



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20541

B-177876

May 31, 1973

30990

Elgin Sweeper Company  
1300 West Bartlett Road  
Elgin, Illinois 60120

Attention: Mr. Roger B. Parsons

Gentlemen:

By letter dated April 3, 1973, and previous correspondence, you protest the award of a contract to another bidder, Wayne Division of FHC Corporation (Wayne), under invitation for bids (IFB) No. WA5M-3-0212B1.

The IFB was issued on November 17, 1972, by the Federal Aviation Administration (FAA) for a rotary self-propelled sweeper. Bids were opened on January 8, 1973, and Wayne was the low bidder. Award was made to Wayne on January 26, 1973. Your protest was received in our Office on the same day.

The specification requirements of the invitation, as modified by IFB Amendment 2, provided:

\* \* \* the sweeper engine shall be gasoline type, heavy duty engine with a minimum of 196 HHP equipped with hand throttle and hand choke, heavy duty air cleaner, minimum 60 amp. alternator. Bidders shall submit certification that the engine is as described therein.

The solicitation did not, however, require the bidders to submit descriptive literature.

You contend that the engine to be supplied by Wayne does not meet the minimum horsepower requirement of 196 HHP (Brake Horse Power). In support of this contention, you refer to the current sales manual published by Wayne which indicates that Wayne uses a LH 318 Chrysler engine. You believe that this engine will be supplied by Wayne pursuant to the subject contract. You point out that although the Wayne literature states that the LH 318 has a rated horsepower of 210, the official Chrysler Corporation specification sheet

[Protest Alleging Award is Nonresponsive]

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describes the IH310 engine as having a gross horsepower of 192. You therefore request that the award to Wayne be cancelled and award be made to your firm as the low responsive bidder.

The record shows that Wayne's bid acknowledged receipt of IFB Amendment No. 2, which included the requirement for an engine having a minimum of 195 H.P. Wayne's cover letter dated January 4, 1973, transmitting its bid stated that the "bid \* \* \* is based upon furnishing a sweeper to meet your (FAA's) requirements completely." On this basis, the FAA determined the Wayne bid to be responsive. We agree.

The determination of the responsiveness of a bid is a legal question of conformity to the invitation. See 39 Comp. Gen. 173, 178 (1959). It is clear that Wayne offered to furnish an engine which would comply with the specifications. Therefore, we believe that the FAA properly made award to Wayne as the low responsive bidder.

Whether the engine to be delivered to the FAA by Wayne actually complies with the specifications is primarily a matter for determination by the administrative agency. See 38 Comp. Gen. 190, 191 (1958). Thus, it is the responsibility of the FAA to ensure that the Sweeper to be supplied by Wayne is in conformance with the specifications.

In view of the foregoing, your protest is denied.

Sincerely yours,

Paul G. Dembling

Acting Comptroller General  
of the United States

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