



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20541

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B-178931

September 20, 1973

B & K Instruments, Incorporated
5111 West 164th Street
Cleveland, Ohio 44142

Attention: Mr. E. John Wooten
President

Gentlemen:

This is in reply to your letter of June 13, 1973, protesting the purchase from General Radio Corporation of certain sound equipment by the Department of Transportation (DOT) under General Services Administration (GSA) contract No. GS-DOS-05743.

On March 6, 1973, DOT placed an order with General Radio Corporation, a Federal Supply Schedule supplier, for sound recorder systems in the amount of \$70,746.75. On March 12, 1973, DOT ordered \$56,899.50 worth of sound level meters and similar equipment, also from General Radio Corporation. On June 12, 1973, DOT ordered an additional \$52,696.00 worth of sound equipment from the same company. All the equipment was listed on the same Federal Supply Schedule, which contained a maximum order limitation of \$100,000.

DOT has informed us that its potential total requirement was for 260 meters and 50 recorder systems, but that it initially ordered only half of the potential requirement pending the firm establishment of its total needs. In a letter dated August 2, 1973, a copy of which has been furnished you, DOT reported that for "clarity the requirements for the meters and recorders were each put on separate procurement requests" and that during processing the two requests "became separated and were processed independently," and therefore, the applicability of the maximum order limitation "was not recognized." DOT further reported that its total additional requirements, when subsequently established, exceeded the maximum order limitation and was therefore subject to review in accordance with DOT policy. This review established that there was a "surplus of recorders from the initial order" and that the total quantity of recorders to be ordered could not be determined. DOT then ordered an additional quantity of meters only on June 12.

[Protest of DOT Purchase of Sound Equipment]

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Section 101-25.401-4(c) of the Federal Property Management Regulations provides that "agencies may not submit orders and contractors may not accept orders" in excess of maximum order limitations stipulated in Federal Supply Schedules. This limitation applies to both a single purchase order or "a series of orders placed within a short time." DOT has recognized that the placing of the March 6 and March 12, 1973, orders with General Radio Corporation contravened this provision, and has reported that "corrective action has been taken to prevent a recurrence." Accordingly, and in view of the 60 day delivery requirement for the ordered equipment, we are unable to recommend any corrective action with respect to those orders. 46 Comp. Gen. 713,718 (1967); B-175797, June 20, 1972. With respect to your assertion that DOT plans to order an additional 25 recording systems as part of the requirement resulting in the June order, DOT has informed us that its requirement for recorders was cancelled because it could not determine its additional needs for this equipment.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States