



Office of the General Counsel

B-231177.4

September 8, 1988

The Honorable Lawton Chiles
United States Senator
Federal Building
Lakeland, Florida 33801

Dear Senator Chiles:

We refer to your letter dated August 9, 1988, enclosing correspondence dated July 27, 1988, from expressing Ethan Allen Inc.'s concerns about request for proposals (RFP) No. 0000-62004, issued by the Department of State (DOS). The RFP solicited furniture and household furnishings to be delivered to United States ports for shipment and use overseas, in residences of United States Foreign Service Officers and personnel. Ethan Allen, the incumbent contractor, argues that DOS' award to Chicago Pacific Company under the current RFP is improper because it could provide furniture of superior quality at a lower cost.

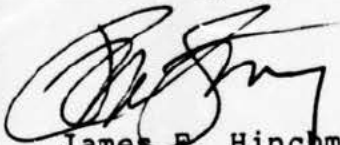
Enclosed is a copy of our decision, Horizon Trading Co, Inc.; Drexel Heritage Furnishings, Inc., B-231177; B-231177.2, July 26, 1988, 88-2 CPD ¶ 86, in which we denied the protests of Horizon Trading Company, Inc. and Drexel Heritage Furnishings, Inc. against the award to Chicago Pacific. We found no basis to question DOS' determination that the Chicago Pacific proposal, when evaluated in accordance with the solicitation evaluation formula, was most advantageous to the government considering both technical and price factors.

We note that Ethan Allen participated as an interested party in the protest proceedings. Ethan Allen was not the low offeror under the solicitation and scored significantly lower technically than both of the protesters. In any event, Ethan Allen never filed a protest with this Office objecting to the award, and, to the best of our knowledge, Ethan Allen also did not submit an agency-level protest.


The arguments now raised by Ethan Allen for the first time in its correspondence to you concerning the evaluation criteria would now be considered untimely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(1) (1988). Under our regulations, copy enclosed, protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals must be filed prior to that date. This objection should have been made prior to the closing date for this RFP, which was November 5, 1987. Also, to the extent Ethan Allen is objecting to DOS' evaluation that Ethan Allen was not technically superior, it would also be untimely under our regulations, which require such protests to be filed not later than 10 working days after the basis of protest is, or should have been known. 4 C.F.R. § 21.2(a)(2). Ethan Allen's complaint is directed at the award decision of April 20, 1988; which was made more than 4 months ago.

Currently, Horizon Trading Company, Inc. has requested reconsideration of our July 26, decision. We will furnish you a copy of our decision when issued.

Sincerely yours,



James P. Hinchman
General counsel



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