

DECISION

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

FILE: B-208544

DATE: March 7, 1983

MATTER OF: Fiat Allis North America, Inc.

DIGEST:

Agency's interpretation of a clause in invitation for bids requiring that the product offered be the "latest model of the standard product of the manufacturer" to mean latest model that meets the specifications is reasonable.

Fiat Allis North America, Inc. protests the prospective award of a contract to Caterpillar Tractor Co. under invitation for bids No. DLA 700-82-B-0657 issued by the Defense Logistics Agency for crawler-type tractors. Fiat Allis contends the particular tractor offered by Caterpillar does not comply with the solicitation requirement that the tractor be "the latest model of the standard product of the manufacturer." We deny the protest.

The solicitation is for thirteen fully-tracked, diesel-driven tractors with various attachments and special equipment. DLA proposes to award the contract to Caterpillar which submitted the low bid for each item, offering the Caterpillar D8K. Fiat Allis submitted the second low bid for most of the items.

The solicitation contains the following certification:

"The offeror certifies that the make/model identified below, which is offered under this solicitation, is its standard commercial item which fully complies with the requirements of Fed. Std. KKK-T-631E, Para. 3.1."

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Paragraph 3.1 of Federal Specification KKK-T-631E provides as follows:

"This specification covers diesel-engine-driven, crawler type tractors and allied equipment of conventional design and heavy duty construction, complete with all necessary operating accessories customarily furnished with tractors of this type whether stipulated herein or not, together with such modifications and attachments as may be necessary to enable the unit to function reliably and efficiently in sustained operation. The tractor shall be the latest model of the standard product of the manufacturer."
(Emphasis supplied.)

Fiat Allis contends that the D8K does not meet the specifications because it is not the latest model of the standard product of Caterpillar. Fiat Allis has submitted Caterpillar sales literature to show that the D8K model offered by Caterpillar has been replaced by Caterpillar's D8L model. A brochure dated October 1981 states that "The D8L replaces the D8K in the 300-hp track-type tractor class," and proceeds to delineate the advantages of the new D8L over the D8K. Another brochure states that the D8L has "a dramatically improved design * * * that makes it far more productive than its conventionally designed predecessor, the D8K." Fiat Allis has also submitted a "Retail Sales Model Identification Chart" (April 1982) issued by the Earthmoving Statistical Advisory Committee. The chart lists both the D8K and D8L as Caterpillar's offerings in the 260 to 345 horsepower class, but designates the D8K as a phased-out or discontinued model.

Although the record is clear that the "L" model and not the "K" is the latest model in the D8 Series, DLA states that the D8K is acceptable. DLA reads the latest model requirement to mean that the tractor must be the latest model that meets the other specifications. Since the D8L does not meet the specifications, the D8K is, under DLA's interpretation, the latest model of Caterpillar's standard product.

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Therefore DLA intends to award the contract to Caterpillar.

We find that DLA's interpretation of the latest model requirement reasonable. The requirement is intended to require bidders to offer their latest models. To construe the clause so as to eliminate completely from competition a firm that has only one model that meets the specifications and another more recent model that does not meet the specifications would unnecessarily restrict the competition. We find no basis to question the proposed award.

The protest is denied.

for 
Comptroller General
of the United States