

DECISION

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

26298

FILE: B-210757

DATE: September 19, 1983

MATTER OF: Kings Point Mfg. Co., Inc.

DIGEST:

Where a solicitation does not contain adequate specifications for contract performance, cancellation and readvertisement of the solicitation with revised specifications is appropriate. The negotiation of the material changes to the specifications with the low bidder, as advocated by protester, would be prejudicial to other bidders and improper.

Kings Point Mfg. Co., Inc. protests the proposed cancellation of Defense General Supply Center (DGSC) invitation for bids (IFB) No. DLA 400-82-B-6854. The agency canceled the IFB after determining that the specifications were deficient. Kings Point, the low bidder, contends that it should receive the award and be permitted to incorporate specification changes in the contract. We deny the protest.

The solicitation called for full body parachute-type harnesses which are used as safety equipment in hazardous working situations where a fall might result in serious injury or death. Kings Point's offered product conformed to the solicitation's specifications. Shortly after bid opening, however, DGSC was notified by the Department of the Air Force that safety harnesses procured from Kings Point under a previous contract were considered unsafe, based on reports from personnel to whom the harnesses had been issued. The Air Force stated that it had decided to remove from use all defective harnesses.

026711

Technical personnel at DGSC and the Naval Sea Systems Command (NAVSEA), the designated engineering support activity for the harnesses, confirmed that the harnesses were unsuitable for their intended use. While judged unsafe, however, the harnesses were found to meet the specifications of the previous contract, as well as the present solicitation. On the basis of these determinations, the contracting officer proposed to cancel the IFB and readvertise with revised specifications.

Kings Point protests that a cancellation after bid opening would violate the integrity of the bidding process, and that the proper course of action would be to permit Kings Point to modify its product and price to meet the necessary specification changes. We disagree.

An invitation for bids does not impart any obligation to accept any of the bids received. 37 Comp. Gen. 760 (1958). Rather, all bids may be rejected where it is determined that there is a compelling reason to do so. See Defense Acquisition Regulation (DAR) § 2-404.1(a) (1976 ed.). Contracting officers have broad discretion to determine whether a compelling reason exists for canceling a solicitation and we will sustain a contracting officer's decision so long as it reflects a reasoned judgment based upon the investigation and evaluation of the evidence available at the time the decision is made. Apex International Management Services, Inc., 60 Comp. Gen. 172, 178 (1981), 81-1 CPD 24.

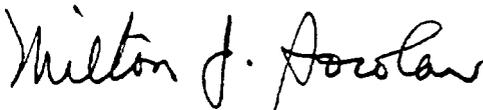
In this case, technical personnel at DGSC and NAVSEA determined that the harnesses supplied by the protester did not meet the Government's minimum needs. Inspection reports showed that (1) the harnesses are difficult to adjust because the straps at each buckle location must be double-laced; (2) once adjusted, the harnesses are easily loosened at all buckle locations because of the type of buckle webbing thinness; (3) the harness leg straps are so short that they are difficult to secure and are susceptible to unbuckling once secured; and (4) the shoulder straps can fall off the wearer's shoulders (this deficiency, however, already had been remedied by a revision included in the current specifications).

Generally, the use of inadequate specifications provides a sufficient basis to cancel an invitation. DAR § 2-404.1(b). Specifications are inadequate when they do not state the Government's actual needs, Kemp Industries, Inc., B-192301, October 2, 1978, 78-2 CPD 248, and our Office will defer to the technical expertise of agency engineering personnel in defining the Government's needs, especially in cases involving safety equipment. See Oshkosh Truck Corporation, B-198521, July 24, 1980, 80-2 CPD 161.

It is unfortunate that the inadequacy in the specifications here was not discovered before bid opening, in view of the potential for adverse impact on the competitive bidding system when a solicitation is canceled after bid prices have been exposed. Nonetheless, we believe the reports of design deficiencies provided a reasonable basis for the contracting officer's decision.

Kings Point argues that the proposed specification changes are minor and that DGSC should permit Kings Point to modify its product to comply with the new requirements rather than cancel the solicitation. The technical reports submitted by DGSC, however, recommend that the harness specifications be completely revised to include greater detail, as is used in parachute harness specifications. The suggested changes would affect the design, materials and hardware to be used, and we are persuaded from the evidence presented by both parties that the changes are substantial and will materially affect the manufacture and cost of the end item to be supplied. In the circumstances, it would be improper for a contracting officer to negotiate a change in the specification with the low bidder. W. M. Grace, Inc., B-202842, August 11, 1981, 81-2 CPD 121.

The protest is denied.

for 
Comptroller General
of the United States