

DECISION



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

FILE: B-202450

DATE: June 15, 1981

MATTER OF: Harris Corporation, PRD Electronics
Division

DIGEST:

1. Protest that agency erred in concluding that offeror did not establish that equipment offered was functionally and otherwise equivalent to that specified in solicitation is denied where protester fails to provide sufficient evidence to show that agency determination was unreasonable.
2. Protest that solicitation requirement that offers to furnish items other than that specified in solicitation be accompanied by data with respect to both proposed alternative item and specified item was impossible to meet is dismissed as untimely under GAO Bid Protest Procedures which require such protest to be filed prior to closing date for receipt of initial proposals.

Harris Corporation, PRD Electronics Division protests a contract award to General Microwave Corporation by the Defense Electronics Supply Center pursuant to solicitation No. DLA900-80-R-3855. The solicitation called for proposals to provide film elements as replacement spares for testing equipment manufactured by General Microwave. PRD contends that, as its proposed film element is the equal in all respects to the General Microwave unit specified in the solicitation, its lower priced proposal should have been accepted. For the reasons discussed below, this protest is denied in part and dismissed in part.

[Protest of Agency Determination that Proposed Product Was Unacceptable]

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The agency states that as it had no technical data defining the required film element, it specified its needs by listing the General Microwave part number. However, in an effort to obtain competition, it included a provision in the solicitation inviting alternative film elements provided they were either identical or functionally, physically, mechanically, and electrically interchangeable with the specified unit. The provision pointed out that the agency had no detailed data and that each offeror proposing an alternative must furnish drawings and data clearly describing the characteristics of the alternative unit and the specified General Microwave unit so that the agency could determine whether the alternative unit was equal to the specified unit. The provision also warned that failure to provide such data might preclude consideration of the proposal.

PRD provided data with respect to its proposed alternative but no data or drawings on the General Microwave unit. In response to an agency request, PRD contended its unit was interchangeable with the General Microwave unit and that General Microwave should verify that the PRD unit "can be used in place of their element." The agency then sent the PRD proposal to the appropriate engineering support activity which, because it could not independently determine whether the PRD unit was interchangeable with the General Microwave unit, contacted General Microwave and was informed the PRD unit would neither fit nor operate with its test equipment. On that basis, PRD's proposal was found to be unacceptable and award at a higher price was made to General Microwave.

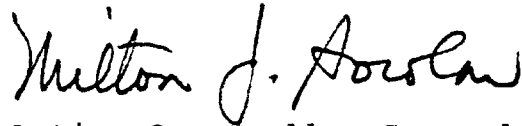
PRC claims that its unit is identical to the General Microwave unit, but the protester does not offer any evidence to challenge the agency's position other than drawings of its unit and a data sheet, all of which were included in its proposal.

The procuring agency is responsible for evaluating data supplied and ascertaining if it provides sufficient information to determine the acceptability of the item offered, Fil-Coil Company, B-198055, June 11, 1980, 80-1 CPD 409, and we will not disturb this technical determination unless the protester shows it is unreasonable. Schottel of America, Inc., B-190322, February 15, 1978, 78-1 CPD

130. In our view, PRD has not provided sufficient evidence to show that the agency's conclusions that the data submitted was insufficient and, based on information from Microwave, that PRD's unit was not interchangeable, were unreasonable.

It appears that PRD is also challenging the solicitation provision requiring it to submit General Microwave data. As this requirement was obvious from the face of the solicitation, PRD should have protested prior to the closing date for receipt of initial proposals. Our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1980), require that protests based on alleged improprieties in a request for proposals which are apparent prior to the closing date for receipt of initial proposals be filed prior to that date.

The protest is denied in part and dismissed in part.



Acting Comptroller General
of the United States