



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Faxland
File: B-250653.2
Date: January 28, 1993

James B. Graham for the protester.
Steven J. Wollins for Pitney Bowes, an interested party.
Joanne Munno, Department of Agriculture, for the agency.
Carlos E. Diz, Esq., and Barbara R. Timmerman, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Bid which constitutes an unequivocal offer to perform in accordance with terms of invitation for bids and does not take any exception to the solicitation's material terms was properly considered responsive.

DECISION

The Faxland Corporation protests the award of a contract to Pitney Bowes under invitation for bids (IFB) No. IFB-00-92-1027, issued by the United States Department of Agriculture (USDA) for 745 facsimile machines. We deny the protest.

The agency received twenty bids at bid opening on September 28, 1992. Pitney Bowes was the low bidder. Faxland submitted the seventh lowest bid. The contracting officer found Pitney Bowes to be the lowest priced responsive, responsible bidder and on September 29, awarded it the contract.

The agency later conducted a post award acceptance test in which the equipment was found to meet all IFB specifications except height. USDA determined that this was a minor defect which could be easily corrected by the use of another equipment stand. Pitney Bowes' machine met all size requirements when the company supplied a smaller stand.

Faxland argues that the awardee's bid should have been rejected as nonresponsive because its machine does not comply with the IFB specifications. Faxland contends that Pitney Bowes' machine does not meet the size requirements and does not come with a power surge protector. The protester also challenges the responsiveness of the five other intervening bidders that offered lower prices. We do

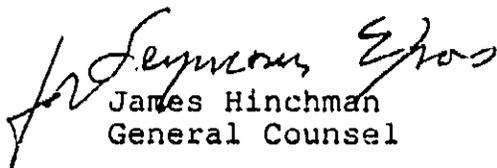
not address Faxland's contentions regarding the intervening bidders as we find the award to Pitney Bowes to be proper.

Bid responsiveness concerns whether a bidder has unequivocally promised to provide supplies in conformity with all material terms and conditions of a solicitation. Only where a bidder provides information with its bid that reduces, limits, or modifies a solicitation requirement may the bid be rejected as nonresponsive. Ibex Ltd., B-230218, Mar. 11, 1988, 88-1 CPD ¶ 257.

Pitney Bowes did not take any exception to the IFB requirements and did not provide any information with its bid which modified any requirement. According to the agency, it had no reason at bid opening to believe that the machine Pitney Bowes offered was not totally compliant with all IFB requirements. Consequently, we have no basis to question the agency's determination to award the contract to Pitney Bowes.

While this Office does not address matters of contract performance, we understand that the facsimile machine offered by Pitney Bowes met all specifications when the acceptance test was performed prior to delivery as required by the solicitation.

The protest is denied.


James Hinchman
General Counsel