical requirements, stated in clear and precise terms, are presumed to be material to the needs of the government. Id.

Here, notwithstanding Suma's contention that the IFB did not indicate that the 12-cylinder requirement was a salient characteristic that had to be met by a proposed equal, we think the requirement clearly was salient. The IFB clearly stated that the generating set offered must comply with the description and specifications in Schedule C, and Schedule C just as clearly called for a 12-cylinder engine. Although Suma would have us interpret the specification as allowing bids of a functional equal to a 12-cylinder engine, the description quoted above reasonably must be read as establishing certain mandatory "design" features, including 12 cylinders, and then indicating that the 12-cylinder engine offered could be a Caterpillar model 3412, or equal. In other words, the "or equal" designation modifies the Caterpillar model 3412 requirement; it does not eliminate the design features specified and convert the description

into an entirely functional specification. See Castle/  
Division of Sybron Corp., B-219056, supra. We conclude that  
Suma's bid was properly found nonresponsive to the  
12-cylinder requirement.

In any case, here the Air Force has clearly shown a need for a 12-cylinder engine. The record indicates the agency specified a 12-cylinder engine because it was determined to provide a smoother transition of power in the engine and a longer engine life than other alternatives. Specifically regarding the comparison of the Suma 6-cylinder engine to the Caterpillar 12-cylinder engine, the Air Force found that there is a marked difference in the bore (diameter of the cylinder) and the stroke (length the piston rod must travel in the cylinder in order to turn the crankshaft). The smaller bore and stroke of the 12-cylinder engine results in smoother operation of the unit because there is less motion needed for the rods to turn the crankshaft to a full revolution. Less motion results in less wear on the engine components and, thus, a longer engine life. Suma maintains there are other benefits available from its 6-cylinder engine, but based on the agency's explanation, we conclude that, even if the IFB were susceptible of a reading that the 12-cylinder feature was only a functional requirement, Suma has not established that its offered engine in fact is functionally equal to the Caterpillar engine in the noted respects. See generally, 51 Comp. Gen. 237 (1971). Suma's bid therefore properly was rejected as nonresponsive.

The protest is denied.

  
James F. Hinchman  
General Counsel