

DECISION

28181

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

FILE: B-214015

DATE: May 7, 1984

MATTER OF: Mil-Craft Mfg., Inc.

DIGEST:

1. Under Bid Protest Procedures, GAO considers the propriety of an award or proposed award and not general allegations that the agency failed to follow procedures under past and present procurements.
2. Protest that bid was improperly rejected as late is dismissed where "late" quotation was higher than timely filed quotations. No useful purpose would be served by our consideration of the matter because, even if protest was sustained, protester would not be in line for award.
3. Protest alleging that agency improperly will deny award to the protester is speculative and premature and will not be considered.
4. Protest is sustained where agency agrees with protester and takes corrective action.

Mil-Craft Mfg., Inc. (MMI), protests the award of any orders to any other offeror under requests for quotations (RFQ) Nos. DLA700-84-T-3406, 3424, 3444, 3459, 3478, 5012, 5076, and RFQ No. DLA700-83-T-ER60, issued by the Defense Logistics Agency (DLA). MMI protests that the contracting activity's policies and practices are discriminatory against small business and restrictive of competition. MMI contends that the time allowed to respond to the solicitations is inadequate for preparation of an offer, that the evaluation of alternate offers solicited under these RFQ's is cursory and rejection of these offers frequently improper, that the contracting activity's procedures often result in the rejection of timely, competitive offers, and that consistently late offerors can be removed from future participation under this DLA small purchase program. MMI requests that it be awarded orders for those items where it submitted the lowest offer.

We dismiss the protest in part and sustain the protest in part.

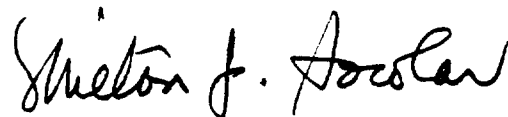
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Initially, we note that in resolving protests under the Bid Protest Procedures, 4 C.F.R. part 21 (1983), our Office will consider protests only involving specific procurement actions, i.e., whether an award or proposed award of a contract complies with statutory, regulatory and other legal requirements. Ikard Manufacturing Company, B-211041, March 23, 1983, 83-1 CPD 302. In this connection, MMI's general challenge to DLA's small purchase procurement procedures will not be considered.

DLA's report, which is not refuted by MMI, shows that although MMI's offers apparently were rejected as late, MMI did not submit the low quote under RFQ's 3406, 3424, 3444, 3459, 3478. In similar circumstances, this Office has held that a protest that a bid was improperly rejected as late will be dismissed where it was not the low bid and, accordingly, the "late" bid was not in line for award. See Tektronix, Inc., B-209573, January 24, 1983, 83-1 CPD 82. It was our view that no useful purpose would be served by our consideration of the protest, because, even if the protest was sustained, the protester would not be in line for award. Based on that decision, we dismiss MMI's protest concerning these RFQ's.

With regard to RFQ's 5012 and 5076, DLA reports that MMI submitted timely quotes and will be considered for award. Since neither requirement has been awarded, MMI's protest alleging that DLA improperly will deny award under these RFQ's to MMI is speculative and premature because MMI possibly could receive award under one or both of these RFQ's. Thus, we dismiss the protest against these RFQ's. Afri-American Supply Company, B-206137, February 17, 1982, 82-1 CPD 141.

Finally, DLA agrees with MMI that it should have received an award under RFQ ER60 for the alternate item it offered and has terminated the purchase order to another offeror and indicates that, subject to revival of its quote, MMI will receive the award. We sustain this aspect of MMI's protest.



Acting Comptroller General
of the United States