

17279

**DECISION**



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

*[Protest of Navy Contract Award]*

FILE: B-196736

DATE: March 10, 1981

MATTER OF: Lanier Business Products, Inc.

**DIGEST:**

1. GAO will not review protest challenging offeror's intended compliance with representation in its Buy American certification that domestic source end products will be supplied.
2. Whether item being furnished by awardee complies with contract requirement is matter of contract administration for contracting agency, not GAO.

Lanier Business Products, Inc. (Lanier), protested the award of a contract made to the Dictaphone Corporation (Dictaphone) under invitation for bids (IFB) No. N00164-79-B-0140 issued by the Naval Weapons Support Center, Crane, Indiana.

Bids were solicited for a 12-month lease of a dictation system and four micro-cassette portable recorders both to be "off-the-shelf" items and in accordance with stated performance specifications. The IFB did not require the bidder to identify the equipment it proposed to furnish to meet the specifications and the contracting officer made no request for information in that regard before award. The Dictaphone bid certified that each end product is a domestic source end product as defined in the Buy American Act clause.

Lanier's first ground of protest is that the award of the dictation system to Dictaphone was improper because Dictaphone has not been able to comply with the Buy American certification.

114557

*DIGEST*

Where a bidder or offeror excludes no end products from the Buy American certificate in its bid and does not indicate that it is offering anything other than domestic source end products, as Dictaphone did here, the acceptance of the offer, if otherwise acceptable, will result in an obligation on the part of the bidder to furnish domestic source end products. Compliance with that obligation is a matter of contract administration for the contracting agency and it has no effect on the validity of the contract award. Thorsen Tool Company, B-188271, March 1, 1977, 77-1 CPD 154.

Lanier's second ground of protest is that the award is improper because Dictaphone will not be able to supply equipment satisfying the "off-the-shelf" requirement.

The test for determining the responsiveness of a bid is "whether the bid as submitted is an offer to perform, without exception, the exact thing called for in the invitation, and upon acceptance will bind the contractor to perform in accordance with all the terms and conditions thereof." 49 Comp. Gen. 553, 556 (1970). In its bid, Dictaphone took no exception to the "off-the-shelf" requirement and, therefore, agrees to provide equipment in accordance with it. Thus, its bid is responsive and whether the equipment supplied complies with the requirement is a matter of contract administration for the contracting agency and not GAO. Bertan Associates, Inc., B-197202, June 11, 1980, 80-1 CPD 405.

Accordingly, the protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel