

DECISION



Donohue PLG
14354
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-199361

DATE: July 22, 1980

MATTER OF: Kreonite, Inc.

DIGEST:

1. Protest alleging specifications impropriety in solicitation which is not filed prior to bid opening is untimely.
2. Bid is properly determined nonresponsive where bid offers use of plastic tanks and solicitation specifications required use of stainless steel tanks.

CONCERNING Bid
Kreonite, Inc. (Kreonite) [protests the rejection] of its bid by the Department of the Army (ARMY) under solicitation No. DAAG08-80-B-0248 for the procurement of a black and white print processor. The solicitation specified the use of stainless steel tanks. Kreonite offered the use of plastic tanks and the Army rejected its bid as nonresponsive. Kreonite now contends that the requirement for stainless steel tanks is "unfair" and that plastic tanks are equal or superior to stainless steel tanks.

Our Bid Protest Procedures provide that protests based upon an alleged impropriety in a solicitation which is apparent prior to bid opening must be filed prior to bid opening. 4 C.F.R. § 20.2(b)(1) (1980). Bid opening for this solicitation was June 12, 1980; the protest was filed on June 25, 1980. Therefore, to the extent Kreonite challenges the specifications, the protest is untimely. ENSEC Service Corp. B-197909, March 11, 1980, 80-1 CPD 190.

To the extent Kreonite objects to rejection of its bid, the protest must be denied. A bid which takes exception to a material specification requirement must be rejected as nonresponsive. E-M Southwest, Inc. B-193299,

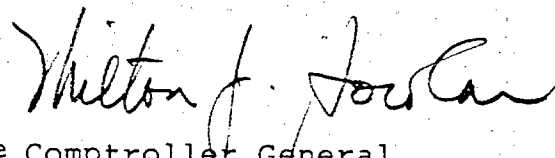
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March 29, 1979, 79-1 CPD 217. Since the solicitation specified the use of stainless steel tanks and since it appears Kreonite indicated in its bid that it was offering plastic tanks, rejection of its bid was proper.

A handwritten signature in cursive script, reading "Milton J. Jordan".

For the Comptroller General
of the United States