



Comptroller General  
of the United States

Washington, D.C. 20548

436146

## Decision

**Matter of:** Air Prep Technology, Inc.

**File:** B-252833

**Date:** June 14, 1993

J. Thomas Burch, Jr., Esq., Maloney & Burch, for the protester.  
Joseph A. Camardo, Jr., Esq., and Jit Turakhia for J.T. Systems, Inc., an interested party.  
Nilza F. Velázquez, Esq., Department of Transportation, for the agency.  
Tania L. Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Cover letter accompanying bid that proposed a hydraulic oil motor driven screw conveyor instead of a compressed air motor driven screw conveyor, as required by the invitation for bids, rendered the bid nonresponsive.

### DECISION

Air Prep Technology, Inc. protests the award of a contract to J.T. Systems, Inc. under invitation for bids (IFB) No. DTCG40-93-B-30006, issued by the United States Coast Guard, Department of Transportation, for two portable dust collectors for the Coast Guard Yard in Baltimore, Maryland. Air Prep argues that the Coast Guard improperly rejected its lower priced bid as nonresponsive.

We deny the protest.

The IFB was issued on October 28, 1992, as a total small business set-aside. The item description instructed potential bidders that the dust collectors offered must comply with the specifications contained in the IFB's attachment J.1. Two amendments to the solicitation were issued in response to questions submitted by various potential bidders, including J.T. Systems. Amendment No. 0001,<sup>1</sup>

<sup>1</sup>Amendment No. 0002 is not relevant to this protest.

issued on November 16, modified the specification for the dust collector's filter unit in pertinent part as follows:

**"PARAGRAPH 3.2.5 REVISE THE PARAGRAPH TO READ AS FOLLOWS: The lower portion of the filter unit shall be formed into a dust storage hopper . . . . Each hopper shall be fitted with a compressed air motor driven screw conveyor . . .".** [Emphasis added.]

On the December 16 extended bid opening date, nine bids were received; Air Prep submitted the low bid of \$105,910, and J.T. Systems was second-low with a bid of \$144,120. In a cover letter attached to its bid, Air Prep described how its offered product complied with each paragraph of the IFB's specifications. With regard to the specifications' amended paragraph 3.2.5, the letter stated, in pertinent part:

**"A live bottom dust hopper shall be provided. This screw conveyor system will be powered by a hydraulic oil motor . . .".** [Emphasis added.]

The agency interpreted this statement to mean that the screw conveyor system in Air Prep's offered product was driven by a hydraulic oil motor. As a result, the Coast Guard rejected Air Prep's bid as nonresponsive on the basis that Air Prep had taken exception to the material IFB requirement<sup>2</sup> that the screw conveyor be driven by a compressed air motor. Award was made to J.T. Systems on March 18; this protest followed. Performance of the contract has been suspended pending the resolution of this protest.

Air Prep argues that the amended specification required a compressed air driven screw conveyor only if the offered product contained more than one screw conveyor; since Air Prep's offered product contained only one screw conveyor, it believes it was not required to provide a compressed air driven conveyor.

In support of its position, Air Prep cites amendment No. 0001's introductory language, which describes the contents of the amendment:

**"The following consists of answers to questions for the Dust Collector, under Solicitation No. DTCG40-93-B-30006, and the revised**

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<sup>2</sup>The protester does not dispute that this specification requirement is material.

specification dated 28 October 1992 for the clarification of paragraph 3.2.5, which amplifies the need for a screw conveyor for each collection hopper if more than one hopper is part of the equipment. **It also adds the requirement for an air driven motor to power each of the screw conveyors, if more than one screw conveyor is part of the equipment.**" [Emphasis added.]

Where a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all provisions in the solicitation. Parsons Precision Prods., Inc., B-249940, Dec. 22, 1992, 92-2 CPD ¶ 431; Romer Labs., Inc., B-243027, June 25, 1991, 91-1 CPD ¶ 602. To be reasonable, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. Id. In our view, the protester's interpretation is unreasonable.

First, the actual language of the amended specification unambiguously requires a compressed air motor driven screw conveyor; nowhere does it state that this requirement pertains only to dust collectors with more than one screw conveyor. The passage relied upon by Air Prep is mere prefatory language intended to explain the contents of the amendment; it is not the amended specification itself. Second, the only reasonable interpretation of the passage relied upon by Air Prep is that if the offered product has more than one screw conveyor, a different compressed air motor is required to drive each screw conveyor. This is borne out by other prefatory language in the amendment, where the questions posed by prospective bidders and the agency's answers to those questions are reproduced. The agency's answer to the question, "[h]ow are the screws to be powered?" is, "[t]he screw conveyor(s) shall be driven by an air motor(s)." This language plainly means that each screw conveyor shall be driven by an air motor; if there are two screw conveyors, there must be two air motors. We conclude that the only reasonable interpretation of the amended specification, when read in conjunction with the solicitation as a whole, is that, regardless of the number of screw conveyors contained in a bidder's offered product, each and every screw conveyor shall be driven by a compressed air motor.

To be responsive, a bid, as submitted, must represent an unequivocal offer to provide the exact thing called for in the IFB such that acceptance of the bid will bind the contractor in accordance with the solicitation's material

terms and conditions, Mechanical Resources, Inc., B-241403, Jan. 30, 1991, 91-1 CPD ¶ 93. A bid which takes exception to a material IFB requirement must be rejected as non-responsive, Id. Here, the plain language of the amended specification makes it clear that each screw conveyor must be driven by a compressed air motor. Air Prep's cover letter, in which it unequivocally states that its screw conveyor system will be powered by a hydraulic oil motor, indicates that the firm is not offering to provide the exact thing called for in the IFB; thus, the bid was properly rejected as nonresponsive.

The protest is denied.



*for* James F. Hinchman  
General Counsel