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B. Miller



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Dixon Pest Control, Inc.

**File:** B-248725

**Date:** August 27, 1992

Stephen J. Dunn, Esq., for the protester, Lester Edelman, Esq., and Scott Lawson, Esq., Department of the Army, for the agency, Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest challenging solicitation specifications for bird control netting as unduly restrictive of competition is denied where record demonstrates that specifications are reasonably related to agency's minimum needs.

### DECISION

Dixon Pest Control, Inc. protests the specifications in request for quotations (RFQ) No. DACA31-92-T-8140, issued by the Department of the Army to supply and install bird control netting at Cameron Station, located in Alexandria, Virginia. Dixon contends that several of the netting specifications exceed the government's minimum needs.

We deny the protest.

The RFQ was issued on April 30, 1992, as a small business, small purchase set-aside and requested quotations for the supply and installation of 9,750 square feet of matte black polyethylene bird control netting with a 30-micron net diameter, a 3/4-inch mesh, and an 80-pound tensile strength. The netting is to be installed under a building loading dock to prevent bird infestation.

On May 13, Dixon filed this protest with our Office, challenging several of these specifications as unduly restrictive of competition.<sup>1</sup> First, Dixon asserts that the

<sup>1</sup>This protest was timely filed 1 day before the May 14 closing date for receipt of quotations; four vendors--including the protester--submitted quotes. Award has been withheld pending the outcome of this protest.

30-micron diameter specification "has no realistic connection" to the government's bird control objective. Second, Dixon contends that the agency's requirement that the netting have an 80-pound tensile strength is restrictive since--according to Dixon--the industry standard for "common bird netting" is a 7- to 10-pound tensile strength. Finally, Dixon protests that the requirement for the netting to be made of polyethylene is unreasonable since nets made from other materials will serve the agency's needs in this case; Dixon also maintains that the black matte color specification is arbitrary.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition, 10 U.S.C. § 2305(a)(1)(A) (1988), and may include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs, 10 U.S.C. § 2305(a)(1)(B). The determination of the agency's minimum needs and the best method of accommodating them are primarily within the agency's discretion and, therefore, we will not question such a determination unless the record clearly shows that it was without a reasonable basis. RMS Indus., B-247233; B-247234, May 1, 1992, 92-1 CPD ¶ 412.

As explained in the agency report, these netting specifications are directly based on those used by the Department of Agriculture at a similar bird control site in Washington, D.C.; in this regard, the record shows that before issuing this solicitation, the Army researched and inspected other bird control operations at various federal agencies located in the Washington, D.C. metropolitan area.

According to the Army, a 30-micron diameter, 80-pound tensile strength netting was chosen for this procurement based on the success of netting meeting these specifications at the Department of Agriculture site. As explained by the agency, bird control netting that has a smaller micron diameter and lower tensile strength will not meet the agency's needs; in this regard, when the Army previously attempted to use 20-micron diameter, 8-1/2-pound tensile strength netting for this requirement, the netting either tore or became so distorted that birds were able to penetrate the netting mesh. With respect to the requirement that the netting be made of polyethylene, the Army explains that this material is more durable, expands easily without tearing or distortion, and is less expensive than other netting materials. Finally, the Army explains that it is requiring black matte netting for its inconspicuous and therefore aesthetically pleasing appearance, which the Army observed at the Department of Agriculture site.

An agency may use detailed specifications of the type at issue here where the record demonstrates that particular size, strength, or material requirements are necessary to ensure adequate performance, see Gemini Laminating Corp. et al., B-245223, Dec. 23, 1991, 91-2 CPD ¶ 573, or that a particular design is reasonably related to maintaining an aesthetic appearance. See Allen Organ Co.--Recon., B-231473.2, Aug. 31, 1988, 88-2 CPD ¶ 196; Westinghouse Elec. Corp., B-224449, Oct. 27, 1986, 86-2 CPD ¶ 479. Given the agency's explanation set forth above, we find the protested specifications to be unobjectionable. In this regard, we note that instead of responding in any detail to the agency report, Dixon merely requested that the protest be decided on the existing record. Since the agency report provides a reasonable, well-documented explanation for these specifications, and since Dixon has not attempted to rebut the Army's explanation, there is no basis to conclude that these specifications are unduly restrictive. See W.B. Jolley, 68 Comp. Gen. 443 (1989), 89-1 CPD ¶ 512.

The protest is denied.

  
James F. Hinchman  
General Counsel