

DECISION

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

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Phillips

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FILE: B-217366 **DATE:** March 6, 1985
MATTER OF: Schlegel Associates, Inc.

DIGEST:

Where Federal Supply Schedule (FSS) is mandatory, order can be placed only for equipment listed on FSS.

Schlegel Associates, Inc. (Schlegel), protests the award of a purchase order to Antek Instruments, Inc. (Antek), by the Naval Surface Weapons Center (NSWC) pursuant to request for quotations (RFQ) N60921-85-Q-3153.

Schlegel protests that the award should not have been made to Antek because Antek was late in submitting a quotation and Schlegel offered technically acceptable equipment at a lower price. However, we deny the protest without addressing the issues presented by Schlegel.

The RFQ listed equipment and identified it by Antek's commercial catalogue numbers covered by Federal Supply Schedule (FSS) contract No. GS-00F-45274 with the General Services Administration. Under the applicable regulations, it was mandatory for NSWC to order FSS equipment. Section 101-26.401 of the Federal Property Management Regulations (FPMR), 41 C.F.R. § 101-26.401 (1984), directs that all executive agencies are to procure needed articles and services from the FSS in accordance with provisions of the appropriate FSS. FPMR § 101-26.401-1 provides that "Federal Supply Schedules are mandatory to the extent specified in each schedule." The FSS covering the present equipment (group 66, classes 66-96 and 66-99) lists as mandatory users, "all departments and independent establishments . . . in the executive branch of the Federal Government (except the U.S. Air Force)." Since Antek's equipment is listed on the FSS and Schlegel's equipment is not, NSWC

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could order the equipment from Antek, but not from Schlegel. See Lanier Business Products, Inc., B-209299, July 7, 1983, 83-2 C.P.D. ¶ 66, and Dictaphone Corporation, B-192305, Dec. 22, 1978, 78-2 C.P.D. ¶ 431.

for 
Harry R. Van Cleve
General Counsel