



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20541

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B-178594

August 3, 1973

Chamberlin-Barnhart Co., Inc.
140 Highland Street
Port Chester, New York 10573

Attention: Mr. William MacDonald
Vice President

Gentlemen:

This is in reply to your letter of July 6, 1973, concerning your protest against the restrictive character of the specifications in invitation for bids (IFB) No. 65-73, issued by Saint Elizabeths Hospital, Department of Health, Education, and Welfare (HEW).

The IFB requested bids for furnishing and installation of detention screens on various buildings at the hospital. Twenty-three firms were sent copies of the solicitation. Only Metal Construction Services Corporation (Metal) submitted a bid, in the amount of \$98,860. After an urgency determination was made pursuant to section 1-2.407-8(b)(4) of the Federal Procurement Regulations, award was made to Metal on June 15, 1973.

As two of the bases of your protest were rendered academic by the issuance of modification No. 2 to the IFB which deleted certain portions of the specifications, we will deal only with the one remaining ground, that the specifications are restrictive in that only Metal's standard product would meet the specifications.

The specification required a detention screen with a box frame type construction as opposed to the open channel construction of your screen. You and Metal are the only two companies that manufacture detention screens. The Government construction engineer has advised that due to the size of a number of the screens (over 7 feet high) a sufficiently rigid frame is necessary to avoid the frame racking or twisting when opened. Based on past experience, it was determined that only the box type frame was sufficiently rigid to meet this

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[Protest Aggr.]

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requirement. The report from IHW states that if the screens were twisted, this could prevent the locking bolts from engaging properly when the screens are closed.

In 45 Comp. Gen. 365, 368 (1965), the following pertinent rule was stated:

We have consistently held that the establishment of specifications reflecting the actual needs of the Government is primarily the responsibility of the administrative agency. It has also been held that the advertising statutes require that every effort be made to draw specifications in such terms as will permit the broadest field of competition consistent with the Government's actual needs. It is well established that the Government does not violate either the letter or the spirit of the competitive bidding statutes merely because only one firm can supply its needs, provided the specifications are reasonable and necessary for the purpose intended.
34 Comp. Gen. 336. * * *

Moreover, we note that in your letter of May 2, 1973, to the Administrator of Saint Elizabeths Hospital regarding the requirement for the furnishing of a full size sample--deleted by modification No. 2--you stated:

We had in the past furnished several hundred screens which met the specification as written, and have suggested that any one of these screens could be used as the sample. However, this has been rejected. If we were the successful contractor, we could if necessary, produce the screen as specified. However, it is not our equipment and we are not tooled to produce it. It is extremely difficult for us to furnish a sample screen before the bidding.

Based on the foregoing, we find no basis to conclude that the specification complained of was restrictive of competition.

Accordingly, your protest is denied.

Sincerely yours,

Paul G. Denbling
For the Comptroller General
of the United States