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DECISION



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

FILE: B-197433

DATE: April 2, 1980

MATTER OF: United States Crane Certification
Bureau, Inc.

CNG 01495

DIGEST:

Protest alleging unduly restrictive specification is denied where record shows reasonable relationship between specification requirement for maritime accreditation of non-maritime crane inspectors and service to be performed.

United States Crane Certification Bureau, Inc. (USC), protests the National Aeronautics and Space Administration's (NASA) statement of its minimum requirements under request for proposal (RFP) No. 5-97693/048 issued by NASA/Goddard Space Flight Center, Greenbelt, Maryland.

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AGC 00432

The RFP for inspection and certification services for cranes and hoists requires maritime accreditation by the Occupational Safety and Health Administration (OSHA) under 29 C.F.R. Part 1919 (1978). USC urged that since the cranes to be inspected are not maritime cranes the requirement is both unduly restrictive of competition and unfair to firms, such as USC, which are not involved with maritime cranes.

We do not consider the protest to have merit.

NASA reports that serious, non-structural discrepancies were discovered under a previous inspection and certification services contract requiring contractor performance of the usual, non-maritime inspection and load tests (set out at 29 C.F.R. §§ 1910.179, .180, and .181 (1978)). Later investigation attributed the discrepancies to inadequate inspection. The investigation concluded that several of the discrepancies were simply overlooked. It was concluded further that the services contract did not "clearly delineate standards for determining technical competence of crane inspectors." NASA, following

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consultations with OSHA, determined that this weakness in the services contract could be cured in future solicitations by incorporating the maritime accreditation requirement for shore-based material handling equipment. NASA settled on this remedy for several reasons: (1) it provided procedures and standards for accreditation of inspectors; (2) NASA's cranes are similar to maritime cranes; (3) NASA's cranes often move large, unique and very expensive space equipment which could, if dropped, seriously set back NASA programs; (4) 70 firms within the United States have maritime accredited inspectors; and (5) firms lacking accreditation could "receive accreditation within the time frame of issuance of the RFP to final negotiation."

USC has not rebutted NASA's statement of the facts. Neither has it rebutted NASA's arguments concerning the reasonableness of its decision to include the maritime accreditation requirement. Moreover, USC reports that it is now in the process of applying for maritime accreditation.

Contracting agencies are primarily responsible for determining the Government's minimum needs and the methods of accommodating those needs. Manufacturing Data Systems Incorporated, B-180608, June 28, 1974, 74-1 CPD 348. They are in the best position to draft appropriate specifications since they are familiar with the conditions under which previous procurements have been performed and as a result what future requirements should be. Manufacturing Data Systems Incorporated, B-180586, B-180608, January 6, 1975, 75-1 CPD 6; Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181. Consequently, although specifications should be drawn to maximize competition, we have held that, when competition is reduced, we will not object where the restriction is reasonably derived and cannot be said to unduly restrict competition. B-178158, May 23, 1973; Johnson Controls, Inc. B-184416, January 2, 1976, 76-1 CPD 4. Here, NASA has established a reasonable relationship between the requirement for accreditation and the service to be performed. Therefore, the accreditation requirement does not unduly restrict competition.

Accordingly, the protest ^{was} is denied.

Milton J. Fowler

For the Comptroller General
of the United States