



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Berema, Inc.--Reconsideration

**File:** B-239212.2

**Date:** November 1, 1990

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Peo Sollerud for the protester.  
Judith A. Sukol, Esq., Department of the Army, for the agency.  
Jennifer Westfall-McGrail, Esq., and Christine S. Melody,  
Esq., Office of the General Counsel, GAO, participated in the  
preparation of the decision.

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### DIGEST

Request for reconsideration of decision dismissing protest that awardee does not intend to comply with solicitation requirement for a current production model is denied where solicitation did not request technical proposals and thus, by submitting a price, awardee offered to provide items conforming to the solicitation's requirements, one of which was that the item be a current production model.

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### DECISION

Berema, Inc. requests reconsideration of our decision, Berema, Inc., B-239212, June 22, 1990, 90-1 CPD ¶ 584, in which we dismissed its protest against the award of a contract for paving breakers to the Canadian Commercial Corporation on behalf of Skidril, Inc., under request for proposals (RFP) No. DAAE07-89-R-J108, issued by the U.S. Army Tank-Automotive Command.

We deny the request for reconsideration.

Berema contends that we erred in stating that the RFP did not request technical proposals or otherwise ask offerors to identify the model of paving breaker that they intended to furnish. The protester points out that each offeror was asked to identify the manufacturer's name and the model number of the breaker it planned to furnish in the End Item Characteristics List (EICL) accompanying its proposal. The protester also notes that the model number should have been disclosed in the contractor's commercial off-the-shelf manual, which each offeror was required to submit with its proposal. Berema contends that if Skidril failed to identify the model of paving breaker that it intended to furnish in its proposal,

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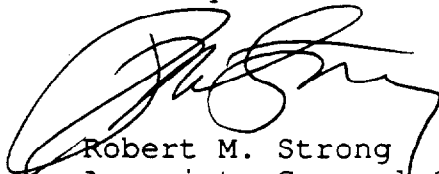
the agency could not reasonably have concluded that it complied with the requirement of the military specification that the breaker be a current production model of a standard product.

The protester is correct that each offeror was asked to identify the model of paving breaker that it would furnish in the EICL that was to be submitted with its proposal. There is no indication, however, that that information was intended to be used for the technical evaluation of proposals. The RFP did not contain technical criteria for the comparative evaluation of proposals or contemplate the submission of technical proposals; rather, the RFP only called for offerors to submit prices for the items required. By doing so, Skidril committed itself to furnishing an item meeting all of the RFP requirements, including the requirement for a current production model. See Trados GmbH--Second Request for Recon., B-237919.3, Jan. 12, 1990, 90-1 CPD ¶ 53.

Even assuming that the information in the EICL could reasonably be interpreted as relating to technical acceptability, the agency reports that neither Berema nor Skidril submitted a characteristics list with its proposal, and that it waived the requirement for both offerors since it viewed the information as unnecessary for the evaluation of offers. Berema responds that although it did not submit a completed EICL with its proposal, it did in fact furnish the information requested in the list, including the model number of its paving breaker, in the technical literature that it submitted with its proposal. The protester therefore objects to waiver of the requirement for Skidril.

Skidril, like Berema, furnished information describing the physical characteristics (e.g., weight, dimensions, engine type, etc.) of the paving breaker that it intended to furnish, including the model number, in the material that it submitted with its proposal. In Skidril's case, this information was disclosed in its technical manual. Thus, Skidril satisfied the requirement for the information requested in the EICL to the same extent that Berema did. Moreover, the agency reports that although the technical manuals were not intended to be used to verify technical acceptability, Skidril's did in fact indicate compliance with the commercial item requirement.

The request for reconsideration is denied.



Robert M. Strong  
Associate General Counsel