



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

B-176784

JAN 2 1973

Fried, Frank, Harris,  
Shriver & Kampleman  
Suite 1000, The Watergate 600  
600 New Hampshire Avenue, N. W.  
Washington, D. C. 20037

Attention: Kenneth S. Kramer, Esq.

Gentlemen:

We refer to your letter dated August 17, 1972, and subsequent correspondence, protesting on behalf of Food Technology Corporation (FTC) against the award of a contract to any other firm under invitation for bids No. DAAA21-73-B-0007, issued at Picatinny Arsenal, Dover, New Jersey.

The invitation was issued on July 13, 1972, for an optical screening system for cloth defect inspection. On August 9, 1972, the following bids were received and opened:

ZIA Associates, Inc.	\$ 17,775.
LASER Services, Inc.	18,424.
Williamson Corporation	19,700.
Food Technology Corporation	62,300.
General Scanning, Inc.	169,000.

The agency proposes to award the contract to ZIA as the low bidder. However, the award has been withheld pending our resolution of this protest.

You contend that the equipment required by the performance specifications set forth in the invitation represents a significant advance in "the state of the art" far beyond the capability of the three low bidders. It is your position that the prices of these bidders indicate their misunderstanding of the complexity of the procurement. In this

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B-176784

regard you contend that the high-speed unwinding and rewinding equipment represents an equipment expense for the contract of at least \$10,000. In support of this contention you have submitted a copy of a quote for this equipment which FTC received in the amount of \$16,500, described by the supplier as "a budget price." Further, you state that the optics portion of the specifications will require an expenditure of at least \$18,000 to \$20,000, to accomplish. You also assert that none of these bidders has the requisite financial resources to sustain the loss you allege is inherent in each of these bid prices.

On the other hand, the agency states that the accessories necessary for the system are available as "off the shelf" components which require only minor modifications to fulfill the requirements of the specifications. It is the agency's position that any company in the field of electro-optics can provide the required system. It insists that FTC has misinterpreted the requirements of the solicitation. The agency reports that a typical rewinding machine with accessories will cost \$3,000 and that the scanning portions of the equipment are typically priced at less than the \$18,000 to \$20,000 range outlined in your protest. In support of its position the agency has submitted a "sample" quote for a rewinding machine with accessories in the \$3,000 range and a quote for scanning equipment in the \$6,000 range. We cannot conclude from the evidence contained in the record that the agency's position in this matter is erroneous.

In regard to ZIA's price of \$17,775 we note that it is not out of line with the Government's estimate of between \$19,000 - \$20,000. In addition we note that a prior invitation for the item was cancelled because the low responsive bidder's price of \$24,860 was considered excessive.

The contracting officer has determined on the basis of a preaward survey that ZIA possesses the requisite financial and technical qualifications to perform the subject contract. Our Office will not question such a determination unless it is shown to be arbitrary, capricious or not supported by substantial evidence. See 45 Comp. Gen. 47(1965).

In this case we find that the contracting agency's determination that ZIA has the necessary technical and financial qualifications to successfully perform the contract is based on substantial evidence and therefore does not constitute an abuse of administrative discretion.

B-176784

OFFICE  
OF THE  
COMPTROLLER GENERAL  
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Accordingly, your protest must be denied.

Very truly yours,

B.F. KELLER

[Deputy] Comptroller General  
of the United States