

# DECISION



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

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FILE: B-213592

DATE: November 30, 1983

MATTER OF: Venusa, Ltd.

## DIGEST:

1. Protest alleging that agency improperly rejected protester's bid on two of five line items is without merit where solicitation clearly provided that award would be made to the bidder submitting the low total bid on the five line items and agency's actions here were consistent with the solicitation's terms.
2. Contention that solicitation provision is unduly restrictive is untimely where alleged defect was apparent from the face of the solicitation but protest was not filed until after bid opening, contrary to GAO Bid Protest Procedures.

Venusa, Ltd., protests the rejection of its bid on line items 1 and 2 of invitation for bids (IFB) No. DAKF40-83-B-0309, issued by the contracting division, Fort Bragg, North Carolina. We summarily deny the protest in part and dismiss it in part.

The solicitation's bid schedule contained five line items, covering various kinds of intravenous injection sets, and contained a sixth line item for the total of bids on items 1 through 5. Section C.1(a) specified that all items should be the product of a single manufacturer. In addition, the evaluation section stated that bids would "be evaluated as to the price of item 6," and the award section provided that award would be made to the bidder whose bid was "most advantageous to the government in keeping with the evaluation factor cited above."

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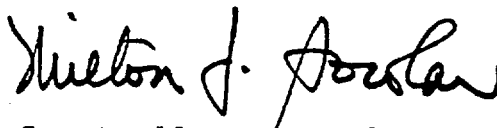
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Venusa submitted bids on items 1, 2 and 5 but "no bid" items 3 and 4. The firm contends that rejection of its low bid on items 1 and 2 is not in the best interest of the government because the agency would recognize a significant cost savings by accepting its bid. Venusa also contends that section C.1(a) is unduly restrictive, since the items solicited are not interdependent, and "suggests" that the agency award on a "per line item basis."

Venusa's contention that its bid was improperly rejected is without merit. The solicitation clearly provided that all items must be the product of a single manufacturer and that award would be based on the total bid for all 5 line items. Thus, bidders were clearly informed of the solicitation's award criteria, and the agency was required to follow the terms of the solicitation in making the award. American Waste and Wiper Co., B-207073, April 22, 1982, 82-1 CPD 373.

To the extent that Venusa is protesting the allegedly restrictive nature of section C.1(a) of the solicitation, its protest is untimely, since this alleged defect was apparent from the face of the solicitation. Thus, under our Bid Protest Procedures, Venusa should have filed its protest prior to bid opening. 4 C.F.R. § 21.2(b)(1) (1983). Bid opening was on October 21, 1983; Venusa protested to the contracting agency by letter dated October 24, with a copy to our Office that we received on November 1. Under these circumstances, Venusa's protest on this point is clearly untimely.

The protest is summarily denied in part and dismissed in part.

  
for Comptroller General  
of the United States