



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Minnco, Inc.
File: B-225419.3, B-228095
Date: August 25, 1987

DIGEST

1. General Accounting Office does not consider allegations of antitrust violations.
2. General Accounting Office will not review a contracting agency's decision that a firm is responsible except in limited circumstances.
3. Whether or not a firm actually performs in compliance with contract requirements is a matter of contract administration, which the General Accounting Office does not review as part of its bid protest function.

DECISION

Minnco, Inc., protests the Defense Logistics Agency's (DLA) acceptance of the bid submitted by Speakman Co. under invitation for bids No. DLA700-86-B-1017, and of Speakman's offer in response to request for proposals No. DLA700-87-R-0317. The solicitations are for two separate requirements for shower assemblies.

We dismiss the protests.

Minnco first contends that the prices Speakman submitted reflect predatory price cutting in violation of the antitrust laws. Such matters, however, are appropriate for resolution by the Department of Justice, not under our Office's bid protest function. See Baltimore Electronics Associates, Inc., B-217499, Jan. 16, 1985, 85-1 C.P.D. ¶ 46.

Minnco next argues that Speakman lacks business integrity and therefore should be found nonresponsible. We will not consider this issue either. Our Office will not review a contracting agency's decision that a firm is responsible absent a showing that the decision was made fraudulently or in bad faith, or that definitive responsibility criteria in

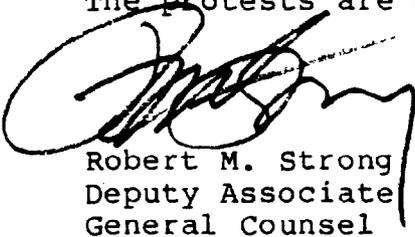
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the solicitation were not met. 4 C.F.R. § 21.3(f)(5) (1987). Neither exception is involved here.

Minnco's final argument is that Speakman's shower system does not meet the minimum mixing valve flow rate required by the specifications.

The bid Speakman submitted in response to DLA's invitation for bids was responsive, that is, the firm did not take any exception in the bid to any of the specifications. As to the other procurement, the record includes a letter from DLA to Minnco stating that Speakman has confirmed in writing that it will manufacture items that meet the flow rate specifications. DLA evidently has decided that Speakman is capable of furnishing items that in fact conform, and the government's acceptance of the company's bid and offer will obligate Speakman to supply compliant shower assemblies. Dura Electric Fluorescent Starter Division, B-225323, Mar. 2, 1987, 87-1 C.P.D. ¶ 234; Motorola Communications and Electronics, Inc., B-225613, Jan. 27, 1987, 87-1 C.P.D. ¶ 91. Whether Speakman actually does so is a matter of contract administration, which our Office does not review. See Martin Advertising Agency, Inc., B-225347, Mar. 13, 1987, 87-1 C.P.D. ¶ 285.

The protests are dismissed.



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