

Miller



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Cook Construction Company, Inc.

File: B-266035

Date: October 11, 1995

DECISION

Cook Construction Company, Inc. protests the terms of invitation for bids (IFB) No. F48608-95-B-0025, issued by the Department of the Air Force for the repair of sanitary sewer lines at Warren Air Force Base, Wyoming. Cook contends that the IFB is unduly restrictive since it precludes bidding based on the use of U-Liner brand pipe.

We dismiss the protest.

The IFB was issued on August 4, 1995, and contemplated the award of a fixed-price contract to the lowest-priced, responsive, responsible bidder. Of significance to this protest, the IFB limited competitors to bidding either the Nu Pipe or Am Liner brand of polyvinyl chloride fold and form pipe.

On the morning of the September 8 bid opening, Cook filed a protest at this Office challenging the agency's refusal to permit the use of the U-Liner brand of polyethylene fold and form pipe. The agency proceeded to open bids, with the following results:

<u>Bidder</u>	<u>Total Bid Amount</u>
Cook Construction Co., Inc.	\$1,081,158
Western Slope Utilities	899,258
Albuquerque Underground	899,229
PEC, Inc.	890,375
Insituform Rockies, Inc.	887,200
Mechanical Systems, Inc.	850,535

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Cook's bid was based upon use of U-Liner pipe; the remaining five bidders offered either Nu Pipe or Am Liner pipe.

Since Cook is not the low bidder, we need not decide the merits of this case. We will not review a timely protest of an allegedly restrictive solicitation where, as here, the evaluation of bids subsequently reveals that the protester is not the low priced bidder in line for award and it does not appear that the solicitation provisions complained of had a material impact on the protester's price. American Combustion, Inc., B-235397.2, Oct. 13, 1989, 89-2 CPD ¶ 348; Quality Bag, Inc., B-218547, July 1, 1985, 85-2 CPD ¶ 6. Even if we granted the relief Cook requests and recommended that the agency amend the solicitation to permit bidding based on U-Liner brand pipe, Cook would not be the low bidder in line for award. Under these circumstances, the protest is academic; no immediate purpose would be served by our review of the matter. Id.

The protest is dismissed.

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