



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-228620.2

August 26, 1987

The Honorable Matthew F. McHugh
Member, United States House of
Representatives
Terrace Hill-Carriage House
Ithaca, New York 14850

Dear Mr. McHugh:

This refers to your letter of August 5, 1987, in which you ask that we report on the protest filed by MLI Industries, Inc. (MLI), protesting award of a contract to Majestic Metal Products (MMP), under request for proposals No. DAAE07-87-R-A214 issued by the U.S. Army Materiel Command (AMC), for a quantity of M113A3 external fuel tank modification kits.

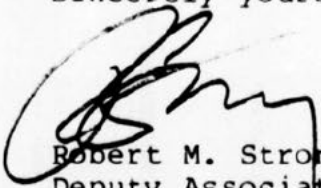
On July 27 we received MLI's protest of the award to MMP. MLI alleged that AMC's repeated requests for best and final offers was improper and that the inclusion of a quality assurance requirement in amendment 0002 to the solicitation was likewise improper. MLI also requested that this office make a ruling as to whether MMP was a responsible offeror.

On July 28, 1987, we dismissed MLI's protest of AMC's repeated request for best and final offers and its inclusion of the alleged improper amendment into the solicitation. Our Bid Protest Regulations require that bases of protest such as these, alleging improprieties in a solicitation that are incorporated into a solicitation after the closing date for receipt of initial proposals, should be protested by the next closing date for receipt of proposals, 4 C.F.R. § 21.2(a)(1) (1987). Since MLI protested after the closing date for receipt of proposals, our regulations required dismissal of MLI's protest. McDonald Welding & Machine Co., Inc.--Request for Reconsideration B-224014.3, Oct. 23, 1986, 86-2 C.P.D. ¶ 449.

In regard to MLI's request for a ruling on MMP's responsibility, we dismissed this basis of protest since the General Accounting Office does not review determinations of responsibility absent a showing that contracting agency personnel may have acted in bad faith or that definitive responsibility criteria contained in the solicitation were not applied. Protective Materials Co., Inc., B-225495, Mar. 18, 1987, 87-1 C.P.D. ¶ 303. Neither exception applies here.

Your enclosures are returned as requested.

Sincerely yours,



Robert M. Strong
Deputy Associate
General Counsel

Enclosures