



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Triumph Magna Mixer Company

File: B-256504

Date: June 28, 1994

Robert Baur for the protester,
Eric A. Lile, Esq., and Kenneth J. Densmore, Esq.,
Department of the Navy, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Protester's bid offering an equal product under a brand name or equal invitation for bids for a commercial dough mixer was properly rejected as nonresponsive where the bid failed to include the required descriptive literature.

DECISION

Triumph Magna Mixer Company protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. N00210-94-B-0017, issued by the Department of the Navy, Naval Training Center, Great Lakes, Illinois, for a commercial dough mixer. The Navy rejected Triumph's bid for failing to include adequate descriptive literature.

We deny the protest.

This IFB called for a Champion Machinery Company Model No. 3 dough mixer, or equal. An equal dough mixer was required to possess specific salient characteristics listed in the IFB. The IFB required bidders offering equal products to furnish descriptive literature demonstrating the product's compliance with the listed salient characteristics and cautioned that the agency was not responsible for locating or securing any information not submitted with the bid.

At the January 19, 1994, bid opening, the Navy received six bids. Triumph submitted the low bid offering its Triumph No. 3 BBL SN-2 as an equal product. Triumph's bid failed to include descriptive literature, as required by the IFB; it contained only a brief description of the offered product on the bid schedule that did not address all the listed salient characteristics. Consequently, the Navy

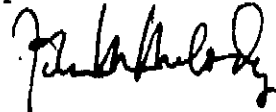
rejected Triumph's bid as nonresponsive, and awarded the contract to the low responsive bidder, CRC Products, Inc. This protest followed.

Triumph concedes it failed to provide descriptive literature in its bid, but argues that this failure does not warrant the rejection of its bid. Triumph asserts that the Navy should have provided it the opportunity to demonstrate the acceptability of its product after bid opening since the mixer it was offering was clearly identified in its low bid.

Where descriptive literature is required by a solicitation to establish conformance to the specifications, and bidders are so cautioned, a bid must be rejected if it fails to include the required descriptive literature. See TIMCO Elec. Power & Controls, Inc., B-248308, Aug. 6, 1992, 92-2 CPD ¶ 84. A bidder must submit with its bid sufficient literature to permit the contracting agency to assess whether the equal product meets all the salient characteristics. Sharp Elec. Corp., B-242302, Apr. 15, 1991, 91-1 CPD ¶ 374.

Triumph's bid offering an equal product was nonresponsive as it did not include the required descriptive literature. Even though Triumph's bid contained a narrative description addressing some of the required salient characteristics, there was no descriptive literature included that addressed such material salient characteristics as mixing speed and dough capacity. The Navy could not permit Triumph to demonstrate the acceptability of its identified product after bid opening. Whether descriptive literature shows that an offered product is equal to the brand name is determined as of bid opening, and a bidder's post-opening explanation cannot overcome its failure to submit the required literature with its bid. See TIMCO Elec. Power & Controls, Inc., supra. Further, a nonresponsive bid may not be accepted or supplemented even if it is low because to do so would compromise the competitive process. Barnard & Assoc., B-253367, Sept. 13, 1993, 93-2 CPD ¶ 157.

The protest is denied.



for Robert P. Murphy
Acting General Counsel