



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Barrier Wear, Inc.

File: B-236871

Date: January 12, 1990

DIGEST

Protest challenging agency's decision after receipt of initial proposals to issue amendment to request for proposals (RFP) increasing the number of items to be procured, instead of issuing separate solicitation for the additional number required, is denied since a significant change in the government's requirements is a proper basis for amending an RFP after receipt of proposals.

DECISION

Barrier Wear, Inc., protests the Defense Personnel Support Center's (DPSC) decision to amend request for proposals (RFP) No. DLA100-89-R-0207 for extended cold weather parkas after the receipt of initial offers to increase the number of parkas to be procured. Barrier Wear contends that the agency's decision to amend the solicitation at that point to increase the quantity was unreasonable, and that the agency instead should have issued a separate solicitation to satisfy its additional requirements.

We deny the protest.

The solicitation involved the acquisition of extended cold weather parkas by DPSC on behalf of the Army. The RFP, as originally issued, requested offers on both a basic quantity of 44,040 and an option quantity of 44,040 parkas and advised that the price for the option quantity would be added to the price for the basic quantity in evaluating offers. Offerors were required to submit technical proposals, with award to be made to the offeror submitting the lowest priced technically acceptable proposal. The original RFP set April 26, 1989, as the closing date for receipt of offers.

The solicitation was subsequently amended several times, with the changes including deletion of the requirement for technical proposals and extension of the closing date to

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June 9. After offers had been received, but before an award had been made, the contracting officer was informed that the Army had increased the number of parkas that it required by 48,948, from 44,040 to 92,988. As a consequence, DLA issued Amendment 0006 to the RFP, which increased both the basic and option quantities of parkas to 92,988, and replaced the delivery schedule with a new one with approximately the same monthly increments for a longer period of deliveries. The amendment, which was issued on August 15 and synopsised in the Commerce Business Daily on August 17, set September 8 as the closing date for receipt of proposals. On September 8, Barrier Wear filed its protest with our Office.

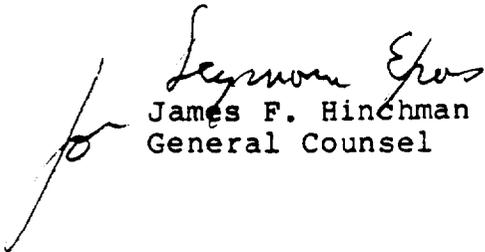
DLA amended the RFP after being advised by the Army that available funding had increased so as to permit acquiring an additional number of parkas which the Army required to meet its needs. Barrier Wear argues that DLA instead should have made award under the original RFP and issued a separate solicitation for the additional parkas. We see no basis on which to conclude that DLA was required to procure the needed parkas only in the manner the protester suggests. On the contrary, under Federal Acquisition Regulation § 15.606(a), a significant change in the government's requirements as to quantity is a proper basis for the issuance of an amendment after receipt of proposals. Accordingly, DLA properly amended the RFP to include the additional parkas required by the Army. Magneco Inc., B-235338, Sept. 1, 1989, 89-2 CPD ¶ 207.

Barrier Wear argues that the agency's justification for amending the solicitation was merely a pretext fabricated by the agency so that it would not have to make an award to the protester. The protester contends that if, as the agency claims, the increased quantities are required to satisfy an outstanding Army requirement currently on back order and to sustain rates for high priority units already issued cold weather clothing, then the RFP should have been amended to require larger deliveries early in the contract's performance rather than extending the period for performance.

There simply is no support in the record for Barrier Wear's contention that the decision to amend the RFP to include the additional parkas was motivated by bad faith. With regard to Barrier Wear's argument concerning DLA's choice of delivery schedule, the fact that the agency extended the delivery schedule rather than increasing the size of the early increments bears only on when, not whether, the additional parkas were required. In fact, the agency's decision to extend the delivery period instead of increasing the size of each delivery suggests that it was attempting

not to exclude small businesses, which might not have the production capacity to manufacture larger monthly increments, from the competition. In any event, once the Army's need for the additional parkas and the available funding were established, DLA properly amended the RFP to include the additional number.

The protest is denied.


James F. Hinchman
General Counsel