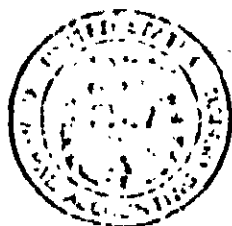


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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-211630.2

June 29, 1983

The Honorable Jeremiah Denton
United States Senator
Suite 510
101 Governors Drive, S.E.
Huntsville, Alabama 35801

Dear Senator Denton:

In your letter of June 9, 1983, transmitting a letter from Integrated Communication & Technology, Inc. (ICT), you request our findings and views concerning a matter raised by ICT. Prior to contacting your Office, ICT had raised the matter with our Office. ICT requested an opinion from our Office as to the propriety of the possible submission of an offer under United States Army Missile Command request for proposals No. DAAH01-83-R-A304 by a firm employing a contractor whose employment ICT believed should preclude the participation of that firm in the procurement under Appendix "G" ("Avoidance of Organizational Conflicts of Interest"), Rule 4, of the Defense Acquisition Regulation (1976 ed.), and the terms of the solicitation.

In our letter of June 2, 1983, to ICT, we stated that under 31 U.S.C. § 74 (1976), our Office has the statutory authority to issue advisory or advance opinions only to certain Government officials. Further, we noted that if the question posed by ICT could be interpreted as a bid protest, our Bid Protest Procedures, 4 C.F.R. part 21 (1983), are reserved only for the consideration of whether an award or proposed award of a contract complies with statutory, regulatory, or other legal requirements. Since ICT did not allege that an award had been made or was proposed contrary to the above regulation, we did not consider the matter a bid protest.

We now understand that ICT did not submit an offer on the procurement. Our Bid Protest Procedures, 4 C.F.R. § 21.1(a) (1983), require that a bid protest must be filed by an "interested party." Since ICT did not submit an offer

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under the above-cited solicitation, it is not eligible for an award and, therefore, has no direct interest in the procurement. Consequently, ICT could not be considered an interested party under our Bid Protest Procedures for the purpose of submitting a protest on the procurement. Anderson Hickey Company, B-210251, March 8, 1983, 83-1 CPD 235. Thus, we are unable to render a legal opinion in the context of this procurement.

However, as a matter of information, the cited regulation does not preclude a firm from submitting a proposal for a procurement unless that firm was previously the contractor under a contract which included a clause prohibiting it from competing or performing the work called for in the solicitation.

We are returning your submission as requested.

Sincerely yours,

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

Enclosure