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DECISION



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

FILE: B-199377

DATE: March 17, 1981

MATTER OF: Security Assistance Forces &
Equipment International Inc.

DIGEST:

1. Protest based on failure of agency to permit preproposal inspection of components inside control boxes of alarm systems to be serviced is denied where agency's position that such inspection is unnecessary because of availability of all documentation necessary for servicing alarm systems has not been shown to be unreasonable and protester does not explain why such inspection is vital to proposal preparation.
2. Protests which are based on alleged improprieties apparent on face of RFP and which are submitted for first time to agency in letters transmitting initial proposal and filed in GAO after closing date for proposal submission are untimely under GAO Bid Protest Procedures, 4 C.F.R. § 20.2(b) since such protests do not meet requirement that they be filed prior to closing date for receipt of initial proposals.

Security Assistance Forces & Equipment International Inc. (SAFE), protests requirements in solicitation No. DAJA37-80-R-0363 which was issued by the U.S. Army Contracting Agency, Europe. This solicitation called for proposals to supply on-call repair services for alarm systems installed at various Army banking installations in Europe. After an amendment to the solicitation, SAFE withdrew several of its original protest grounds. This left only its objection to the Army's refusal to permit inspections of

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the control boxes for the alarm systems at a reasonable number of sites and the Army's "failure to rule" that S.A.F.E. Export Corporation (SAFE Export), a wholly owned subsidiary of SAFE which submitted the proposal in this case, could be awarded a contract without registering to do business within the Federal Republic of Germany (FRG). For the reasons discussed below, this protest is denied in part and dismissed in part.

The record indicates the banking facilities in which the alarm systems are located were reluctant to endure the interruptions of service which would result from SAFE and others inspecting the insides of the systems. In fact, the agency maintains that a "hostage-taking crisis" at one bank and "an attempted break-in" at another "preclude any consideration for the systems to be disconnected for control box inspection by prospective offerors." The Army concedes that a physical inspection of the installation site would be helpful for a prospective contractor to see the cable runs, power connections, installation heights for sensors, etc. and the RFP urged that such inspections be made. The Army contends, however, that it is unnecessary for a qualified offeror to see the inside of the control boxes. It points out the circuit diagrams and the service manuals with pictures of the printed circuit boards and their placement within the control boxes, the exhaustive descriptions of the operating principles and the spare parts lists were available and are sufficient for the purpose of proposal preparation and performing the necessary troubleshooting and maintenance if an offeror is awarded the contract.

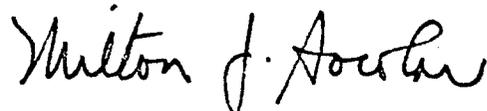
While SAFE contends an examination to determine the present condition of the components inside the control boxes is vital to the preparation of an accurate proposal, SAFE Export without such an examination did prepare and submit a proposal. SAFE analogizes the Army's position to assuring a service station that one's car is in good condition and then, without permitting the hood to be lifted, asking for a fixed-price quotation for any parts and service the car might need for the next year. SAFE has not otherwise supported its contention or further attempted to refute the Army's position that such an examination was unnecessary for qualified offerors, and, under the circumstances, impractical. Therefore, we think the Army acted reasonably in not permitting offerors to inspect the inside

of the alarm control mechanism. See Security Assistance Forces & Equipment International, Inc. B-199366, February 6, 1981, 81-1 CPD. While it is clear that there is an element of risk in offering on a request of this sort, we have recognized that some risk is inherent in most contracts, and offerors are expected to allow for that risk in computing their offers. The presence of such risk does not make a solicitation improper. Consolidated Maintenance Company, B-196184, March 18, 1980, 80-1 CPD 210.

Regarding SAFE's contention that at least one and possibly two of its competitors had access to the inside of the control boxes because of prior contracts, we have often held that the Government is not required to compensate for the advantages enjoyed by an incumbent unless it results from a preference or unfair action. Telephonics Corporation, B-194110, January 9, 1980, 80-1 CPD 25. SAFE has not shown that either exists here.

The solicitation contains a provision requiring the contractor to warrant it is duly authorized to do business in FRG, that it has obtained all required licenses and permits and that it will comply with all laws and regulations of the FRG during its contract performance. SAFE Export first challenged the application of this provision to its operations in its covering letter of July 15, 1980, submitted to the agency with its proposal and in another letter addressed to this Office filed on August 19. This issue is therefore untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(b) (1980), which require that protests based upon alleged improprieties in a request for proposals which are apparent prior to the closing date for receipt of initial proposals must be filed either with the agency or our Office prior to such date. A protest, as here, first submitted to the agency with the protester's proposal does not meet this requirement, see Sun-optic, Inc., B-194722, May 14, 1979, 79-1 CPD 351; Peck Iron and Metal Co., B-191657, October 3, 1978, 78-2 CPD 253; nor does the letter to our Office which was not received until after the July 15 closing date for receipt of proposals. See 4 C.F.R. § 20.2(b)(3). Therefore this portion of SAFE's protest is dismissed.

The protest is denied in part and dismissed in part.



Acting Comptroller General
of the United States