



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-178341

JUL. 9 1973

Charles J. Dispenza & Associates
Box 9
Cohocton, New York 14826

Attention: Mr. Charles J. Dispenza

Gentlemen:

Your letter of May 24, 1973, and prior correspondence, protested against the award of a contract to any other firm because of the alleged restrictiveness of the specifications for item 1 and the "all or none" bidding requirement for items 2, 3, 4 and 5 of the invitation for bids (IFB) M2-54-73, issued by the Veterans Administration (VA), Moline, Illinois.

The IFB was issued January 23, 1973, as amended six times, for five items of laundry equipment. Item 1 was for the "IRONER, FLATWORK, LARGE ROLL, COMMERCIAL (APPROX) AND VENTILATING CANOPY," in accordance with VA specification X-1421 and amendment No. 3, with three listed options.

You protested to the VA prior to bid opening that the design requirement in the specification for item 1, requiring the use of a chest-type ironer to the exclusion of the Titan steam roller type offered by you, restricted the procurement to only two manufacturers. You also protested that the inclusion of item 1 in the "all or none" requirement further precluded competition that would otherwise be available for items 2, 4 and 5.

However, VA opened the bids notwithstanding your protest because it determined the equipment was urgently needed to facilitate the planned consolidation of laundry operations for the Boston and Brockton VA Hospitals. When bids were opened on April 4, 1973, Ametek had submitted the low bid of \$31,013. Your "all or none" bid in the amount of \$53,333 was higher than the low bid of \$31,013 from Ametek, one of the companies which you contended the specifications favored. On April 23, 1973, the Director, Supply Service, advised our Office, in accordance with section 1-2.407-8(b)(3) of the Federal Procurement Regulations, that award would be made to Ametek as low responsive bidder about May 10, 1973, due to the determined urgency.

VA [unclear] [unclear]
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Since you submitted a bid, but were not low, no determination was made concerning the responsiveness of your bid. As such, we cannot say that you were prejudiced by the alleged restrictiveness of the specifications. However, inasmuch as award has been made, any determination regarding the restrictiveness of the specifications would, at best, have a prospective effect only. In this vein, VA has stated that it intends to evaluate the performance of your offered item and if it is found to meet VA's requirements the specification will be amended for future procurements.

You also question whether the equipment offered by Ametek will meet VA's performance requirement of 900 sheets per hour under the conditions listed in the IFB. When a bidder submits its bid without exception to the specifications it assumes, upon award, the obligation to perform in accordance therewith. In any event, this is a matter relating to contract administration which is a responsibility of the procurement activity.

Sincerely yours,

PAUL G. DEMBLING

Acting
Comptroller General
of the United States