



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** Essner Metal Works, Inc.

**File:** B-251599

**Date:** March 31, 1993

Mark F. Petrovic for the protester,  
Robert L. Mercadante, Esq., Defense Logistics Agency, for  
the agency.  
Jeanne W. Isrin, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

## DIGEST

Evaluation of quotes using a factor to quantify delays in quoted delivery times beyond the 90 days specified in solicitation was proper where solicitation stated that price and delivery would be evaluated and that preference could be given to earliest possible delivery.

## DECISION

Essner Metal Works, Inc. protests the award of a purchase order to Kampi Components, Inc. under request for quotations (RFQ) No. DLA500-93-Q-0349, issued by the Defense Industrial Supply Center (DISC), Defense Logistics Agency, for 40 nut and bolt retainers. Essner claims that it was entitled to the award based on its low quote. The agency found that Kampi's quote was low after application of a delivery time evaluation factor under DISC's program for "Best Value Buying."

We dismiss the protest.

The RFQ specified delivery within 90 days of issuance of a purchase order and provided on the cover page that "delivery will be an evaluation factor in award." The last page of the solicitation stated that: "PRICE AND DELIVERY WILL BE CONSIDERED AS AWARD FACTORS. PREFERENCE MAY BE GIVEN FOR EARLIEST POSSIBLE DELIVERY."

Four quotes were received, including Essner's and Kampi's. (The other two were not considered for reasons unrelated to the protest.) Essner quoted a \$74.60 unit price (total price of \$2,984), with delivery within 220 days after date of order (ARO). Kampi's unit price was \$101.26 (total of \$4,050.40), but it offered delivery within 150 days ARO.

Pursuant to its "Best Value Buying" program, DLA evaluated the quotations by determining the value to the government of each vendor's delivery schedule and then adding this evaluated delivery value to the vendor's price to arrive at the total evaluated cost to the government for each. DLA calculated the cost impact of delayed delivery as \$18.60 per day; multiplied that amount by 130 and 60, the number of days by which Essner's and Kampi's respective delivery schedules exceeded the specified 90-day delivery schedule; and added the resulting amounts to the quoted prices. This resulted in evaluated prices of \$5,402 for Essner and \$5,166.40 for Kampi. Therefore, on November 26, DISC issued a purchase order to Kampi.

Essner argues generally that the award to Kampi at a higher unit price was improper. This argument is without merit. In our decision General Metals, Inc., *supra*, we upheld DLA's use of the price/delivery evaluation method at issue here under virtually identical circumstances. Specifically, we held that an evaluation method under which quoted delivery times are converted into dollars and then added to quoted prices is proper where the RFQ advised, as did the RFQ here, that price and delivery would be considered and that the earliest quoted delivery could be the basis for award. Consequently, we have no basis for objecting to DLA's use of this evaluation method here, or to its determination that Kampi was entitled to the award based on the evaluation due to its superior delivery terms.

Essner objects that the agency never explained the evaluation procedure until after the protest was filed. As we also held in General Metals, however, the language in the RFQ explaining that delivery would be considered in the evaluation--in particular the statement that "preference will be given to earliest possible delivery--was sufficient to put vendors on notice of the evaluation method. No greater detail was required.

Essner also complains that the \$18.60 evaluation factor is excessive. This argument is untimely raised. Protests of matters other than alleged solicitation improprieties must be filed not later than 10 working days after the basis for

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<sup>1</sup>DLA implemented the program to reduce production and delivery lead times in response to studies indicating that excessive lead times result in inaccurate forecasting and the accumulation of excess inventories at unnecessary expense to the government. Under these procedures, delivery time is included in the evaluation to determine the overall value of a quote to the government. See General Metals, Inc., B-249259 *et al.*, Nov. 3, 1992, 72 Comp. Gen. \_\_\_\_, 92-2 CPD ¶ 319.

protest is known or should have been known. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1992); Community Asphalt Corp., B-249475; B-249475.2, Sept. 14, 1992, 92-2 CPD ¶ 178. By letter of December 30, 1992, DLA advised Essner that the \$18.60 factor had been used in the evaluation. Essner received this letter on January 4, 1993, but did not question the \$18.60 factor until it filed its comments on January 25, that is, more than 10 working days after January 4. The argument thus is untimely and will not be considered.

The protest is dismissed.



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