

DECISION



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

120239

FILE: B-208117

DATE: December 28, 1982

MATTER OF: Microform, Inc.

DIGEST:

The failure to acknowledge an amendment to a solicitation that consists of an explanation that is obvious because of the industry's generally understood technical capabilities can be waived because the amendment is not material.

Microform, Inc. protests the proposed award of a contract to Engineered Systems, Inc. (ESI) under Jacket B-98-S issued by the Government Printing Office (GPO) for the production of 1980 Decennial Census Block Statistic Maps on microfilm and associated publications on microfiche for distribution to depository libraries. Microform contends that the bid submitted by ESI was nonresponsive because ESI failed to acknowledge a material amendment to the solicitation and its bid is materially unbalanced. It also contends that ESI is nonresponsive because it does not have the facilities to perform the contract. We deny the protest.

The original specifications attempted to establish, among other things, two minimum resolution standards for the microfiche and the microfilm. For example, the solicitation provided:

"The first generation negative silver halide camera masters produced under this contract must:

* * * * *

- (2) (a) have a minimum resolution of target pattern 6.3.
(b) have a minimum resolution of target pattern 9."

The amendment to the solicitation dealt with which resolution factors were to apply to microfiche and which to microfilm, and stated that "in each case after (a) add 'Microfiche to' and each case after (b) add 'Microforms'¹ to' (emphasis ours)." Thus, the amended specification would read "(a) microfiche to have a minimum resolution of target pattern 6.3" and (b) microforms to have a minimum resolution of target pattern 9." ESI, the apparent low bidder, failed to acknowledge receipt of this amendment, but GPO determined that the amendment was not material and waived ESI's failure to acknowledge it.

Microform maintains that the amendment was issued to clarify an ambiguity in the statement of work about which it and other bidders inquired. It asserts that the amendment provides for the filming of microfiche and microfilm at resolution levels approximately 30 percent higher than commercial standards and, by failing to acknowledge the amendment, ESI is not obligated to meet these higher standards.

Procuring officials state that they did not receive any questions concerning the solicitation from Microform or any other prospective bidders, but they decided to issue the amendment so that the solicitation would be clear even to a bidder without any experience in micrographics. GPO believes that under the unamended solicitation it was obvious which resolution standards were to apply to microfiche and which to microfilm because the heading for the affected specifications and the descriptive paragraphs directly under that heading dealt with microfiche and microfilm, respectively, and thus the specific requirements

¹The amendment inexplicably used "microform" as a substitute for "microfilm." A microform as defined in the Government Printing and Binding Regulations (1977 ed.) includes both microfiche and microfilm, that is, a miniaturized image format used as a substitute for conventionally printed material. A microfiche is a single sheet of film that accommodates a large number of pages in reduced form. Microfilm is in roll form. Since "microfiche" was used also in the amendment, it is apparent that "microform" was intended to mean only "microfilm" in this solicitation.

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on resolution standards which followed would logically deal first with microfiche and then with microfilm. GPO asserts that the fact that the amendment merely inserted an obvious explanation of the solicitation is evidenced by the fact that the four responsive bidders told the agency that they understood which resolution standards were to apply to microfiche and which to microfilm without the aid of the amendment. GPO concludes that the amendment did not affect the substance of the solicitation and therefore the failure to acknowledge the amendment can be waived. We agree.

The solicitation as initially issued did not specify whether the resolution standards listed for each item were to apply to microfiche or microfilm, and they were not intended to be interchangeable. We do not believe, however, that any bidder familiar with micrographics would be misled by the original, unamended solicitation--in part because of the logic of the form of the solicitation--but more importantly, because of the technical limitations involved.

For example, microfiche images are reduced from the original by a factor of 24, while microfilm images are reduced by a factor of 12. We doubt that it is technically feasible to obtain the resolution requirements on fiche that were intended for the film in this solicitation. Although we do not conclude that it is necessarily impossible to achieve such a result, we do think that it would be unreasonable to interpret the specification in a manner that is simply inconsistent with the industry's generally understood technical capabilities. We, therefore, agree with GPO that the amendment in fact consisted of an obvious explanation, and as such, was not material. The failure to acknowledge it properly can be waived.

The protest is denied.

Milton J. Aroslan
for Comptroller General
of the United States