

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

FILE: B-186506

DATE: July 13, 1976

MATTER OF: Chemical Technology, Inc.

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97942

DIGEST:

Where alleged defects in specifications were apparent prior to bid opening, protest after bid opening by 15th low bidder that wide variance in bids under advertised procurement proved solicitation was defective is untimely under GAO's Bid Protest Procedures.

Chemical Technology, Inc. (CTI), protests the award of a contract for mess attendant services under invitation for bids (IFB) No. F07603-76-09036, issued by the Dover Air Force Base, Delaware.

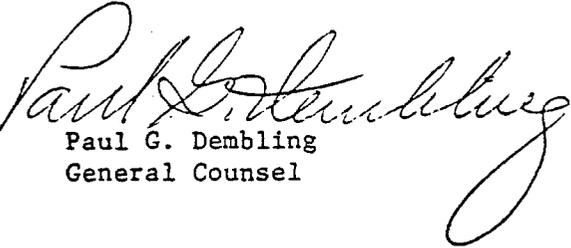
The 18 bids received at the May 7, 1976, bid opening ranged from the low bid of \$253,435.50 to a high of \$527,071.58. CTI's price was the 15th lowest bid received. Based upon its experience as the incumbent contractor, CTI states that it did not believe that any bidder could perform the contract satisfactorily at a price less than \$426,000 per year. It contends that the disparity between the low bid and the prices submitted by several "experienced bidders" is proof that the IFB's specifications did not adequately describe the scope and complexity of the required work.

CTI argues that based upon its experiences under the prior solicitation the specifications were deficient because no mention was made of: (1) scouting and special groups which utilize the facility; (2) special overload situations occurring in June, July, and August due to training by ROTC members and reservists on active duty; and (3) possible weekend ROTC overloads and extra serving lines during July 1977. In addition, the IFB was said to be vague with respect to contractor responsibility for cleaning tables, and as to the extent and frequency of grounds maintenance. CTI also maintains that the extent of supply and storeroom functions had been understated in the solicitation. These problems were allegedly not mentioned at the prebid conference. Therefore, CTI requests that: (1) the procurement be canceled; (2) new specifications be issued; and (3) that the procurement be readvertised.

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Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1976), provides in part that protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening shall be filed prior to bid opening. All of the alleged defects were apparent on the face of the IFB. The record indicates that CTI's representative was present at the prebid conference held on April 22, 1976, and did not object to or comment on the specifications. No protest was lodged until after bid opening.

Accordingly, the protest is untimely and will not be considered on the merits.



Paul G. Dembling
General Counsel