



**Comptroller General
of the United States**

Washington, D.C. 20548

B-233525

November 16, 1988

The Honorable Don Ritter
House of Representatives

Dear Mr. Ritter:

We have received your letter of November 3, 1988, forwarding the protest of Hamworthy USA, Inc., concerning contract No. N6240-87-C-6046, awarded to I.G.G.C. by the Department of the Navy for a replacement air start system at the Marine Corps Air Station, Cherry Point, North Carolina.

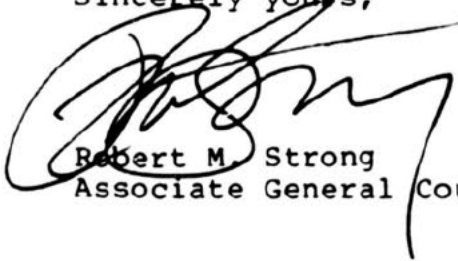
Hamworthy states it is a manufacturer of high pressure compressors used in the air start system and had quoted on its product to the Navy's contractor, I.G.G.C. I.G.G.C.'s proposed use of Hamworthy's equipment was rejected by the Navy on the basis that the equipment failed to meet the contract specifications. Hamworthy states that the rejection of its product led it to review the project specifications, which it now protests as unduly restrictive of competition because they allegedly contain requirements proprietary to Joy Manufacturing, Inc.

After reviewing Hamworthy's correspondence, we have concluded that its allegations are not for consideration under our Bid Protest Regulations, for three reasons. First, the protest is untimely since it concerns an alleged impropriety in the solicitation specifications. For such a protest to be considered it must be filed prior to the time for bid opening or receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (1988). The purpose of this rule is to permit corrective action to be taken, if warranted, prior to when offers are received and a contract awarded. Here, Hamworthy's protest was not filed until after a contract had been awarded and was being performed. Second, Hamworthy is not an interested party for the purposes of filing a protest with our Office. An "interested party" for the purpose of filing a protest means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. § 21.0(a). Hamworthy, as a potential subcontractor or supplier to the prime contractor, and not a bidder itself, does not fall within this definition. Finally, we note that Hamworthy's product was

rejected during the course of performance of I.G.G.C.'s contract and, therefore, the propriety of that rejection involves a matter of contract administration, and as such is not for consideration under our Bid Protest Regulations, 4 C.F.R. § 21.3(m)(1). Under our bid protest function, we examine the propriety of contract awards and not of actions taken by the government in the administration of an existing contract.

It would be inappropriate for us to consider Hamworthy's protest solely because it was referred by a member of Congress, as that would circumvent our Bid Protest Regulations. Our Regulations are intended to provide for expeditious consideration of procurement actions without unduly disrupting the government's procurement process. To waive our requirements for the protester's sole benefit would only serve to compromise the integrity of these rules.

Sincerely yours,



Robert M. Strong
Associate General Counsel