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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Imaging Equipment Services, Inc.

File: B-247197

Date: January 13, 1992

Thomas J. Quinn for the protester,
Catherine M. Evans, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

1. Protest alleging generally that awardee has not complied with Federal Acquisition Regulation provisions regarding payment of gratuities and protection of government property is dismissed as it concerns matters of awardee's responsibility; General Accounting Office will not review contracting officer's affirmative determination of awardee's responsibility absent circumstances not alleged here.

2. Protest alleging that awardee is ineligible for award due to conflict of interest, but offering no support for allegation, is dismissed for failure to state a legally sufficient basis for protest.

DECISION

Imaging Equipment Services, Inc. (IES) protests the award of a contract to Picker International, Inc. under request for proposals (RFP) No. 502-23-92, issued by the Department of Veterans Affairs (VA) for maintenance of a Picker computerized tomography scanner.

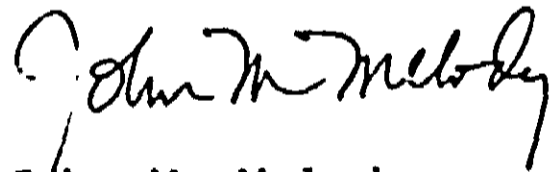
We dismiss the protest.

IES alleges that Picker is ineligible for award because it has violated Federal Acquisition Regulation (FAR) § 52.203-3, which concerns payment of gratuities to government officials, and § 52.237-2, which concerns protection of government buildings, equipment and vegetation. We will not consider these allegations, as they relate to Picker's integrity as a contractor and to its performance record, both matters for consideration by the contracting officer in determining the responsibility of the proposed awardee. See FAR § 9.104(c) and (d). Since Picker has received the award, the contracting officer necessarily has determined the firm to be responsible; we will not review such an affirmative responsibility determination absent

a showing that the determination was made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation were not met. 4 C.F.R. § 21.3(m)(5) (1991); ALM, Inc., B-225679.3, May 8, 1987, 87-1 CPD ¶ 493. Neither exception applies here.

IES also alleges that Picker has violated unspecified conflict of interest regulations "by providing VA personnel with restrictive bid specifications." Our Bid Protest Regulations provide that a protest shall include a detailed statement of the legal and factual grounds of protest, 4 C.F.R. § 21.1(c)(4) (1991), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). This requirement contemplates that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. Professional Medical Prods., Inc., B-231743, July 1, 1988, 88-2 CPD ¶ 2. IES' simple assertion that Picker has provided restrictive specifications to VA does not meet this standard. Absent any specific information about the alleged conflict-- including the specifications involved, the circumstances under which Picker provided the specifications to VA, and how the specifications are restrictive--IES' assertion amounts to mere speculation. See Little Susitna, Inc., B-244228, July 1, 1991, 91-2 CPD ¶ 6. We conclude that IES has not established the likelihood that the agency acted improperly in awarding the contract to Picker.

The protest is dismissed.



John M. Melody
Assistant General Counsel