

5498

R. Klean PL 1

**DECISION**



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

**FILE: E-188980**

**DATE: February 24, 1978**

**MATTER OF: Masoneilan Regulator Company**

**DIGEST:**

1. Insofar as protest filed after date for receipt of proposals involves allegation that float valve drawings included in RFP are adequate only for emergency on-boardship repair and not for manufacture of complete valves or for evaluation of offers submitted by any offeror other than protester, it is untimely under 4 C.F.R. § 20.2(b)(1) (1977).
2. Ability of offeror to manufacture valve on basis of solicitation data will not be reviewed since it involves affirmative determination of responsibility.
3. Whether valve complies with specifications is matter of contract administration which is responsibility of procuring activity, not GAO.

On April 27, 1977, the Defense Logistics Agency (DLA) issued request for proposals (RFP) DSA 700-77-R-0912 for the procurement of float valves. May 18, 1977, was established as the date for receipt of proposals. Down East, Inc. (Down East), and Masoneilan Regulator Company (Masoneilan) submitted timely proposals.

DLA awarded the contract to Down East on September 23, 1977. Masoneilan filed a protest with our Office on September 30, 1977.

Masoneilan protests in substance that its float valve drawings which were included in the RFP are adequate only for emergency on-board-ship repair and not for the manufacture of complete valves. Also, that the drawings are not adequate for evaluating offers submitted by any offeror other than Masoneilan.

Insofar as Masoneilan's protest challenges the adequacy of the solicitation for competitive purposes, it is untimely under 4 C.F.R. § 20.2(b)(1) (1977) and not for consideration on the merits since it was filed after the date set for receipt of proposals. 4 C.F.R. § 20.2 (b)(1) (1977) provides in pertinent part as follows:

B-185980

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals."

With regard to the evaluation of Down East's offer and its ability to manufacture the valves, it is reported that the data was considered sufficient for these purposes because Down East had previously furnished valves equivalent to Masonelian's valve to the Portsmouth Naval Shipyard and they had been approved for the intended application. This matter is not for further consideration by our Office since we do not review affirmative determinations of responsibility except in circumstances not applicable here. Southern Methodist University, B-187737, April 27, 1977, 77-1 CPD 289.

Masonelian also asserts that the float valves must pass Navy Hi Class Shock Tests established by MIL-S-901B and questions whether Down East's valves have been so qualified. The Navy states that shock tests are not required for the Down East valves since they are considered to be the equivalent of Masonelian valves which have passed the shock tests. Whether the float valves actually comply with the specifications is a matter of contract administration which is the responsibility of the procuring activity. Ralph B. Black, Co., Inc.; The Gardner-Zemke Co., Inc., B-179831, February 4, 1974, 74-1 CPD 50.

Accordingly, the protest is denied.

  
Paul G. Dembling  
General Counsel