

Brosnan

DECISION



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

FILE: B-222623

DATE: June 4, 1986

MATTER OF: Agema Infrared Systems

DIGEST:

Where the invitation for bids (IFB) does not require the system to be procured to be a production model, protester's complaint that awardee will offer a prototype is in essence an allegation that the awardee will not be able to perform. Whether a bidder can meet all IFB requirements is a matter of bidder responsibility, the affirmative determination of which is not reviewed by the General Accounting Office except in circumstances not present in this case.

Agema Infrared Systems protests the award of a contract to Hughes Aircraft Company under invitation for bids (IFB) No. F40650-86-B0050 issued by the Air Force for a thermal imaging system. We dismiss the protest.

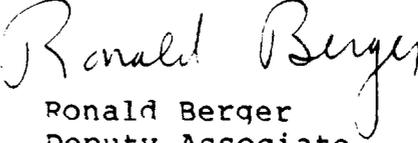
Agema contends that although Hughes was the low bidder it should not have received the award because its system is a prototype. The protester maintains that the specifications when "read together with the 90-day delivery date require that the system be an off-the-shelf or production model."

It is not clear why the protester believes that the specifications require the furnishing of a production model; the protester does not contend that the IFB specifically requires that the system be a production model. In the absence of such a requirement, a bidder could offer a new system, so long as the system meets all of the IFB requirements.

In essence, the protester's point seems to be that Hughes will not be able to supply a system meeting IFB requirements within the IFB delivery schedule. Whether the low bidder can perform the contract in accordance with the terms of the IFB is a matter of responsibility. Before

award, the contracting officer must make the affirmative determination that the prospective awardee is a responsible contractor. Federal Acquisition Regulation, 48 C.F.R. § 9.103(b) (1984). Our Office does not review protests of affirmative responsibility determinations unless either possible fraud or bad faith on the part of procuring officials is shown or the solicitation contains definitive responsibility criteria which allegedly have been misapplied. Bid Protest Regulations. 4 C.F.R. § 21.3(f)(5) (1985). Neither exception is alleged here.

The protest is dismissed.


Ronald Berger
Deputy Associate
General Counsel