



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Power-Trol, Inc.--Reconsideration
File: B-227954.2
Date: October 30, 1987

DIGEST

Contracting agency determination to grant a waiver of first article test requirement for awardee did not prejudice the protester where the awardee's offer was low with or without the waiver of first article.

DECISION

Power-Trol, Inc. requests reconsideration of our decision in Power-Trol, Inc., B-227954, Oct. 5, 1987, 87-2 CPD ¶ _____, in which our Office denied in part and dismissed in part Power-Trol's protest against award to Research Inc. under request for proposals (RFP) No. F09603-87-R-6313, issued by the Department of the Air Force. The RFP provided that award was to be made to the lowest evaluated technically acceptable offeror and was to include consideration of first article testing and transportation costs.

We deny the request for reconsideration.

Power-Trol objected to the solicitation provision requiring first article testing and providing for first article waiver. We dismissed the protest because it was a challenge to an impropriety in the solicitation untimely filed after the closing date for receipt of initial proposals. See 4 C.F.R. § 21.2(a)(1) (1987). Power-Trol also argued that the Air Force improperly refused to waive first article testing for its product and that it would have been low had first article testing been waived for its product. We found that the Air Force properly refused to waive first article testing for Power-Trol's product due to the extended period of time since Power-Trol or its predecessor had produced the systems in question.

Finally, Power-Trol objected to the Air Force's decision to waive first article testing for Research. We dismissed this objection as untimely because protests based on grounds

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other than solicitation improprieties must be filed no later than 10 working days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2(a)(2). The contracting officer's letter of June 10 notified Power-Trol that Research had been awarded item Nos. 001AH, 001AK, and 0001AL, all of which constituted award on the basis of alternate B, first article test report not required. The protester acknowledges that it received this letter on June 19; although the protester expressed dissatisfaction in several letters as to the evaluation of its own offer, it did not question Research's eligibility for waiver until its formal protest of July 13 to our Office, well beyond the deadline set by our Bid Protest Regulations.

Power-Trol argues on reconsideration that the contracting officer's letter did not provide adequate notice that the first article requirement was not considered in evaluation of Research's bid and that its protest of the Air Force decision to waive first article testing for Research was timely filed.

The record shows that the evaluated bid price for Power-Trol with first article testing was \$678,237.30, and Research's evaluated bid prices were \$675,876.50, including first article costs, and \$672,556.50 without first article costs. Since Power-Trol has not provided any basis for reconsideration of that portion of our decision in which we found that the Air Force properly denied Power-Trol's request for waiver of first article testing, it is clear from the bidding that whether or not the first article requirement properly was considered in the evaluation of Research's bid is irrelevant, for Research is low with or without a waiver of first article. Therefore, Power-Trol was not prejudiced by the evaluation. Bender Shipbuilding & Repair Co., Inc.-- Request for Reconsideration, B-225578.2, July 1, 1987, 87-2 CPD ¶ 1.

for *Seymour E. Hinchman*
James F. Hinchman
General Counsel