



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: RMS Industries--Reconsideration

File: B-247465.2; B-247467.2

Date: July 22, 1992

Richard Snyder for the protester,
Barbara C. Coles, Esq., and Christine S. Melody, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Bid Protest Regulations require party requesting reconsideration of prior decision to show that the decision contains errors of fact or law, or to present information not previously considered that warrants reversal or modification of decision; repetition of arguments made during consideration of the original protests and mere disagreement with decision do not meet this standard.

DECISION

RMS Industries requests reconsideration of our decision in RMS Indus., B-247465; B-247467, June 10, 1992, 92-1 CPD ¶ ____, holding that the solicitations at issue reasonably provide the information needed for potential competitors to be able to compete intelligently and on a relatively equal basis.

We deny the request for reconsideration.

In its original protest, RMS challenged various allegedly ambiguous specifications contained in request for proposals (RFP) No. DLA100-91-R-0060 and invitation for bids (IFB) No. DLA100-91-B-0599, both issued as small business set-asides by the Defense Logistics Agency (DLA) for work gloves. RMS generally argued that the specifications in both solicitations were written in a manner which requires a vendor to have "superior knowledge"--information not contained in the solicitation package--in order to be able to compete for an award. Specifically, RMS claimed that the specifications were so unclear that only firms with superior knowledge would know what the requirement for leather reinforcement means; where the seams in the gloves are located; how much leather is required; and where to place the shirring.

In its request for reconsideration, RMS does not discuss our findings regarding the requirement for leather reinforcement; the location of the seams; or how much leather is required. RMS does challenge our finding with regard to the shirring specifications, arguing that while the specifications require the shirring to be placed on the palm side of the glove, contractors in the past have supplied the agency with shirring on the side of the fingers rather than the palm side; RMS contends that the sample pair of gloves that the agency submitted--in response to the protester's request--supports its argument. Based on this information, RMS concludes that in order to prepare a proposal, an offeror must have "superior knowledge," i.e., must know that the agency in fact wanted the shirring on the side of the finger instead of the palm side.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1992). Repetition of arguments made during our consideration of the original protest and mere disagreement with our conclusion do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

RMS essentially reiterates its dissatisfaction with the agency's shirring specifications and our conclusion that the specifications reasonably describe the work to be performed and the information provided is adequate to enable firms to compete intelligently on an equal basis; however, RMS's reconsideration request--like its original protests--lacks any evidence that the shirring specifications require "superior knowledge." RMS's mere disagreement with our assessment does not provide a basis for us to reconsider whether the specifications required competitors to possess "superior knowledge" in order to compete for the respective awards.

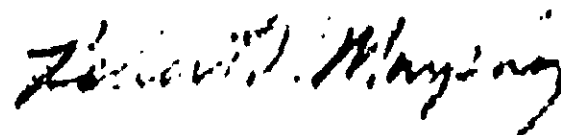
To the extent that RMS argues that we failed to consider the sample gloves submitted by DLA at the protester's request, the agency reports that the sample was produced in 1989 by a prior contractor from specifications that are "basically the same" as the specifications at issue here. Assuming that the shirring specifications are identical to those under the challenged solicitations, RMS's reliance on the sample gloves to support its contentions is misplaced because, contrary to the protester's suggestion, our examination of the sample shows that the gloves were sewn in accordance with the specifications. Specifically, the "tips of the four fingers and thumb [were] shirred [i.e., gathered] on the palm side between the joints," as required by the specifications. This shirring grades away extra fabric on

palm side of the seam joint in the finger and thumb tips, reducing bulk where dexterity is most important.

Even if the sample gloves did not evidence compliance with the specification, there is no merit to the protester's suggestion that the failure to do so would render our initial decision erroneous. As discussed above, the sample gloves were produced in 1989 by a prior contractor. Since the protester did not demonstrate and there was no indication in the record that the agency was engaged in an ongoing practice of waiving the shirring specifications, the resulting contract under which the sample gloves were produced was neither relevant nor probative of the propriety of the specifications in the current solicitations. See Ferrite Eng'g Labs, B-222972, July 28, 1986, 86-2 CPD ¶ 122.

RMS also argues that we erred in applying the rule that there is no requirement that a competition be based on specifications drafted in such detail as to eliminate completely any risk or remove every uncertainty from the mind of every prospective offeror. RMS suggests that when the agency drafts "cradle to grave" specifications as it did in the protested solicitations, there should not be any risk on the part of the contractor. RMS's mere disagreement with our application of a long-standing rule does not provide a basis for us to modify or reverse our decision.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel