

**DECISION**

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

**FILE:** B-217216 **DATE:** May 10, 1985

**MATTER OF:** SAFECOR Security and Fire  
Equipment Corporation

**DIGEST:**

Where performance-type specifications adequately inform bidders of government's requirements for sound level audibility of fire alarm system in all building areas, fact that contractor is responsible for providing speakers in the quantities and locations necessary to satisfy the specified performance requirements does not make specifications insufficient to permit bidding on an intelligent and equal basis.

SAFECOR Security and Fire Equipment Corporation (SAFECOR) protests the specifications for an alarm communication system under invitation for bids (IFB) No. GS-03-84-B-0413 issued by the General Services Administration (GSA). SAFECOR contends that the specifications and drawings are "ambiguous" because part of the design is left to the determination of the contractor and, as such, the solicitation does not comply with regulations governing formally advertised procurements. SAFECOR contends that the IFB should be canceled and the procurement conducted through two-step formal advertising or negotiation.

We deny the protest.

GSA issued the IFB on September 20, 1984, for the installation of a fire alarm, voice communication and emergency telephone system at the United States Customs House in Philadelphia, Pennsylvania. Prompted by inquiries from prospective bidders concerning technical requirements, GSA issued IFB amendment No. 1, which extended the bid opening date to November 21, 1984, in order to permit review and clarification of the specifications. Amendment No. 2, dated November 9, modified the specifications and extended the bid opening date to November 27, 1984. On the day before bid opening, SAFECOR telephoned GSA, alleged that the specifications were defective, urged that the IFB be canceled and stated that otherwise it would protest to our

Office. After consideration of the points raised by . SAFECOR's oral protest, GSA advised SAFECOR by telephone that the IFB would not be canceled. Ten bids were opened on November 27, 1984; the low bid was submitted by S.O.S. Defender, Inc., in the total amount of \$276,428. SAFECOR, the ninth low bidder at \$490,000, filed a protest with our Office after bid opening on November 27, 1984. Subsequently, award was made to S.O.S. Defender, Inc., on March 7, 1985.

According to the protester, the specifications and drawings are "ambiguous" because they fail to specify the quantity and location of speakers required for the voice communication system, whether speakers would be required in the stair towers or elevators, and whether the system would be tested with office doors opened or closed. SAFECOR further contends that these defects are the result of the government's failure to "properly engineer the job to show all devices required on the drawings and not leave the design up to the various contractors." SAFECOR thereby contends that the government's needs should have been stated in terms of specific design requirements rather than performance requirements; otherwise, the government should have conducted this procurement under the procedures for competitive negotiation or two-step formal advertising.

GSA generally contends that the contract specifications and drawings clearly delineate specific requirements concerning the capacity, quality and quantity of all components of the fire alarm system, except for the quantity of speakers. The specification covering Voice Communication System Equipment provides as follows in paragraph 2.3.2.1, section 16723, of the IFB:

"2.3.2.1 Speakers shall be UL listed audible signal appliances for fire alarm use. The sound pressure levels of signals generated in alarm operation shall be at least 85 dBA measured 5 feet above the floor in any area except that level shall be at least 15dB above the ambient noise in mechanical rooms. Uniformity of sound over any occupied area shall be + 9dB."

GSA states that under this performance requirement, the quantity of speakers required would change based upon the capacity of the speaker that the individual bidder chose to provide just as the location of these speakers would also be determined by the choice of that particular brand of speaker the bidder intended to provide. According to GSA, the

specifications were designed to be performance oriented, allowing prospective contractors maximum flexibility to utilize their expertise, with the government receiving the benefit.

GSA further reports that its region 3 procuring office had recent experience with a similar fire alarm system procurement using a design-type speaker specification. In that procurement, performance deviations were encountered in the testing phase which required promulgation of change orders on speakers and speaker placements resulting in both delay and additional expense to the government. In addition, GSA states, through the widespread commercial use of similar fire alarm systems, experienced fire alarm contractors have demonstrated their ability to provide satisfactory results utilizing their own designs. Therefore, GSA framed its specifications in the belief that government-mandated design requirements in this area are unnecessary and would not foster the government's policy of obtaining full and free competition.

With regard to SAFECOR's contention that the specifications fail to state whether speakers would be required in the stair towers or elevators, GSA points out that paragraph 3.2, section 16723, of the IFB provides as minimum requirements that the system shall be tested to show that alarm signals are audible in all building areas. In addition, the new fire alarm riser diagram on drawing 9E17 also reflects the requirement that the voice communication system speakers shall provide total building coverage. The stair towers and elevators were not excepted from these performance requirements. Accordingly, the actual location of the speakers required to provide coverage in the stair towers and elevators is the contractor's design responsibility.

Finally, SAFECOR complains that specifications failed to state whether the system would be tested with the office doors opened or closed. GSA responds that the primary purpose of the fire alarm system is to provide audible alarm signals in all building areas for the safety of all building occupants and, if office doors, or any other doors, remained open during system tests, there would be no assurance that building occupants would hear alarm signals in the event of an actual emergency. In GSA's view, this would present an unacceptable threat to life, health and safety. Accordingly, since occupants may have their office doors closed and since the specifications stipulate that the

system shall be tested to show that alarm signals are audible in all building areas, GSA concludes that it would be unreasonable for a bidder to assume system testing with office doors open.

As the protester acknowledges, its "major problem" with this solicitation is that the specifications for the voice communication system speakers are of the performance type, which means that the choice of speakers and the selection of their location are within the judgment of the bidder, providing that the performance requirements are met. SAFECOR contends that this approach is impermissible in a formally advertised procurement and mandates some other method of procurement in which firms compete on the basis of technical proposals which describe, in detail, the system each proposes to furnish.

With regard to the use of formal advertising as the method of contracting, the Federal Acquisition Regulation (FAR), 48 C.F.R. § 14.103-1 (1984), provides that contracts shall be awarded in accordance with formal advertising procedures whenever feasible and practicable, and this rule shall be followed even where specified conditions would permit negotiating a contract. The specifications used in a formally advertised procurement must provide a description of the technical requirements for the product or service that includes the criteria for determining whether these requirements are met. At the same time, however, the specifications shall state only the government's actual minimum needs in a manner to encourage maximum practicable competition, FAR, 48 C.F.R. § 10.001 (1984), and unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders must be avoided. FAR, 48 C.F.R. § 14.101.

We view these regulations as requiring that specifications used in a formally advertised IFB must be unambiguous and inform bidders of the minimum requirements of contract performance so that they may bid intelligently and based on equal information. Operational Support Services, B-215853, supra, citing Crimson Enterprises, Inc., B-209918.2, June 27, 1983, 83-2 C.P.D. ¶ 24. We have also recognized that to ensure specifications are stated in terms that will permit the broadest field of competition within the minimum needs of the agency, such specifications may be performance oriented, requiring offerors to use their own inventiveness and ingenuity in devising approaches that will meet the government's performance requirements. GTE Automatic Electric, Inc., B-209393, Sept. 19, 1983, 83-2

C.P.D. ¶ 340; Auto-Trol Corporation, B-192025, Sept. 5, 1978, 78-2 C.P.D. ¶ 171. Indeed, we have found that the requirements of a design specification may inappropriately restrict competition for a solicitation where an agency is capable of stating its minimum needs in terms of performance specifications which alternative designs could meet. See Viereck Company, B-209215, Mar. 22, 1983, 83-1 C.P.D. ¶ 287.

Here, prospective bidders were on notice of what would be expected of them in meeting contract performance requirements and, since paragraph 1.7, section 16723, of the IFB indicates that the electrical contractor performing the installation must be experienced in such systems and have manufacturer representation for the installation, presumably each bidder is knowledgeable enough to recognize the effort and risks associated with that expectation. See Talley Support Services, Inc., B-209232, June 27, 1983, 83-2 C.P.D. ¶ 22 at 4. And, in this case, where the specification in question refers to usage by an established trade, such as the fire alarm system here, we find that the specification provides an adequate frame of reference on which bidders may prepare their bids. Crimson Enterprises Inc., B-209918.2, supra, citing Industrial Maintenance Services, Inc., B-207949, Sept. 29, 1982, 82-2 C.P.D. ¶ 296.

Although the IFB specifications were not in the detail or format suggested by the protester, they did not conceal the performance requirements in the protested areas. Operational Support Services, B-215853, supra, citing Palmer and Sicard, Inc., B-192994, June 22, 1979, 79-1 C.P.D. ¶ 449. A bidder preparing a bid could have reasonably interpreted the IFB requirements when read as a whole in only one way. That is, the specifications and drawings require that voice communication system speakers shall be installed throughout the entire building in order to achieve the prescribed sound pressure levels in all areas, except the enclosed parking areas and garages, where bells are required instead of speakers. The system shall be tested to show that alarm signals are audible in all building areas, and that voice messages are intelligible in all areas of coverage. Therefore, the contractor is responsible for providing speakers in the quantities and locations necessary to satisfy the specified performance requirements.

While SAFECOR contends that these provisions are ambiguous, it is clear from the protest that SAFECOR understands the requirements and is actually complaining about

the reasonableness of the specifications. See Kleen-Rite Corporation, B-212743, Jan. 16, 1984, 84-1 C.P.D. ¶ 73. We believe that the IFB documents provided adequate explanation of the solicitation's minimum requirements and are adequate to permit competitive bidding. The IFB provisions complained of affect all potential bidders equally and the fact that bidders may respond differently in formulating their approaches and calculating their prices is a matter of business judgment and does not preclude a fair competition. See Saxon Corporation, B-214977, supra. In this regard, we also note that of the 10 bidders submitting bids, only SAFECOR complained concerning the reasonableness of the solicitation. This fact leads us to believe that the level of alleged uncertainty and attendant risk in bid preparation was altogether acceptable. Compare Industrial Maintenance Services, Inc., B-207949, supra, and KenCom, Inc., B-200871, Oct. 5, 1981, 81-2 C.P.D. ¶ 275.

The protest is denied.

*Harry R. Van Cleve*  
 Harry R. Van Cleve  
 General Counsel