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Eaton
P.L. # 2

DECISION



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

FILE: B-190887

DATE: January 17, 1978

MATTER OF: R & O Industries, Inc.

DIGEST:

Protest regarding rejection of production samples under allegedly defective specifications is matter of contract administration, not for resolution under GAO Bid Protest Procedures.

R & O Industries, Inc. (R & O) has protested to our Office regarding the General Services Administration's (GSA) testing of hammers under two paragraphs of Federal Specification GGG-H-80c, dated March 1, 1963, and Interim Amendment 2, dated March 15, 1971. According to R & O, tests conducted by the firm and by an independent laboratory produced different results than those conducted by GSA, in which R & O hammers failed a "pull apart" test.

R & O protested to the contracting officer on October 3, 1977, contending that GSA did not test hammers in strict compliance with the specifications and that the tests were not consistent with the end use of the hammers, making any results invalid. R & O has suggested to our Office that certain terms used in the specifications should be defined, that the type of equipment to be used for testing should be specified, and that test methods and criteria for meeting the specifications should be revised.

The hammers being tested are production samples, furnished by R & O under existing contracts which R & O advises us are then being terminated for default. The protest thus involves contract administration and is not subject to resolution under our Bid Protest Procedures. Kaufman DeDell Printing, Inc.--Reconsideration, B-188054, October 25, 1977, 77-2 CPD 321. Moreover, it was not received in our Office until December 12, 1977, more than a month after GSA denied the firm's request for a change

D-190887

in specifications and/or testing methods. To be considered timely, a protest must be filed within 10 days of formal notification of or actual or constructive knowledge of adverse agency action. Mid-South Industries, Inc., B-190727, December 13, 1977, 77-2 CPD ___.

If R & O wishes to challenge allegedly defective specifications under our Bid Protest Procedures, it should do so before bid opening and in the context of a specific procurement. See 4 C.F.R. 20.2(b)(1) (1977). Alternatively, R & O may challenge what it considers to be wrongful termination of a contract following rejection of its hammers before the GSA Board of Contract Appeals under procedures outlined in 41 C.F.R. 5A-60 (1976).

Accordingly, the protest is dismissed.


Paul G. Dembling
General Counsel