



The Comptroller General  
of the United States

Washington, D.C. 20548

*J. Melody P. II*

## Decision

Matter of: Dura Electric Fluorescent Starter Division  
File: B-225323  
Date: March 2, 1987

### DIGEST

1. Award to bidder on basis of Buy American Act certification that firm will supply domestic products must be preceded by contracting officer decision that bidder is capable of doing so, and General Accounting Office does not review such affirmative responsibility determinations except in limited circumstances.
2. Where bidder certifies in accordance with the Buy American Act that it intends to supply a domestic product, it is obligated to do so upon acceptance of its bid, and whether the firm in fact meets its obligation is a matter of contract administration, which the General Accounting Office does not review.
3. Failure of proposed awardee to appear on certified manufacturers list does not render firm ineligible for award where solicitation provides alternatively that firms not on list will be required to meet first article test requirements.

### DECISION

Dura Electric Fluorescent Starter Division protests the award of any contract to Radionic Hi-Tech, Inc., under Defense Logistics Agency (DLA) invitation for bids (IFB) No. DLA400-86-B-A442, for a quantity of fluorescent starters. We dismiss the protest in part and deny it in part.

Dura first alleges that more than 50 percent of the components of the starter Radionic, the proposed awardee, will furnish are of foreign origin so that, in accordance with the Buy American Act, 41 U.S.C. §§ 10a-d (1982), an evaluation factor should have been added to Radionic's bid. Dura maintains that, with application of this factor, Dura's bid would be low, entitling it to the contract award.

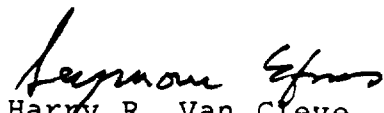
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Radionic completed the Buy American Act certification in the IFB to the effect that it would supply domestic products, and DLA obtained verification from Radionic that its starter contains only one foreign component comprising less than 50 percent of the total component cost. The government's acceptance of the bid must be preceded by a finding that Radionic indeed is capable of furnishing domestic items, i.e., is a responsible concern; our Office does not review affirmative responsibility determinations except in limited circumstances, which are not applicable here. 4 C.F.R. § 21.3(f)(5) (1986). Moreover, acceptance of Radionic's bid will obligate the firm to supply domestic products, and whether Radionic in fact complies with that obligation is a matter of contract administration, which our Office also does not review. 4 C.F.R. § 21.3(f)(1); Despatch Industries, Inc., B-225063, Nov. 5, 1986, 86-2 C.P.D. ¶ 524.

Dura also contends that the proposed award would be improper because Radionic is not included on the Certified Ballast Manufacturers Latest Monthly Listing, which Dura suggests is a prerequisite to award, according to the IFB. As DLA states in its protest report, however, page 2 of the IFB specifically provides that manufacturers (Radionic bid as a manufacturer) not included in the Monthly Listing instead would be required to meet first article testing requirements. Thus, Radionic's omission from the Monthly Listing did not render the firm ineligible for award.

Dura states that as of November 1986, Radionic had not received first article approval from the General Services Administration (the agency apparently charged with that function). The first article test requirement will be part of Radionic's contract, however, and is not a precondition to Radionic's receiving the award. Again, whether Radionic ultimately complies with this contract requirement will be a matter of contract administration, within the ambit of the contracting agency, not our Office.

The protest is dismissed in part and denied in part.

*for*   
Harry R. Van Cleave  
General Counsel