



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

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B-177723

May 22, 1973

Hydro Fitting Mfg. Corp.
P. O. Box 3036
South El Monte, California 91733

Attention: Mr. Arnold C. Schwartz
President

Gentlemen:

Reference is made to your telegram of December 27, 1972, protesting the rejection of your low bids on certain threaded plugs for tubes in invitations for bids DSA700-73-B-0907 and -1026, issued by the Defense Construction Supply Center, Columbus, Ohio.

Both solicitations provided that award would be made only for end items that had been tested and qualified for inclusion on Qualified Products List (QPL) 18280-21 by bid opening. In the spaces provided in both bids for the name of the item and the test number of the qualified product offered, you entered "Plug" and "Mil-F-18280." You also stated that your plant would be the place of manufacture. As you were not listed on the QPL, the contracting officer contacted the facility responsible for furnishing QPL information and was advised that you had taken no action to become qualified for listing. As a result, your bids were rejected as nonresponsive.

You have protested against the rejection claiming (1) that the items are simple machined parts that should not have been procured on a QPL basis and (2) that in any event under our decision B-169290, June 1, 1970, you should have been allowed to qualify for the QPL after award.

With respect to the first contention, section 20.2(a) of the Interim Bid Protest Procedures and Standards provides that protests based upon alleged improprieties in solicitations which are apparent prior to bid opening shall be filed prior to the

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B-177723

opening of bids. Accordingly, the first aspect of your protest was untimely and will not be considered.

As to the second aspect of the protest, B-169290 is not applicable to the immediate situation. In that decision, the specification required a component of the end item to be a product on a specific QPL prior to bid opening. Unlike the immediate case, there was no provision in the solicitation which required the bidder to identify the qualified product offered. The bid which did not state any exception to the requirement for the QPL component was therefore considered to be responsive and it was held that the issuance of a change order to the contract that was awarded to permit the contractor to furnish a product that was qualified after award had no bearing upon the responsiveness of the bid.

ASPR 1-1107.1(a) provides that whenever qualified products are to be procured by the Government, only bids or proposals offering products which have been qualified prior to the opening of bids or award of negotiated contracts shall be considered in making awards. ASPR 1-1107.2(a) provides for the use of appropriate language in the procurement solicitation to give effect to ASPR 1-1107.1(a). As indicated above, both of the solicitations you bid on provided that award would be made only for end items that had been tested and qualified for inclusion on the QPL by bid opening and requested bidders to identify the test number. Since your bids did not offer items that had been tested and qualified prior to the times set for the opening of the bids, your bids were properly rejected as non-responsive.

Accordingly, the protest is denied.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States