

**DECISION**

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

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**FILE:** B-214791

**DATE:** October 16, 1984

**MATTER OF:** U.S. PolyCon Corp.

**DIGEST:**

Exclusion of the protester's non-metallic piping conduit from use on a steam distribution system with an operating temperature of 353 degrees is justified where the record shows: (1) that the protester's conduit can be damaged by steam at temperatures in excess of 250 degrees; and (2) that the procuring activity's decision to exclude the conduit was based on an informed engineering determination that the conduit likely would be exposed to excessive steam temperatures in the event of a system rupture.

U.S. PolyCon Corp. protests any award under a solicitation for condensate piping and associated conduit (protective casing around piping) to be issued by the Brookhaven National Laboratory, a Department of Energy research facility operated by Associated Universities, Inc. PolyCon, a supplier of underground piping systems, contends that the specifications set forth in the Commerce Business Daily announcement for this project are unduly restrictive of competition since they would preclude PolyCon from offering its system. We deny the protest.

The central issue here concerns Brookhaven's advertised requirement for coated steel conduit to the exclusion of conduit fabricated from other materials. PolyCon's conduit is constructed from non-metallic materials including polyester resins and fiberglass and thus does not meet the "coated steel" requirement. PolyCon believes its non-metallic conduit should be deemed acceptable.

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A protester objecting to solicitation requirements must meet a heavy evidentiary burden in order to succeed in its protest. Specifically, because contracting agencies necessarily have primary responsibility for determining their minimum needs and drafting specifications which meet those needs, our Office will not upset agencies' decisions as to the best means of accommodating their needs absent clear evidence that those decisions were arbitrary or unreasonable. Duroyd Manufacturing Company, B-213046, Dec. 27, 1983, 84-1 CPD ¶ 28. In making this assessment, we will give agency technical conclusions considerable weight unless they are shown to be arbitrary. Industrial Acoustics Company, Inc., et al., B-194517, Feb. 19, 1980, 80-1 CPD ¶ 139.

Brookhaven's primary justification for excluding PolyCon's non-metallic conduit is the advice of the consulting engineer on the project that only steel conduit will be able to withstand the steam system's operating pressure/temperature range of 125 psig/353°F. According to Brookhaven, non-metallic conduit such as PolyCon's loses a substantial amount of flexural strength when exposed to steam temperatures of 250 degrees or higher. The project engineer concluded that in the event of a breach in the integrity of the conduit (due to a joint failure or other cause), any water entering the conduit would, upon contact with the carrier pipe, become steam at a temperature of as high as 353 degrees. This steam reportedly could damage sections of the system.

PolyCon disagrees with the engineer's conclusions, asserting that system venting would prevent any pressure build-up in the conduit that could lead to temperatures in the conduit exceeding the 250 degree limitation. PolyCon points to the approval of its system for operating temperatures up to 450 degrees under the Federal Agency Prequalification Procedure,<sup>1/</sup> as evidence that its

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<sup>1/</sup> This is a procedure under which underground heat distribution system suppliers may have their systems approved in advance for procurements conducted by the Army, Navy, Air Force and Veterans Administration. See PhilCon Corp., B-206905 et al., Mar. 29, 1983, 83-1 CPD ¶ 319. The procedure does not apply to Department of Energy procurements.

system is suitable for the temperature range of Brookhaven's system. PolyCon also presents as evidence of the effectiveness of venting and its system's suitability, the fact that the system has performed in tests using 20 psig saturated steam.

Notwithstanding PolyCon's disagreement with many of the conclusions reached by Brookhaven's engineer, we do not believe it has clearly shown that the determination to exclude PolyCon's non-metallic conduit had no reasonable basis. Brookhaven's engineer asserts that the 20 psig test cited by PolyCon is not persuasive evidence of the conduit's capabilities since the temperature of saturated steam is 260 degrees, only marginally above the 250 degree limitation for this non-metallic conduit. The engineer reiterates that steam in the conduit could exceed 300 degrees in the event of a breach. PolyCon itself "acknowledges the possibility" that localized steam temperatures could become high enough to damage the conduit in the event of a delay in remedial action.

Brookhaven did not develop the project specification--including the proper conduit material--in-house, but rather left that task to an experienced consulting engineer. The record shows that the engineer's judgment was based on its review of PolyCon's own data, other technical publications, and discussions with other users of non-metallic conduit. While, again, PolyCon disagrees with the engineer's ultimate judgment based on this information, it has not shown on this record that the exclusion of PolyCon's conduit is unreasonable. A protester's mere disagreement with an activity's technical conclusions does not render the conclusions unreasonable. See, e.g., Panasonic Industrial Company, B-207852.2, Apr. 12, 1983, 83-1 CPD ¶ 9.

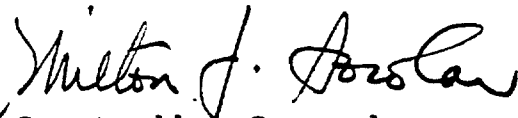
Brookhaven further takes the position, with which we agree, that PolyCon's approval under the Federal Agency Prequalification Procedure is not determinative here. Brookhaven was not bound by this procedure and is free to use its own reasonable technical judgment in deciding whether a particular conduit meets its needs. Brookhaven's determination that PolyCon's conduit is not suitable given the operating temperature of its system is not unreasonable.

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merely because a different determination was made under the Federal Agency procedures. See Automated Production Equipment Corp., B-210476, Mar. 6, 1984, 84-1 CPD ¶ 269. Brookhaven points out in this regard that its concern with the possibility of maintenance problems could be greater than that of the Prequalification Procedure member agencies because those agencies may have a more extensive maintenance staff than Brookhaven. Brookhaven reports it has only a limited maintenance staff.

PolyCon raises a number of additional arguments to the effect that problems associated with the use of steel conduit make it a less preferable conduit than PolyCon's. As already stated, it is the procuring agency, not our Office, which is responsible for determining the best methods for meeting the government's needs. Brookhaven apparently has determined that the benefits of using steel conduit on this project outweigh any of its disadvantages as well as any benefits unique to PolyCon's conduit and other non-metallic conduit. We have no basis for questioning this determination.

The protest is denied.

*for*   
Comptroller General  
of the United States