



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

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B-178478

June 29, 1973

Aerosonic Corporation
Post Office Box 4627
Clearwater, Florida 33518

Attention: Mr. Herbert J. Frank
President

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Gentlemen:

By letter dated May 24, 1973, and prior correspondence, you protested against the use of a Qualified Products List (QPL) under invitation for bids (IFB) No. N00019-73-B-0121, issued by the Navy Purchasing Office for a requirement of the Naval Air Systems Command (NAVAIR).

The IFB was issued on March 23, 1973, for the procurement of 1,031 AAU-22/A Altimeter-Encoders, other associated items, and options for an additional 9,264 Altimeter-Encoders. It is your position that a QPL is not a proper method of procurement in the instant case because:

1. There are no companies so certified as being on the qualified products list at the present time.
2. It has always been my opinion, and I think the law, that an IFB must contain at least two or more qualified bidders to make it an IFB.* * *

This Office has consistently held that the qualified products method of procurement is proper in certain circumstances even though it has the effect of restricting competition. 36 Comp. Gen. 809 (1957). The determination whether to use a QPL for a particular procurement is a decision reserved to the appropriate procurement officials and, absent a showing of bad faith, is not subject to question by this Office. B-162449, November 2, 1967.

You are correct in your statement that no product was on the QPL for this item at the time the IFB was issued. However, it is reported that a qualification requirement for this item was established in May 1972, and notice thereof was published in the Commerce Business Daily in June 1972, pursuant to Armed Services Procurement Regulation (ASPR) 1-1105. As a result of this notice,

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six firms responded. Furthermore, it appears that at the time the solicitation was issued one product had been successfully tested and qualified (although not yet listed on the QPL) and at least one other product was undergoing testing and expected to be qualified and listed prior to bid opening. In this connection, ASFR 1-1107.1(a) requires that:

Whenever qualified products are to be procured by the Government as end items, only bids or proposals offering products which are qualified for listing on the applicable Qualified Products List at the time set for opening of bids or award of negotiated contracts shall be considered in making awards. (Underlining supplied.)

NAVAIR has advised us that bid opening was held on June 7, 1973, at which time there were two companies whose products had qualified for inclusion on the applicable QPL. In this regard, we have held that the Government " * * * does not violate either the letter or the spirit of the competitive bidding statutes merely because only one firm can supply its needs, provided the specifications are reasonable and necessary for the purpose intended." 45 Comp. Gen. 365, 368 (1955).

Furthermore, we find no impropriety in the Navy extending the bid opening date several times. We think this was consistent with an attempt to qualify the maximum number of sources and in accordance with ASFR 1-1107.1(c)(2), which requires that:

The maximum time consistent with delivery requirements shall be allowed between issuance of the solicitation and the opening of bids * * *

Accordingly, your protest is denied.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States

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