

**DECISION**

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

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**FILE:** B-212589  
B-212611

**DATE:** January 17, 1984

**MATTER OF:** Pace Incorporated

**DIGEST:**

Although agency (using small purchase procedures and having obtained oral quotations from manufacturer on the basis of its model numbers as specified by the agency) is required in the interest of fair competition to advise manufacturer if agency decides to purchase nonequivalent items from another source, protest is denied where record fails to clearly establish that items acquired from another source were not equal to the specified model numbers.

Pace Incorporated (Pace) protests two small purchases under purchase orders (PO) DAAG54-83-M-2951 and DAAG54-83-M-2959 issued by the United States Army Electronics Readiness Activity, Vint Hill Farms Station, Warrenton, Virginia (Army).

We deny the protest.

The Army advises that in both procurements the contracting officer was asked by the requiring activity to acquire specific models of Pace equipment. Under the first PO, the contracting officer advertised the Army's intent to purchase the Pace item on a sole-source basis in the Commerce Business Daily (CBD). Kimco responded to the CBD notice with an offer of an equal item from its product line. The Army evaluated the item, found it equal, and awarded the PO to Kimco. Pace was not notified of either the existence of competition or that an item other than the specific Pace model was being considered. Under the second PO, the contracting officer solicited both Pace and Kimco, again on the basis of Pace's model number, and made award to Kimco. The Army reports that Pace was never advised that the second PO was a sole-source procurement. However, it appears that Pace was neither told of the existence of

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competition nor that an item other than the specific Pace model was under consideration.

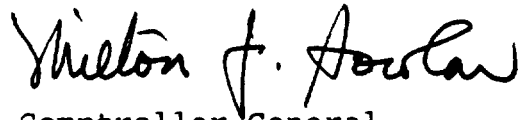
The gist of Pace's protest is that it is being denied an equal opportunity to compete because the Army is defining its requirement in terms of Pace's model number and not in terms of the functional capabilities actually required. In Pace's view, the Kimco items which the Army purchased are actually equivalent to cheaper Pace model lines and not to the more expensive model lines which the Army specified as its requirement. Pace contends that the practice of specifying a Pace model number denies Pace the opportunity of offering its lower priced equipment which is equivalent to the awardee's products, specifically Pace argues: "If Pace had been informed that . . . the A.P.E. PRS-400 [Kimco's substitute for the Pace model PRC-750A] was acceptable, we most certainly would have offered the lower cost PCG-640. By not being given appropriate notice of the acceptability of a specific alternate, we were precluded from offering a quote on like items. Just as an auto dealer asked for a quote for an 'Olds 98' when a 'Chevette' would do, we were not given a fair opportunity to compete on this procurement." Pace further contends that the Army should either provide salient characteristics at the time of the oral solicitation or return to Pace for a second quotation when it determines that a competitor's item is acceptable in lieu of the Pace model called for.

These procurements were conducted under the small purchase procedures of section III, part 6, of the Defense Acquisition Regulation (DAR). Authority is granted to conduct small purchases on an informal basis to reduce administrative costs. DAR § 3-600.

As noted above, the record shows that Army technical personnel evaluated the Kimco products and found them equal to the Pace items. Although Pace argues that the Kimco models are not equal, but inferior and equivalent to other Pace models, it has not presented evidence to prove this or to show that the Army's opposite conclusion is incorrect. Therefore, and in view of the informal nature of small purchase procedures, we find no impropriety in the agency not advising Pace of Kimco's quotes.

Finally, while Pace argues that its less expensive model would have fulfilled the agency's needs, the agency, at this time, has only determined that the quoted Pace model and the Kimco item are technically acceptable.

Accordingly, the protests are denied.

A handwritten signature in black ink, reading "Milton F. Aoulaw". The signature is written in a cursive, flowing style.

Acting Comptroller General  
of the United States