

**DECISION**

12633 M. J. [unclear]  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-196376

DATE: January 25, 1980

MATTER OF: American Laundry Machinery, Inc.

**DIGEST:**

Protest on use of life cycle costing as evaluation criteria, filed after the closing date set for receipt of proposals, is untimely raised under GAO Bid Protest Procedures.

CN6-305 American Laundry Machinery, Inc. (American) protests the award of a contract to Pellerin Milnor Corporation (Milnor) for a consolidated laundry system at the Veterans Administration (VA) Hospital, Battle Creek, Michigan under solicitation No. M2-037-79.

The solicitation was issued on July 26, 1978. The lowest offeror, G.A. Braun, was rejected because, among other things, the system offered did not meet the VA specifications. Braun asked the VA to reconsider the acceptability of its offer. The VA consented and then requested additional information from the offerors on labor and utilities to do a life cycle study. As a result of the study the solicitation was amended. All offerors, including American, were notified by letter dated June 6, 1979, of revised specifications and evaluation criteria including the fact that "Proposals will be evaluated utilizing Life Cycle Costing (LCC) and award will be based on lowest overall cost of ownership to the Government." The evaluation criteria clearly stated how the life cycle costs would be determined and how labor and utility costs would be estimated. It estimated the system life at 15 years and explained how cost for future years and varying annual costs would be accounted for. All of the mechanics for analyzing and comparing the offers were presented. The closing date was July 25, 1979.

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Untimely  
bid protest  
evaluation  
criteria  
Cost analysis

Solicitation specifications  
modification  
Bid rejection  
Contract award  
protests  
Reconsideration

American and the other offerors submitted revised offers and data on the use of labor and utilities. The VA evaluated the offers considering equipment cost, utilities and labor. Although American had the lowest offer on equipment cost, it was the third lowest offer once labor and utilities were included. American was notified of the award to Milnor on September 27, 1979.

In its protest, received in GAO on October 9, 1979, American states:

"While the award is being made on life cycle costing, \* \* \* the Veterans Administration has no basis, in fact, for comparing the actual operating costs. All bidders were to submit figures on life cycle costing that are theoretical and with particular reference to personnel staffing, do not take into consideration the reality of operation. Until the Veterans Administration can establish a true basis for life cycle costing based on comparisons, they cannot make awards based on theoretical projections."

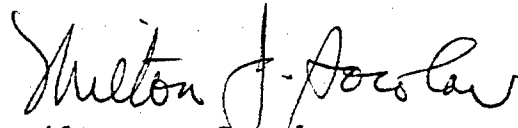
Our Bid Protest Procedures, 4 C.F.R. Part 20 (1979), provide in section 20.2(b)(1):

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals."

Therefore, if American thought the VA could not make an award using life cycle costing as presented in the evaluation criteria, it was required to file its protest prior to the closing date for receipt of initial proposals, July 25, 1979. American's

protest was not received in GAO until October 9, 1979. As this protest was filed after contract award it must be considered untimely and not for consideration on the merits. McCarthy Manufacturing Co., Inc., B-194771, August 21, 1979, 79-2 CPD 141; Teleprompter of San Bernadino, Inc., B-191336, July 30, 1979, 79-2 CPD 61.

The protest is dismissed.



Milton J. Secolar  
General Counsel