



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: G.S. Link & Associates

File: B-229605.2; B-229911.2

Date: April 13, 1990

G.S. Link, for the protester.
Kerry L. Miller, Esq., Office of the General Counsel, United States Government Printing Office, for the agency.
Anne B. Perry, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that agency's interpretation of specification which requires the use of recycled paper in printing certain publications is unduly restrictive of competition is denied where contracting agency and protester agree on the interpretation and the agency has not applied a more restrictive interpretation under the solicitations in question.

DECISION

G.S. Link & Associates protests the interpretation of a solicitation requirement for printing on recycled paper under invitation for bids (IFB) Nos. 1619-S and 1281-S, issued by the Government Printing Office (GPO) for 1-year, single-award requirements contract for the printing of various publications for the Department of the Army and the Department of the Navy, respectively. Link alleges that the GPO will reject bids which propose to supply paper that consists of rejected unused stock and obsolete inventories from surplus houses, even when such paper meets the Environmental Protection Agency (EPA) Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials, 40 C.F.R. § 250.4(ss) (1989).

We deny the protests.

These solicitations implement GPO's recycled paper program and require that contractors use waste paper, that is, the paper must contain at least 50 percent fiber content of recovered materials. Waste paper is defined at length in

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each solicitation, but essentially includes: (1) post-consumer materials; and (2) manufacturing and forest residues (the category which includes rejected unused stock). The solicitations also require that contractors certify compliance with the waste paper requirements, and that they maintain records which demonstrate compliance.

Link alleges that the solicitations are unduly restrictive of competition because it believes that GPO will reject the entire class of rejected unused stock, regardless of whether the stock meets the EPA guidelines by containing a fiber content of 50 percent recovered materials, solely on the basis that it is purchased from a surplus house.1/

GPO's position is that rejected unused stock purchased from surplus houses does qualify as recycled paper under the solicitations if it contains a fiber content of 50 percent recovered materials. Since the GPO agrees with Link's interpretation of the requirement and has not taken any inconsistent action under these procurements, we have no basis to find that the specifications are unduly restrictive in the manner asserted by Link.2/

Link also alleges that GPO has used an improper interpretation of the same waste paper certification requirement as a basis to reject Link's bids as nonresponsive in prior procurements. However, it appears that Link's bids, in fact, failed to certify compliance, and in any event, alleged improprieties under prior procurements do not constitute evidence concerning the propriety of the present

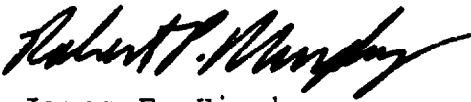
1/ Link filed earlier agency-level protests on different solicitations where Link's bids were rejected as nonresponsive for failure to comply with the waste paper content requirement. Link's protests were denied because apparently Link's bids stated that the paper to be supplied under the contracts would consist of waste paper comprised of rejected unused stock from various surplus houses, but made no specific mention of compliance with the fiber content requirements.

2/ Link requests that if the GPO allows the use of rejected unused stock which meets the fiber content requirements, IFB No. 1619-S be rebid, since it has already submitted a bid based on the use of much more expensive paper which would be acquired from a source other than a surplus house, and bids have already been opened. In view of our disposition of this protest, however, we see no reason to require the GPO to cancel and resolicit because of Link's unreasonable interpretation of the requirement.

procurement, since each procurement must stand on its own. See American Body Armor & Equip., Inc., B-236007, Nov. 3, 1989, 89-2 CPD ¶ 419.

Moreover, we note that we have recently considered the propriety of the same requirement that contractors certify use of waste paper with at least a 50 percent recovered materials fiber content and concluded that the requirement constitutes an appropriate implementation of the EPA guideline. American Management Enters., Inc., B-238134, Feb. 26, 1990, 90-1 CPD ¶ 234. Accordingly, we conclude that Link has no valid basis to complain about either the alleged restrictiveness of the requirement, or about GPO's interpretation of the certification requirement.

The protests are denied.


for James F. Hinchman
General Counsel