



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176327

DEC 29 1972

Economics Laboratory, Inc.
Government Accounts Office
8555 16th Street, Suite 706
Silver Spring, Maryland 20910

Attention: Mr. James Waters

Gentlemen:

Reference is made to your telefax of June 25, 1972, and subsequent correspondence, protesting the award of a contract to DuBois Chemicals under IFB F08651-72-B-0251, issued at Eglin Air Force Base, Florida.

The IFB solicited bids on a requirements basis for quantities of detergent and rinse agents during the period of July 1, 1972, through June 30, 1973. The detergents and rinse agents were described on a "brand name or equal" basis with the salient characteristics of the materials identified. The IFB required the contractor to furnish, install, and maintain at no additional expense to the Government automatic detergent dispensers and rinse agent injectors for releasing the materials into dishwashing machines.

You have protested against the award made to DuBois Chemicals on the grounds that it was not the low bidder, that the rinse agent it offered is not equal to any of the brands named in the purchase description, and that the DuBois rinse agent injector is pressure operated contrary to the IFB specifications.

Your unit prices on the detergent and rinse additives were the lowest received per pound and gallon respectively. However, the IFB provided for award on the basis of the amount of material the manufacturer recommended for use with each 10 gallons of water. On that basis, DuBois was the low bidder and you were the next low bidder.

Further, when a product offered in a bid as an equal meets the salient features listed in the IFB, it would not be proper to reject the bid as nonresponsive because it may differ in some respects from the brands named in the purchase description, since the only features that can be considered essential are those listed as salient characteristics. See B-157857, January 26, 1966, and B-154616, September 17, 1964.

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Finally, you have contended that the DuBois bid was nonresponsive because the rinse agent injector does not comply with the IFB specifications. However, DuBois did not take any exception to the specifications in the bid. Therefore, the resulting contract based upon such bid is valid. Any failure of the equipment furnished under the contract to comply with the specifications does not affect the validity of the contract. Such matter is for consideration and appropriate action by the contracting officer under the terms of the contract.

In the circumstances, there is no basis for legal objection to the award made. Accordingly, the protest is denied.

Very truly yours,

R.F.KELLER

Deputy Comptroller General
of the United States