



Comptroller General  
of the United States

34279

Washington, D.C. 20548

# Decision

**Matter of:** Syon Corporation  
**File:** B-253944.2; B-258298  
**Date:** September 8, 1994

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## DECISION

Syon Corporation protests the actions of the General Services Administration (GSA) under solicitation Nos. TFTP-92-BT-8409 and TFTP-94-BT-8409, for epoxy materials.

We dismiss the protests.

According to Syon, it competed for a contract under solicitation No. TFTP-92-BT-8409, but in 1993 award was made to Tra-Con. Syon protested the award to GSA on the basis that Tra-Con lacked the capability to manufacture the required material components or the tube and mixing pouch packaging system specified in the solicitation; we dismissed a subsequent protest to our Office (B-253944, July 8, 1993). Thereafter, several Air Force activities allegedly placed orders directly with Syon due to the alleged failure of the Tra-Con product in the field; Syon also was informed by Air Force personnel that the product had not been furnished in the required tube and mixing pouch packaging system.

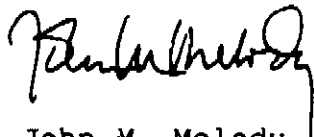
Syon recently received the 1994 solicitation for the products, and states it has been advised by GSA that, although the solicitation still requires a tube and pouch system, GSA will allow substitution of the Tra-Con packaging.

Syon alleges fraud or intentional misconduct in both the current solicitation and the award and administration of the 1993 contract. Regarding the current solicitation, Syon maintains that "this appears highly unethical" because Syon has never been notified that the agency will accept other than the tube and mixing pouch system. Syon concludes that "it appears that GSA has taken the highly unusual step of secretly changing the specifications to include the Tra-Con product." Tra-Con has been accommodated, according to Syon, by means of "a fundamental change in the functional specification of one [Naval Stock Number]".

The protest regarding the 1993 contract will not be considered. The issues related to the award were considered and rejected in our prior decision; as stated in that decision, whether an offeror has the capability to perform in accordance with the contract requirements concerns an affirmative determination of the firm's responsibility, a matter we will not review, 4 C.F.R. § 21.3(m)(5) (1994). As for Syon's assertion that the agency acted improperly in administering Tra-Con's 1993 contract, such matters of contract administration are within the discretion of the contracting agency, and will not be reviewed by our Office. 4 C.F.R. § 21.3(m)(1).

Syon's protest regarding the 1994 solicitation is without merit. The essence of the protest is that the agency has secretly and improperly decided to accept the Tra-Con packaging system. However, Syon's submission also states that "the current 1994 solicitation . . . appears to specifically accommodate Tra-Con," and that the agency has specifically advised Syon that it intends to apply this relaxed packaging requirement; thus, contrary to Syon's assertion above, it has in fact "received notification" that GSA will accept other than the tube and mixing pouch. Further, there is nothing unethical or fraudulent on the face of the agency's decision to accept the Tra-Con packaging system. In this regard, agencies are permitted to determine how best to meet their minimum needs, and properly may use relaxed specifications when they conclude that the relaxed specifications will lead to increased competition, and still will adequately meet their needs. See Information Technology Solutions, Inc., B-254438, Sept. 27, 1993, 93-2 CPD ¶ 188.<sup>1</sup> Based on the information Syon has presented, we find that this is precisely what GSA has concluded here. There thus is nothing improper in GSA's actions.

The protests are dismissed.



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<sup>1</sup>We note that our role in reviewing bid protests is to ensure that the statutory requirements for full and open competition are met, not to consider a protester's assertion that the needs of the agency can only be satisfied by more restrictive specifications than the agency has decided are necessary. Simula, Inc., B-251749, Feb. 1, 1993, 93-1 CPD ¶ 86. Consequently, we will not consider arguments that more restrictive specifications should be applied. Id.