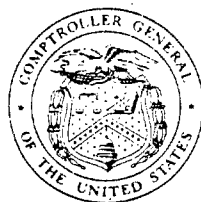


**DECISION**



12429 Baskin  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

Proc II

FILE: B-195700

DATE: January 3, 1980

MATTER OF: Vanguard Industrial Corporation - 3554

**DIGEST:**

1. Protest alleging impropriety of comparing bids with protester's ceiling option price in prior contract filed after closing date for receipt of proposals is untimely because alleged impropriety was contained in solicitation.
2. Protest that prospective awardee cannot properly perform the contract relates to responsibility of that firm and will not be reviewed by GAO.
3. Allegation that agency improperly disclosed information regarding future procurement is rejected where record does not support allegation.
4. GAO will not review agency's failure to exercise an option where option provision is exercisable at the agency's sole discretion.

Vanguard Industrial Corporation protests the award of any contract for M27 fins under request for proposals DAAK 10-79-R-0187, issued by Army Armament Research and Development Command. - AOC 00911

[Protest Involving]

Vanguard objects to a solicitation amendment that states that "the option price(s) applicable to the present contract(s) will be considered in the evaluation of proposals submitted under this solicitation." Vanguard

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has a contract with a ceiling option price with the Army for M27 fins. It argues that it is unfair for the Army to compare its ceiling option price with the offers received under this solicitation because its option price is subject to negotiation downward if exercised and is available to offerors for use in computing their offers.

Vanguard's objections to the RFP amendment are untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1979), which state that protests based on alleged improprieties in a solicitation that are apparent prior to the closing date for receipt of initial proposals must be filed before that date. The RFP set the closing date for receipt of proposals for July 19, 1979. Vanguard filed its protest on August 9, 1979. Therefore, this aspect of Vanguard's protest is untimely and not for consideration on its merits.


Vanguard also contends that the prospective awardee cannot properly perform the contract because its proposed raw material supplier cannot meet the specifications. This allegation relates to the responsibility of that firm and will not be reviewed by this Office. Bogue Electric Manufacturing Company, B-194222, June 18, 1979, 79-1 CPD 431.

Vanguard further alleges that the Army disclosed advance information regarding this procurement to the prospective awardee prior to issuing the RFP. It bases this allegation on information received that the prospective awardee requested a quotation for aluminum alloy for the M27 fin several months prior to the issuance of the RFP. The Army denies any knowledge of such an improper disclosure, and there is no evidence to support Vanguard's allegation that the Army supplied the information. In any event, we fail to see how Vanguard would have been legally prejudiced by such a disclosure if it did occur.

Finally, Vanguard states that the Army should exercise its option under the contract with Vanguard.

We have held that we will not consider an agency's failure to exercise an option where, as here, the option provision is exercisable at the sole discretion of the Government. C.G. Ashe Enterprises, 56 Comp. Gen. 397 (1977), 77-1 CPD 166.

The protest is denied.

A handwritten signature in cursive script that reads "Milton J. Fowler".

For The Comptroller General  
of the United States