



DIGEST - L - Cont

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-176570

JAN 17 1973

Stassen, Kostos and Mason  
2300 Two Girard Plaza  
Philadelphia, Pennsylvania 19102

Attention: Theodore M. Kostos, Esq.

Gentlemen:

We refer to your letters of July 18 and 20, 1972, on behalf of Boston Pneumatics, Inc. (BP), protesting against the opening of bids under invitations for bids FPNTP-B-5-46692-A-7-20-72, -B6-46583-A-7-21-72, and -B6-39610-RA-7-27-72, all issued by the General Services Administration (GSA).

The protest with respect to invitation -46692 has been withdrawn, and GSA canceled invitation -46583 on the basis that a technical review showed the purchase description for the item involved to be inadequate and restrictive for competitive bidding. There remains for consideration, then, only the protest concerning invitation -39610.

Invitation -39610 anticipated the award of a definite quantity contract for pull tester kits, swaged cable terminal, on a brand name or equal basis. Bids were to be opened on July 27, 1972, and that event took place as scheduled notwithstanding BP's protest. BP, in its letter of July 17, 1972, to GSA, contends that the invitation is "in excess of the needs of the agency in that the purchase description as written is so vague, incomplete and contradictory that it restricts competition to the brand name referenced only." In support of this proposition, the letter outlines some 18 areas alleged to be deficient in some regard.

The alleged deficiencies were reviewed by the same GSA technical activity which concurred with BP's views regarding invitation -46583. The technical report of that activity, a copy of which was furnished to you by our Office, was an item by item rebuttal of BP's position and was the basis for the contracting officer's conclusion that BP's allegations were without merit, and that the purchase description was sufficient for competitive bidding. From our review of the report--as to which you offered no comments--we cannot say that findings reached therein did not constitute a satisfactory reply to your allegations.

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The determination of the Government's needs and the drafting of specifications to meet those needs are responsibilities vested in the procurement activity and not our Office. Consequently, we will not question the actions of the procurement activity in these areas unless it is clearly shown that the administrative discretion was abused. See B-175153, April 20, 1972. No such showing has been presented here and, thus, we cannot conclude that the specifications complained of do not represent the legitimate needs of the Government.

Since we cannot conclude that the BP position has merit or that the contracting officer was remiss in relying on the advice of the technical activity (see B-175153, supra), the protest is denied.

Very truly yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States