



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Chadwick-Helmuth Company, Inc.

File: B-238645

Date: May 3, 1990

Jennifer Bremer Smith, Esq., Smith & Smith, for the protester.

F.W. Powers, III, Esq., for Scientific Atlanta, an interested party.

Craig E. Hodge, Esq., and Stephanie Kreis, Esq., Office of Command Counsel, U.S. Army Materiel Command, Department of the Army, for the agency.

Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is dismissed where contracting agency has referred the matter of the disclosure of the protester's proposal to a competitor to the Army Criminal Investigation Division (CID) for investigation. The protester may reinstate its protest with the General Accounting Office after receipt of the results of the CID's report.

DECISION

Chadwick-Helmuth Company, Inc. (CHC), protests the disclosure to Scientific Atlanta of its proposal submitted in response to request for proposals (RFP) No. DAAJ09-89-R-1150, issued by the Army Aviation Systems Command for vibration analysis equipment intended for the Army helicopter fleet. CHC alleges that the agency's release of its proposal to Scientific Atlanta resulted in technical leveling and transfusion, and also created an auction and organizational conflict of interest.

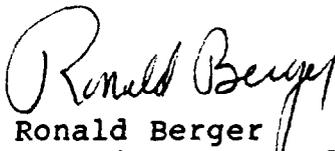
The RFP was issued on November 27, 1989, and closed on January 22, 1990. The Army received several proposals in response to the RFP. Several of the offerors, including CHC and Scientific Atlanta, provided extra copies of their proposals. In returning Scientific Atlanta's extra materials, the Army personnel apparently loaded a box

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containing part of CHC's proposal into the car of Scientific Atlanta's consultant, at 3:45 p.m., February 1, 1990. Scientific Atlanta discovered the error and notified the Army at 6 p.m., and Army personnel retrieved the materials at 6:30 p.m.

In its report to our Office, the Army states that at this time there is no evidence that the materials mistakenly given to Scientific Atlanta were read or copied by them. Further, in sworn affidavits, Scientific Atlanta's personnel and consultant deny seeing any sensitive information contained in CHC's proposals. Moreover, the Army informs us that it has requested the Army Criminal Investigation Division (CID) to conduct an investigation of this matter and that as part of that investigation, CHC was asked to identify those parts of its proposal considered to be most valuable to a competitor. All materials released to Scientific Atlanta were sent to the CID laboratory in Atlanta, Georgia for fingerprint analysis of the sections identified by CHC. The Army currently does not know when the CID investigation will be completed but has informed us that, although it is continuing with evaluation of the offers, it will not make award under this RFP until it reviews the results of the completed CID investigation report.

Since the Army has not yet made a final decision on the merits of CHC's allegation, we think the appropriate course of action at this point is to close our file on CHC's protest pending the results of the CID investigation. See Institutional Communications Co., B-233058.2, Oct. 23, 1989, 89-2 CPD ¶ 368; Usatrex Int'l, Inc., B-231815.4, Oct. 31, 1988, 88-2 CPD ¶ 413. We expect the Army to complete its investigation as rapidly as possible and to promptly notify the protester and our Office of the results. Upon receipt of these results, the protester may reinstate its protest.


Ronald Berger
Associate General Counsel