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**Comptroller General  
of the United States**

Washington, D.C. 20548

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## **Decision**

**Matter of:** American Material Handling, Inc.

**File:** B-281261

**Date:** January 19, 1999

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Sid Goss for the protester.

Dennis A. Walker, Esq., for the agency.

Katherine I. Riback, Esq., and Jerold D. Cohen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest of agency's refusal to extend the date quotations were due is denied, where it was only on the due date that the protester requested (and the agency provided) information which the firm deemed necessary to prepare its quotation; the protester's inability to prepare and submit a timely quotation was due to its own failure to promptly request and obtain the information, rather than any improper action by the agency.

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### **DECISION**

American Material Handling, Inc. (AMH) protests the rejection of its offer under request for quotations (RFQ) No. SP3100-98-Q-0018, issued by the Defense Logistics Agency (DLA) for tote boxes--open-top containers used for transporting packages on conveyor systems. AMH states that the RFQ did not provide the weight for the tote boxes, and challenges DLA's subsequent refusal to extend the deadline for the submission of quotations after this information was provided to it by the agency.

We deny the protest.

DLA issued the solicitation on August 5, 1998 for 4,000 tote boxes to be used as replacements and spares. The solicitation's specifications detailed dimensional requirements, RFQ Specification for Tote Boxes at 4, so that the new tote boxes would function properly with the conveyor system and would nest (stack) with the other previously acquired tote boxes. To further ensure size compatibility, the RFQ specified that an injection-molding process be used, with an existing government-owned single cavity injection mold that DLA would supply as government-furnished property. *Id.* at 3-4. The RFQ also required that the tote boxes be made of ABS-Polymerland ABS1GP resin. *Id.* at 4.

Shortly before noon on August 31, the closing date for receipt of quotations, AMH, which is a manufacturer's representative, asked for information about the weight of

the tote boxes, which the agency provided at approximately 1:30 p.m. that same day. AMH then requested that the deadline for the receipt of quotations be extended because the requested weight information was necessary before a price could be calculated, but the agency refused to do so. AMH immediately faxed a note to the contracting officer advising that the firm would be submitting a quotation after the due date, and that if that was not acceptable to consider the note a protest of DLA's refusal to extend the due date. DLA considered the note a protest.

The agency received three timely quotations, and on September 1 received a quotation from AMH. DLA denied AMH's agency-level protest on September 17, and issued a delivery order for the tote boxes to Phoenix Custom Molders, Inc. on September 22.<sup>1</sup> This protest to our Office followed.

AMH contends that its supplier needed the information regarding the weight of the tote boxes, and protests that it was improperly denied the time extension necessary to employ that information, once furnished, in calculating its quotation. The agency responds that tote boxes must meet the required size parameters and be able to stack, or nest properly, but may vary widely in weight due to the temperature and the curing time in the injection mold process. Therefore, the agency required that the tote boxes meet certain size parameters, but purposefully omitted any weight requirements in the RFQ. The agency also noted that previous purchases of tote boxes where both weight and size dimensions were specified were unsuccessful.

Where a protester contends that an agency allowed insufficient time to prepare proposals, we require a showing that the time allowed was inconsistent with statutory requirements or otherwise unreasonable or insufficient, or that it precluded full and open competition. Nat'l Med. Staffing, Inc., B-244096, May 22, 1991, 91-1 CPD ¶ 503 at 1.

Prospective offerors bear an affirmative duty to make every reasonable effort to obtain solicitation materials. UpSide Down Prods., B-243308, July 17, 1991, 91-2 CPD ¶ 66 at 3 (where we found that a protester had not done so with respect to obtaining all pages of a solicitation amendment after receiving only the first of 13 pages and the first page clearly indicated that the amendment contained additional pages). AMH, however, did not request the information it determined it needed to prepare a quotation until only hours before the quotation was due, 26 days after the RFQ had been issued. In Latins Am., Inc., B-247674, June 15, 1992, 92-1 CPD ¶ 519, we denied a protest that an agency did not extend the deadline for the submission of offers in a similar situation. There, the protester received a floppy disk necessary for proposal preparation 14 days before the closing date but

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<sup>1</sup>One quote was rejected because it failed to meet the solicitation's specifications.

did not attempt to verify the disk's contents until the evening before that date; the firm asked for an extension upon finding that the disk was empty. We stated:

LAI [Latins American] did not avail itself of every reasonable opportunity to obtain the requisite solicitation materials. . . . Notwithstanding the necessity for a good disk if it was to submit a quote, LAI did not load the disk into a computer to verify the contents until 13 days after receipt, on the evening before closing. In our view, LAI should have examined the disk more than a day before quotations were due. LAI's delay in examining the disk contributed to its inability to submit a timely quote. Had LAI examined the disk within a reasonable period after receipt, it could have discovered any defect in the disk and obtained a replacement copy in time to submit a timely quotation. Even if the agency was at fault in furnishing a defective disk (which is not clear from the record), the agency was not required to extend the closing date.

Id. at 3-4.

AMH's inability to prepare a quotation by the closing date similarly was due to its own failure to make reasonable efforts to promptly obtain information that it deemed necessary, rather than any improper action by the agency. We therefore will not object to the agency's refusal to comply with the firm's last-minute request to extend the date.<sup>2</sup>

The protest is denied.

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<sup>2</sup>We note that AMH's late quotation was for a product made of other than the specified resin, and also imposed a condition on the firm's acceptance of the delivery order not provided for in the RFQ. It thus appears that the quotation would have been unacceptable even if the request for more time had been granted. In this respect, instead of submitting a quotation based on a nonconforming material, AMH should have protested the solicitation's resin specification before quotations were due. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1998).