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DECISION



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

FILE: B-197897

DATE: September 2, 1980

MATTER OF: Koolshade Corporation

DIGEST:

Bid protest is dismissed as premature where it does not concern immediate procurement but instead challenges fairness of possible future solicitations.

On February 11, 1980, the General Services Administration (GSA) issued an Invitation for Bids (IFB) for the installation of energy control window film on Federal Building 10B in Washington, D.C. Although the specifications made no reference to post-installation testing of the film, GSA reports that the National Bureau of Standards (NBS) will test the product after work under the contract is completed. As part of the testing process, NBS will conduct a computer analysis of the data in order to determine potential energy savings to be realized through the use of energy control film. According to GSA, the outcome of the tests and analyses will not affect the acceptance of the contractor's work and are not part of the subject contract.

Koolshade, a manufacturer of solar control devices, objects to the proposed tests because they will be performed on a single product even though a number of different types of films and external shading screens are commercially available. Koolshade contends that if the test results are misinterpreted, manufacturers of energy control film will be given an unfair advantage in future procurements. Additionally, the protester objects to various test conditions and procedures because they allegedly will not produce generally applicable results. Specifically, Koolshade maintains:

[Protest] *Future* CHALLENGING Solicitation FAIRNESS

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- 1) For architectural reasons, Federal Building 10B is an unsuitable test site;
- 2) Solar intensity in Washington, D.C. is not necessarily the same as that in other parts of the United States;
- 3) Performance of energy control film under the test will not represent the performance of other solar control devices;
- 4) Architects conducting the tests lack the skills to solve an engineering problem;
- 5) Although the handbook published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) states that "shading performances should be tested with a solar calorimeter," the planned tests omit this procedure.

Koolshade's protest is premature. The protester speculates that the Government's future needs for solar control devices will be determined by restricted and unreliable testing; therefore, the fairness of future solicitations may be impaired. Although we will question an agency's determination of its minimum needs if there is a clear showing that the determination has no reasonable basis, U.S. Duracon Corporation, B-196760, February 22, 1980, 80-1 CPD 154, GSA has not yet ascertained the minimum needs upon which it will base specifications for future solar control projects.

Our Bid Protest Procedures are reserved only for considering whether an award or proposed award of a contract complies with statutory, regulatory, or other legal requirements. Schurr Transport, Inc., B-192476, September 26, 1978, 78-2 CPD 402. Since Koolshade's protest does not concern the specifications involved in the immediate solicitation, (Koolshade states that "it should be clearly understood that our protest was entered not to prevent the installation of energy control film on FB

10" but as an attempt to "get GSA to reconsider the proposed testing"), the protester has failed to establish the required jurisdictional nexus.

The protest is dismissed.

Narvey R. Van Cleave
for Milton J. Socolar
General Counsel