

**DECISION**

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

**FILE:** B-209157**DATE:** June 28, 1983**MATTER OF:** PittCon Preinsulated Pipes Corporation**DIGEST:**

A solicitation requirement that a heat distribution system be constructed with calcium silicate insulation to the exclusion of any other type is unduly restrictive, where: (1) the agency justified the requirement as necessary due to severe groundwater conditions; (2) the protester's foam glass insulated system has been approved for the most severe groundwater conditions under applicable prequalification procedures; and (3) the agency presents no evidence that the protester's foam glass-insulated system would not be suitable for the project.

PittCon Preinsulated Pipes Corporation protests any award under invitation for bids (IFB) No. N62474-81-B-8516, issued by the Department of the Navy for repairs to the steam distribution system at the Naval Station at Adak, Alaska. PittCon, a manufacturer of underground heat distribution (UHD) systems and a potential subcontractor on this procurement, contends that the specifications for this project were unduly restrictive of competition since they would preclude PittCon from offering its system. We sustain the protest.

PittCon's protest centers around the Department of Defense's prequalification scheme for UHD systems. The acceptability of UHD systems is determined according to requirements in the Federal Agency Prequalification Procedure. See PhilCon Corp., B-206641; B-206728; B-207421, April 12, 1983, 83-1 CPD 380. The Prequalification Procedure is administered by the Federal Agency UHD Systems Committee, which is comprised of representatives of the Army, Navy, Air Force and Veterans Administration. The Committee issues a letter of acceptability to any supplier whose system satisfies the prequalification criteria, entitling that supplier to furnish its system on projects undertaken by the participating agencies. In

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most instances the supplier of the UHD system is a subcontractor while overall responsibility for the project belongs to the construction company prime contractor. Once a system has been prequalified, the system's specifications are incorporated in the supplier's approved brochure. This brochure, in effect, becomes the UHD system design specification for any project on which the supplier is selected as the UHD subcontractor.

Federal Construction Guide Specification 15705 was developed for use in conjunction with the Prequalification Procedure. This Guide Specification consists primarily of performance specifications, reflecting the fact that the necessary design specifications are included in each supplier's brochure. Thus, when selected as a subcontractor on a project, a supplier follows the general requirements in the Guide Specification in installing the UHD system described in its own brochure.

PittCon protests because the IFB here was not based on the Guide Specification and contained a requirement that "insulation for piping shall be molded calcium silicate." PittCon's system has been granted a Federal Agency letter of acceptability, but is constructed using foam glass insulation instead of calcium silicate. Since its system is considered acceptable for projects of this type under the Prequalification Procedure, PittCon believes the solicitation requirement that only calcium silicate insulation be used is unjustified and unduly restrictive. It asks that this requirement be deleted and that the Guide Specification be added to the solicitation.

The Navy states that calcium silicate insulation was required for this project because "the water table at Adak can be high during the rainy season," and "calcium silicate is a far superior insulation material than fiberglass where repeated exposure to water is likely." These statements are based on engineering reports which conclude that calcium silicate works better than fiberglass insulation on buried piping.

In its comments on the Navy's report, PittCon agrees with the Navy's conclusion that calcium silicate insulation is superior to fiberglass. It goes on, however, to state as follows:

"\* \* \* however, it is most important to realize that we utilize Foamglass insulation, not Fiberglass insulation. Foamglass is completely impervious to moisture, it has a permeability rating of 0.00. Moisture in either liquid or vapor form cannot penetrate or deteriorate Foamglass insulation. Calcium silicate insulation will absorb moisture; in fact, ASTM standard test procedures indicate it has an absorption rate of 75% by volume."

Upon receiving PittCon's comments, we requested that the Navy furnish us a supplemental report responding to PittCon's contention that foam glass insulation is superior to fiberglass and capable of performing as well as calcium silicate in wet conditions. In response, the Navy forwarded a copy of a January 6, 1983 memorandum from the Project engineer. The relevant portion of this memorandum states that:

"2. Calcium silicate insulation was selected for the conduit system due to unusual conditions at the installation. It is known that the water table at Adak, Alaska can be high during the rainy season. If a leak develops, calcium silicate would remain a better insulator if submerged in water. It is our judgement that calcium silicate is the preferable insulation material for buried pipelines at a steam operating condition of 125 psig (353°F)."

The Navy concludes that the requirement for calcium silicate insulation is justified.

Contracting agencies have broad discretion in determining the needs of the Government and the methods of best accommodating those needs. See Potomac Industrial Trucks, Inc., B-204648, January 27, 1982, 82-1 CPD 61. One limitation on this discretion, however, is that agencies must assure that specifications state only the actual minimum needs of the Government and do not include requirements for unnecessary features which might have the effect of restricting competition. See Municipal & Industrial Pipe Services Ltd., B-204595, January 18, 1982, 82-1 CPD 39.

We will object to restrictive solicitation requirements where the record fails to establish that they are reasonably related to the agency's minimum needs. See PhilCon Corp., supra.

The Navy's submissions, including the engineering reports, establish three things: (1) there exists a need for insulation capable of withstanding extremely severe groundwater conditions; (2) fiberglass insulation will not meet this need; and (3) calcium silicate insulation will meet this need. Although the Navy's report indicates that calcium silicate insulation is "preferable," it neither states why it is preferable to foam glass nor provides any evidence that the foam glass insulation used by PittCon cannot withstand the groundwater conditions at the site or otherwise would not meet the Navy's needs. In fact, although the Navy seems quite familiar with the properties of fiberglass insulation, there is no evidence that the Navy has ever evaluated the capabilities of foam glass insulation.

The Committee has considered the capabilities of foam glass insulation. Based on testing conducted in accordance with the Prequalification Procedure, the Committee has granted PittCon's system (with foam glass insulation) a Class A letter of acceptability. This classification denotes suitability for sites with the most severe groundwater conditions. Again, the Navy has not attempted to show that, notwithstanding the Committee's technical findings, foam glass insulation would not be an effective insulating material for this project. Under these circumstances, there exists no basis for excluding foam glass as an acceptable insulating material. Thus, the requirement that only calcium silicate insulation be used is unduly restrictive.

In sustaining the protest, we do not find that the Navy was required to use the Guide Specification to define the UHD work on this project. While we have recommended use of the Guide Specification as the best means for avoiding the formulation of overly restrictive specifications, we have held that the agencies participating in the Prequalification Procedure need not use the Guide Specification where they determine that it will not satisfy their minimum needs. PhilCon Corp., supra.

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The Navy recently advised us that it awarded a contract under this procurement on January 31, notwithstanding PittCon's protest. It further advises that all materials and equipment are on site and that performance was to run from May through September 1983. The Navy has provided us no information regarding the actual stage of performance, however, and it thus is not clear whether termination of the contract for the convenience of the Government would be in the Government's best interest. Therefore, by letter of today to the Secretary, we are recommending that the Navy consider the feasibility of terminating the contract and resoliciting this requirement using specifications which reflect its actual needs.

We also are pointing out that the Navy failed to advise us of its intent to make award while the protest was pending as required by regulation. See Defense Acquisition Regulation § 2-407.8(b).

The protest is sustained.

*for*   
Comptroller General  
of the United States