



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

Decision

Matter of: Constantine N. Polites & Company
File: B-240186
Date: October 25, 1990

Constantine N. Polites for the protester.
T. H. Peters, Esq., Department of the Navy, for the agency.
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

An agency's requirement for a 16,000 pound tensile test to measure the tensile strength of scaffolding couplers is unobjectionable where the agency has found that the couplers safely support the scaffolding if they can pass that test; the fact that the protester desires a more restrictive test does not render the agency's determination unreasonable.

DECISION

Constantine N. Polites & Company protests a specification in request for proposals (RFP) No. N00311-89-R-0317, as amended, issued by the Pearl Harbor Naval Shipyard for couplers used in erecting scaffolding. Polites contends that the specification for a 16,000 pound tensile test renders the scaffolding unsafe and fails to follow an alleged mandate established by our Office for a uniform, Navy-wide 25,000 pound tensile test.

We deny the protest.

The RFP, which was issued on August 8, 1989, required that couplers be manufactured in accordance with MIL-S-29180A, except that the couplers' tensile strength would be tested at a minimum load of 25,000 pounds force in tension instead of 16,000 pounds as specified in the specification. By amendment, the Navy reduced the tensile test load from 25,000 to 16,000 pounds.

Polites contends that the 25,000 pound test standard, not the 16,000 pound standard, should be applied to assure safe

operation of the Navy's scaffolding. Polites suggests that if the Navy accepts 16,000 pound capacity couplers here to be included in its stock, it is possible for the Navy to inadvertently use 16,000 pound capacity couplers where only higher capacity, 25,000 pound test couplers will safely support the scaffolding. Polites concludes that the Navy should be required to adopt a uniform, Navy-wide 25,000 pound tensile test for couplers, as our Office allegedly recommended in our decision Constantine N. Polites & Co., B-187721, June 7, 1977, 77-1 CPD ¶ 401.

A contracting agency's responsibility for determining its actual needs includes determining the type and amount of testing necessary to ensure product compliance with the specifications. Alan Scott Indus., B-228756.2, Nov. 6, 1987, 87-2 CPD ¶ 460. We will not object to such a determination where it is reasonable. Constantine N. Polites & Co., B-239389, Aug. 16, 1990, 90-2 CPD ¶ ____.

We find the Navy's requirement unobjectionable. The Navy has established a minimum 16,000 pound tensile test in MIL-S-29180A, but allows procuring activities to require higher tensile strength tests when necessary to meet their minimum needs. The Navy has determined that the couplers here do not need to be tested under a more stringent standard than the 16,000 pound minimum set forth in MIL-S-29180A because, based on its technical opinion and prior experience, the couplers will safely support the scaffolding, as it is to be used at the shipyard, if they can sustain a minimum load of 16,000 pounds force in tension. Further, the Navy explains that any inadvertent use of the 16,000 pound capacity couplers together with the 25,000 pound couplers will cause no safety problems, since the equipment to be placed on the scaffolding only requires couplers that can withstand a 16,000 pound load.

We find nothing unreasonable in the Navy's explanation; it simply has determined, and has found in practice, that the 16,000 pound test is sufficient to ensure safe use, and that the 25,000 pound test proposed by Polites therefore would be unnecessarily restrictive. Since this is the case, we agree with the Navy that combining its stock of 16,000 and 25,000 pound capacity couplers poses no safety risk. In response to the Navy's explanation, Polites has presented no evidence to the contrary. In addition, contrary to Polites' assertion, in our 1977 decision we recommended only that the Navy consider developing Navy-wide standards for using couplers in the construction of scaffolding; we did not advise the Navy to adopt a 25,000 pound test or any other particular uniform standard. Polites does not assert that

it is unable to meet the test as specified, and the fact that Polites desires a different, more restrictive test does not render the Navy's test unreasonable.

The protest is denied.



James F. Hinchman
General Counsel

