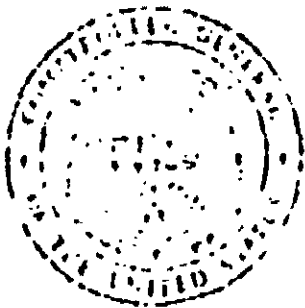


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INSTRUCTIONS



THE DEPARTMENT OF DEFENSE
OFFICE OF THE UNITED STATES
WASHINGTON, D. C. 20340

FILE: D-211201

DATE: July 6, 1983

MATTER OF: Le Prix Electrical Distributors, Ltd.

DIGEST:

1. Contracting agency improperly rejected product offered under brand name or equal purchase description where product was rejected for failing to meet unlisted salient characteristics.
2. Contracting agency delay beyond 25-day period provided in Bid Protest Procedures for submitting report on protest is purely procedural matter and does not provide basis to disregard report.

Le Prix Electrical Distributors, Ltd. (Le Prix), protests the award of a contract to the John Bentley Company under request for quotations (RFQ) No. DTF A06-83-Q-40021 issued by the Federal Aviation Administration (FAA) for brand name or equal flood light assemblies.

Le Prix contends that it should have received the award because the fixture for which it had enclosed descriptive literature with its quotation was equal to the brand name fixtures and was offered at a lower price than the award price for a brand name fixture.

We deny the protest.

The FAA admits that it acted improperly in rejecting Le Prix's offer for failure to meet a salient characteristic that was not listed in the purchase description. The FAA has indicated that it acted with equal impropriety in rejecting for the same reason a proposal that was lower than Le Prix's.

In 1981, 80-100-100, P-200923, February 19, 1981, 81-1 CPD 116, 66-100-100, that an agency improperly rejected a product offered under a brand name or equal purchase description where the product was rejected for failing to

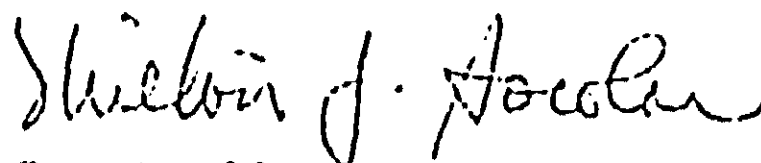
live negotiated contract for the same product.

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characteristics and to give all offerors an opportunity to submit offers on an equal basis. Since the fixtures in the immediate procurement have been delivered, it is too late for remedial action. However, the FAA has advised that it will make every effort to preclude a recurrence of the impropriety.

In any event, although the FAA acted improperly in the immediate case, Le Prix was not entitled to award in the circumstances of this case and, as indicated above, its protest therefore is denied.

Although Le Prix contends that its protest should be sustained because the FAA failed to submit the agency report on the protest within the 25-day period provided in the Bid Protest Procedures, 4 C.F.R. § 21.3(c) (1983), we have held that a delay beyond the 25-day period is a purely procedural matter and does not provide a basis to disregard the report. Diesel Parts of Columbus, B-200595, July 20, 1981, 81-2 CPD 50.



Acting Comptroller General
of the United States