

DECISION

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

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FILE: B-185562

DATE: April 8, 1976

99089

MATTER OF: Surveillance Systems

DIGEST:

1. GAO agrees with contracting officer's position that, in absence of Government employee involvement in alleged price disclosure to competitor, there is no requirement that allegation be investigated by procuring agency.
2. Protest that successful contractor is not responsible because of lack of integrity will not be considered by GAO.

Surveillance Systems (Surveillance) has protested the December 8, 1975, award of a contract to TRB Industries (TRB), the offeror submitting the lowest price under Army request for proposals No. DAAA25-76-R-0050. Surveillance alleges that TRB had knowledge of Surveillance's offered price prior to the date (October 9, 1975) on which proposals were to be submitted under the RFP and that TRB's offered product had been improperly qualified by the Department. Finally, Surveillance notes that litigation is pending regarding alleged irregularities committed by a former employee. Because of these assertions, the protest requests that TRB's contract be canceled and an award made to Surveillance, the offeror submitting the second lowest price under the RFP.

The Army's contracting officer argues that it would impose an "impossible and undue" burden on him to "police private business" ethics by investigating an allegation of improper price disclosure. Further, the contracting officer is of the firm opinion that there was "no irregularity on the part of the Government" since the "alleged disclosure of price was not made by any Government personnel."

There is no evidence, in the contracting officer's view, that TRB's units were improperly qualified. He insists that the units passed all required tests and therefore were properly qualified under the Defense Standardization Program. Further, the contracting

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officer observes that TRB was determined to be a responsible offeror based on a pre-award survey report which disclosed "no data giving rise to a reason to question TRB's integrity." No criminal or fraud conviction was noted in the survey. Finally, the contracting officer states he was unaware of the pending litigation (which, apparently, has not yet been resolved) recited by Surveillance in its protest.

We are not aware of any statutory or regulatory requirement which authorizes or mandates contracting officers to investigate the "disclosure of price" complaint raised by Surveillance. Indeed, it is our view that investigating these and like complaints would impose an intolerable burden and inordinately delay the procurement process. Cf. 52 Comp. Gen. 161, 166-167 (1972). Further, Surveillance, in its comments on the Army's report, has not taken exception to the contracting officer's position that there is no evidence that Government employees improperly qualified TRB's units.

To the extent, moreover, that Surveillance is challenging the contracting officer's affirmative finding that TRB was a responsible offeror, having a satisfactory record of integrity, we note the policy of our Office not to consider protests involving affirmative responsibility findings save for a showing of fraud or where the solicitation (unlike the case here) contains definitive responsibility criteria which allegedly have not been met. La Crosse Garment Manufacturing Company, B-185462, December 17, 1975, 75-2 CPD 399. The protester has not made a showing of fraud concerning TRB's responsibility finding. Consequently, we will not consider this aspect of the protest.

Protest denied.


Acting Comptroller General
of the United States