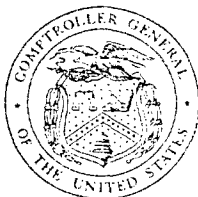


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DECISION



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

FILEB-196624

DATE: February 6, 1980

MATTER OF: Federal Sales Service, Inc.

DLB 2136

DIGEST:

1. Contracting officer's determination that offeror is financially capable and can produce compliant products is matter of responsibility which will not be reviewed absent circumstances not relevant here.
2. Where contracting officer suspects but cannot determine that two or more items being offered for GSA multiple-award contracts are identical, such items shall not be considered as identical and multiple-award contracts may be awarded for items.

[Protest Involving

AGC #17

The General Services Administration (GSA) issued solicitation FCGO-EN-70023-N for the multiple award of typewriter ribbons and corrective tapes, Federal Supply Schedule (FSS) FSC 75, part II, section "A," for the period October 1, 1979, through September 30, 1980.

Contract GS-00S-98427 was awarded to Office and Interior Furnishings (OIF). Federal Sales Service, Inc. (FSSI), protests the award to OIF for the following reasons:

(1) OIF is not financially responsible. Moreover, the Department of Energy rejected a large quantity of OIF typewriter ribbons because they were noncompliant.

(2) The items offered by OIF were identical to products offered by another prospective contractor. Thus, the award to OIF violates Federal Supply Service Procurement Letter No. 240, dated August 5, 1977, which proscribes the procurement of identical products for FSS multiple-award contracts.

DLB 03828

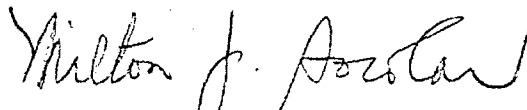
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The first allegation challenges the contracting officer's affirmative determination of responsibility. This matter is not for consideration by our Office, since we do not review affirmative determinations of responsibility, except in circumstances not applicable here. Southern Methodist University, B-187737, April 27, 1977, 77-1 CPD 289.

With regard to the second allegation, both of OIF's manufacturers stated that the products (typewriter ribbons and liftoff tapes) which they manufacture for OIF are not identical to the products which they manufacture for other offerors and they submitted technical documentation. Since the contracting officer could not determine that the products offered by OIF were identical products offered by another offeror, he acted reasonably in determining that OIF was not offering identical products. This determination was made in accordance with paragraph 5A-73.303-3(b)(3) of the Federal Supply Service Procurement Letter No. 240 which states that:

"Where the contracting officer suspects but cannot actually determine that two or more items being offered are actually the same, such items shall not be considered as being identical items."

Based on the record before us, the award to OIF was proper. Therefore, the protest is denied.



For the Comptroller General
of the United States