

DECISION



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

FILE: B-208526

DATE: September 27, 1982

MATTER OF: S.A.F.E. Export Corporation

DIGEST:

1. When protester who alleges that specifications are unduly restrictive is not the low offeror on either brand name equipment or alternate, GAO will dismiss its protest as academic, since offers were not rejected because of the specifications, but because they were not low.
2. GAO will not consider attempted protest on behalf of potential contractors who allegedly may not have participated in competition because of restrictive specifications, when protester has demonstrated no economic interest in such firms.

S.A.F.E. Export Corporation (Safe) protests what it alleges are unduly restrictive specifications in solicitation No. DAJA 37-82-R-0727, issued by the U.S. Army Contracting Agency, Europe. We dismiss the protest.

The solicitation in question, issued July 7, 1982, to eight firms, required a nurse call system, Executone or equal, which would interface with an existing Executone nurse call system in the 97th General Hospital. Following a site visit on July 23, Safe protested to the contracting officer, alleging that the hospital had no Executone nurse call system, but only an Executone intercom system with which any modern nurse call system could interface. Safe argued that potential offerors would be deterred from competing because of the solicitation's reference to an existing Executone system, which gave the impression that only an Executone system would be compatible with it.

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The contracting officer, however, determined that the solicitation need not be amended, because the existing system described in it was manufactured and sold as an Executone nurse call system.

On July 29, Safe submitted one of two offers for the brand name equipment; however, the Army has advised us, its price was 37 percent higher than that of the other offeror. Safe also submitted an alternative offer for a system manufactured by Dukane, the price of which was 9 percent higher than the low offeror's. The Army therefore determined that it should make award to the low offeror, without discussions; it is proceeding to do so notwithstanding Safe's protest because the equipment is urgently needed.

Safe's protest to our Office was filed within 10 days after the Army proceeded with opening without amending the solicitation; however, we will not consider it. Safe was rejected not because of the protested specifications, but because it was not the low offeror on either the brand name equipment or the alternate. The solicitation was not limited to an Executone system, but permitted bids on "equal" equipment. On either basis, however, Safe is not in line for award. The protest is therefore academic. See Honeywell, Inc., B-205093, March 16, 1982, 82-1 CPD 248; Ven-Tel, Inc., B-204233, March 8, 1982, 82-1 CPD 207.

Nor will we consider Safe's attempted protest on behalf of potential offerors whom it alleges may not have participated in the competition. Safe has demonstrated no economic interest in such firms, and is therefore not an interested party in the sense of being able to protest for them. See generally Green Mountain Cabins, Inc., B-199669, February 11, 1981, 81-1 CPD 91. Although such firms could themselves have filed timely protests if they believed the specifications were unduly restrictive, we have not received any such protests.

Safe's protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel