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DECISION



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

FILE: B-199366.2

DATE: March 17, 1981

MATTER OF: Security Assistance Forces & Equipment
Inc. -- [Request for Reconsideration]

DIGEST:

Request for reconsideration on grounds initial decision failed to discuss primary basis of protest is denied where record indicates such basis was neither primary nor timely under GAO Bid Protest Procedures because it was not raised within 10 working days after protester knew or should have known of grounds for protesting such issue.

Security Assistance Forces & Equipment International, Inc. (SAFE International) requests reconsideration of our decision denying its protest with respect to request for proposals (RFP) No. DAJA37-80-R-0331 issued by the U.S. Army Contracting Agency, Europe. Security Assistance Forces & Equipment International, Inc., B-199366, February 6, 1981, 81-1 CPD. SAFE International contends the decision failed to address the primary basis for its protest. For reasons discussed below, the request for reconsideration is denied.

Section 20.9(a) of our Bid Protest Procedures, 4 C.F.R. Part 20 (1980), requires that a request for reconsideration contain a detailed statement of the factual or legal grounds which allegedly warrant reversal of a decision of our Office and be submitted within 10 working days after the basis for reconsideration is known or should have been known.

SAFE International contends the "primary" basis for its protest was that the agency permitted German firms to "examine the Government-owned and -furnished equipment" but did not extend the same opportunity to SAFE International and "its subsidiary, American firms."

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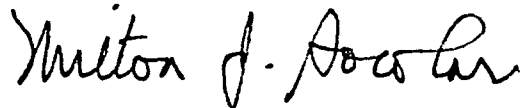
The protested solicitation was for the installation of Government-furnished intrusion detection alarm systems at an Army installation at Augsburg, Federal Republic of Germany (FRG). Similar Government-furnished equipment previously had been installed in the FRG, sometimes by Government forces and sometimes under contract. SAFE International's protest concerned one component of this system: the passive ultrasonic detector. The company's request, which was denied by the Army, was to examine a passive ultrasonic detector which had been installed by a contractor at another location--Aschaffenburg. Although the Army did not permit an inspection of the equipment at Aschaffenburg, it conducted two pre-proposal conferences and an inspection tour of the site of the work at Augsburg, during which offerors could inspect a passive ultrasonic system which had been installed there earlier by the Government. The protester did not attend either of these conferences or the site visit, being interested only in seeing contractor-installed equipment in another city. In our decision, we found the agency's action reasonable.

Although in its initial protest SAFE International complained of the agency's denial of its request for an opportunity to inspect a contractor-installed system in Aschaffenburg, it did not allege that the denial resulted from a pro-German or anti-American bias on the part of the agency. Our record with respect to this protest indicates that the allegation of bias was first made in October 1980, after receipt of the agency report, and never became the major emphasis of the protest. In any event, the issue was raised well after June 30, 1980, the closing date for receipt of initial proposals, and more than 10 working days after the protester knew or should have known of the events giving rise to its allegation. The issue was therefore clearly untimely under our Bid Protest Procedures, supra, and properly was not considered on its merits.

In speaking of the opportunity which German firms have had to become familiar with the equipment at Aschaffenburg, SAFE International appears to be referring to past contracts awarded to those firms for work at that location. To the extent that the protester may have been objecting to the competitive advantage obtained by the German firm or firms which might have previously installed similar systems,

including the one in Aschaffenburg, it is also untimely. Moreover, the agency has no obligation to equalize competition merely because one firm's advantageous position results from previous contract awards. Harris Systems Pest Control, Inc., B-198745, May 22, 1980, 80-1 CPD 353.

The request for reconsideration is denied.



Acting Comptroller General
of the United States