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DECISION



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

FILE: B-190498

DATE: November 15, 1977

MATTER OF: Rockwell International

DIGEST:

Protest, filed after bid opening, under solicitation for 19 line items, four of which are sole-source to one firm because of Qualified Products List (QPL) restriction, which firm was low bidder on "all or none" basis, is untimely filed under 4 C.F.R. § 20.2(b)(1), which requires protests based upon alleged improprieties apparent prior to bid opening be filed prior to bid opening, since solicitation contained no prohibition against "all or none" bids and showed QPL requirement for items in question.

Rockwell International (Rockwell) has protested any award under solicitation No. FTAP-B4-95026 issued by the General Services Administration (GSA).

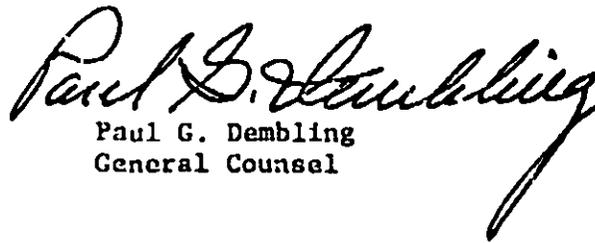
Rockwell's protest is based on the contention that GSA improperly included four items in the solicitation, soliciting bids on 19 portable electric power tools, which were effectively sole-source items to Black & Decker Manufacturing Company (B&D) as the only firm on the Qualified Products List (QPL) for these four items. B&D submitted the low bid under the solicitation on an "all or none" basis. Rockwell contends that these four items should not be awarded but negotiated sole-source with B&D and that the award for the remaining items should be made to Rockwell based on its low "all or none" bid excluding the four sole-source items.

Section 20.2(b)(1) of our Bid Protest Procedures (4 C.F.R. part 20 (1977)) requires that protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening shall be filed prior to bid opening.

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Bid opening was on October 13, 1977. Rockwell's protest was not filed with our Office until October 21, 1977. As the solicitation permitted "all or none" bids and showed that the four items in question were restricted to qualified sources under QPL No. QPL-W-D-1114-9, and Rockwell knew B&D was the only QPL firm, we find the protest to be untimely filed since it was known or should have been known that B&D could properly bid as it did under the terms of the solicitation. Moreover, in prior solicitations (Nos. FTAP-B4-60130 and FTAP-B4-95025-A) Rockwell bid on an "all or none" basis when it was on the QPL for certain items.

Accordingly, the protest is dismissed as untimely.


Paul G. Dembling
General Counsel