

DECISION



119526
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

PL-1
Wong

FILE: B-207162

DATE: September 20, 1982

MATTER OF: Cycles Arlington

DIGEST:

When brand name or equal RFP states that the Government is "restricting" the procurement to "1982 manufactured models," it is improper to make an award for 1981 models without giving all offerors an opportunity to submit offers for 1981 models.

Cycles Arlington (Cycles) protests that Heyser Cycle Center (Heyser) should not have been awarded a contract by the United States Secret Service for 1981 Honda 200 motorcycles because request for proposals (RFP) USSS 82-R-28 specified that the motorcycles be 1982 models.

We sustain the protest, but we are unable to recommend corrective action since delivery under the contract was to be completed in July.

The RFP solicited offers for delivery of 108 "1982 Honda 200 OR EQUAL" motorcycles. A "NOTE TO OFFERORS" in the RFP stated:

"By virtue of recent extensive testing and evaluation, the Government has justified restricting this acquisition of motorcycles to 1982 manufactured models in the 200cc to 250cc range. * * *"
(Emphasis added.)

Heyser submitted an offer on both the 1981 and 1982 Honda 200 models. Heyser was the low offeror on both, the offer on the 1981 Honda being the lower of the two. After receipt of the offers, the contracting officer decided that the 1981 Honda is equal to the 1982 and, therefore, made an award to Heyser for the 1981 Honda motorcycles.

Although the contracting officer attempts to justify the award for the 1981 Honda motorcycles on the basis that they are "equal" to the 1982 Honda motorcycles,

the RFP is specific that the Government is "restricting" the procurement to "1982 manufactured models." Once offerors are informed of the criteria against which their offers will be evaluated, the contracting agency must adhere to these criteria or inform all offerors of any changes made in the evaluation scheme. Umpqua Research Company, B-199014, April 3, 1981, C1-1 CPD 254. Consequently, it was improper for the contracting officer to depart from the 1982 requirement without informing all the offerors of the departure and giving all of them an opportunity to submit offers on the 1981 requirement.

The contracting officer contends that Cycles was not prejudiced by the award to Heyser since, if the award had been made on the basis of the 1982 model, Heyser and not Cycles was the low offer on that basis also. However, by making an award for 1981 motorcycles, the contracting officer, in effect, decided that the requirement for 1982 motorcycles was an overstatement of needs. Thus, it is unimportant that Heyser was the low offeror for the 1982 model.

Although we are not recommending any remedial action on the immediate procurement in view of the status of the contract, we are bringing this matter to the attention of the Secretary of the Treasury to preclude a recurrence of the procurement impropriety in the future.

William C. ...
Comptroller General
of the United States