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DECISION



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

[Protest of Bid Rejection as Nonresponsive]

FILE: B-199513

DATE: August 4, 1980

MATTER OF: Surgical Instrument Company of America

DIGEST:

Written bids received after opening, although preceded by timely telegraphic bids, are late and properly rejected where solicitation does not expressly permit telegraphic bids.

Surgical Instrument Company of America (SICOA) protests the award of contracts by the Defense Personnel Support Center (DPSC), Defense Logistics Agency, under solicitation Nos. DLA120-80-B-1887 and DLA120-80-B-1888. The protester alleges that DPSC improperly rejected SICOA's bids as nonresponsive.

SICOA responded to the solicitations in a timely fashion via telex. These telegraphic bids were followed by formal bids which arrived after bid opening. SICOA states that, because the solicitations do not prohibit telegraphic bids, its initial telex bids should be considered.

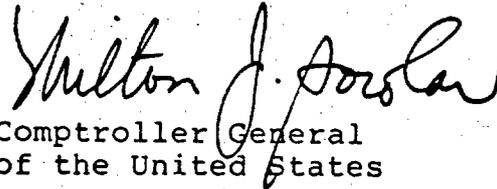
The solicitations sent to SICOA included Standard Form 33A, Paragraph 5(b) of which states: "Telegraphic offers will not be considered unless authorized by the solicitation." We understand that page 10 of the solicitations contained a clause that would have been "checked off" if telegraphic bids were permitted. This clause was not checked, indicating therefore that telegraphic bids were not acceptable. Consequently, the agency properly did not consider the telex bids and, since SICOA's formal bids were received after bid opening, DPSC properly rejected them as late and nonresponsive. Devoe and Reynolds Company, B-197457, February 7, 1980, 80-1 CPD 111.

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Generally, upon receipt of a protest we request a report from the procuring agency pursuant to our Bid Protest Procedures, 4 C.F.R. § 20.3(a) (1980). However, where it is clear from a protester's initial submission that the protest is legally without merit, we will decide the matter without the agency report. Afro-American Datanamics, B-190703, December 8, 1977, 77-2 CPD 448. We have done so here.

This protest is summarily denied.



For The Comptroller General
of the United States