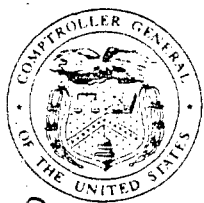


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DECISION



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

[Protest of Defense Logistics Agency Contract Award]

FILE: B-198704

DATE: July 28, 1980

MATTER OF:
Impact Instrumentation, Inc.

DIGEST:

1. Protest against contracting officer's decision not to extend date for submission of offers is untimely and not for consideration since it was filed after submission of offers and under GAO's Bid Protest Procedures such protest must be filed in GAO prior to date set for receipt of proposals.
2. Whether awardee fulfills contractual obligations by furnishing equipment that complies with specifications is matter for contracting agency in administration of contract and does not affect validity of award.

Impact Instrumentation, Inc. (Impact), protests the award of a contract to Laerdal Medical Corporation (Laerdal) under request for proposals DLA120-80-R-1064 issued by the Defense Personnel Support Center, Defense Logistics Agency (DLA), Philadelphia, Pennsylvania.

The solicitation called for the supply of 532 portable suction devices to be used in aspirating secretions, blood, etc., in the emergency treatment of unconscious or injured individuals. The item was solicited on a brand name or equal basis with one model manufactured by Impact and one manufactured by Laerdal identified as brand name items. Salient characteristics were also listed. Impact argues that (1) DLA should have granted Impact's request for an extension of the date set for the receipt of proposals, and (2) Laerdal cannot meet the specifications. We believe that Impact's protest is without merit.

March 6, 1980, was the closing date for the receipt of offers. By that date, only Impact and Laerdal had submitted offers. Impact offered a domestic end product while Laerdal proposed to furnish an item manufactured in Norway. At some point after these two offers were received, DLA contracting officials realized that the solicitation had not indicated the applicability of two standard contract clauses--clauses

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C76 and C76a, both entitled "Notice of Potential Foreign Source Competition." These clauses notify offerors that if products manufactured in Norway, or in several other countries, are offered under the solicitation, they will be evaluated without application of the price differentials and duties normally applied pursuant to the Buy American Act requirements contained in Defense Acquisition Regulation section VI, part I (1976 ed.). Consequently, on March 19, 1980, DLA issued amendment No. 0001 which informed all potential offerors that these two clauses were part of the solicitation. The amendment also established a new closing date of April 1, 1980.

Impact received a copy of the amendment on March 25, 1980. It then requested a further extension of time for the submission of offers so that it could reassess the one it had already submitted and perhaps offer a lower line product which would be comparable to Laerdal's equipment but lower in price. The contracting office, however, denied this request on March 27, 1980. According to Impact, it made no objection to the contracting officer's decision at that time because, under this negotiated procurement, it believed that the superior features offered by its product would offset any price advantage Laerdal might have. On April 23, 1980, Impact was notified that DLA intended to award the contract to Laerdal. On May 5, 1980, Impact filed its protest with our Office.

Our Bid Protest Procedures provide that any protest based upon an alleged impropriety which is apparent prior to bid opening or the closing date for receipt of initial proposals must be filed in our Office prior to either the date set for bid opening or the date set for the receipt of initial proposals. 4 C.F.R. § 20.2(b)(1) (1980). Here, Impact clearly did not file its protest against the April 1 closing date and the contracting officer's refusal to extend that date until more than a month after the date set for the receipt of proposals. Under our Bid Protest Procedures, therefore, this specific basis of protest is untimely and thus will not be considered.

Impact's second basis of protest is its allegation that Laerdal's product does not meet specifications, not that Laerdal took exception to any material specification. Impact states that its own examination of Laerdal's equipment indicates that this equipment will not meet the specification requiring certain minimum operating times when the equipment is operated on batteries.

Whether Laerdal fulfills its contract obligations by furnishing suction apparatus that comply with the specifications is a matter for the contracting agency in the administration of the contract and does not affect the validity of the award. Nuclear Research Corporation, supra; Aerosonic Corporation, supra.

Protest dismissed.

A handwritten signature in cursive script, reading "Milton J. Sgolar".

Milton J. Sgolar
General Counsel