

Mashigian 119312

DECISION



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

FILE: B-208182

DATE: August 25, 1982

MATTER OF: Ling/L.A.B.

DIGEST:

1. There is no Federal law which seeks to equalize the competitive advantage that a foreign firm might possess by virtue of not being bound to the statutory conditions and responsibilities to which domestic firms are subject, other than the Buy American Act.
2. Enforcement of Antidumping Act is responsibility of Secretary of the Treasury and International Trade Commission, not GAO.

Ling/L.A.B protests the award of a contract to Vibration Sales and Service (VSS) under request for proposals (RFP) No. F19650-82-R-0031, issued by the United States Air Force. Ling complains that VSS is acting as a sales and service outlet for an English company, and has an unfair advantage in that the English firm is not subject to the same equal employment, environmental, and other requirements imposed on domestic firms by United States law and policy. Ling also contends that purchase from VSS in that circumstance violates the purpose of the Buy American Act, 41 U.S.C. § 10a-d (1976).

Finally, Ling protests that the English firm is "dumping," that is, selling at prices lower in the United States than in England. In this respect, Ling suggests that VSS overstated the costs of the domestic components used in its amplifiers--sixty percent of the total cost--to avoid the application of the Buy American Act differential.

We summarily deny the protest in part and dismiss it in part.

We have considered complaints by domestic firms that foreign firms have an unfair advantage in competitions with domestic firms because they are not required to comply with the same statutory duties and responsibilities. As we stated in Fire & Technical Equipment Corp., B-203858, September 29, 1981, 81-2 CPD 266:

" * * * there is no Federal law which seeks to equalize the 'competitive advantage' which a foreign firm may possess, other than the Buy American Act, 41 U.S.C. §§ 10a-d (1976). If, after the requirements of the Buy American Act have been satisfied, the foreign bidder remains low, is found to be responsive and its bid is responsive, then there is no further barrier to an award to that firm."

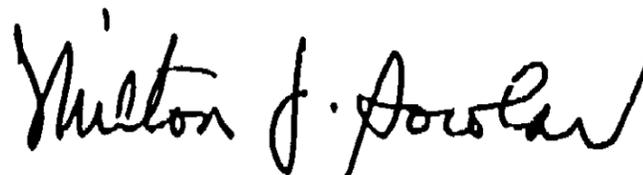
In this case, moreover, VSS's bid is exempt from the Buy American Act, under which a differential is applied in evaluating bids subject to the Act. Great Britain, as a member of the North Atlantic Treaty Organization has a Memorandum of Understanding with the United States under which the Secretary of Defense has made a blanket determination to waive the Buy American Act restriction. Defense Acquisition Regulation §§ 6-0015(c) and 6-1401 (1976 ed.). Thus, whether or not VSS overstated the cost of the domestic components is academic, since that had no effect in bid evaluation and the selection of the awardee.

Regarding the allegation of "dumping," under the Antidumping Act of 1921, 19 U.S.C. § 160 et seq., the enforcement of the Act's provisions is within the jurisdiction of the Secretary of the Treasury and the United States International Trade Commission, not this Office. See Westinghouse Electric Corporation, B-194530, September 25, 1979, 79-2 CPD 221. We therefore dismiss this protest issue.

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The protest is summarily denied in part and dismissed in part.

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

Acting Comptroller General
of the United States