

**DECISION**



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

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**FILE:** B-218057.2                      **DATE:** May 2, 1985  
**MATTER OF:** Harvey Bell

**DIGEST:**

Protest against restrictive specifications is dismissed as academic where the protester submitted a bid based on the specifications it desired the procuring agency to use and was not the low bidder.

Harvey Bell protests that invitation for bids (IFB) No. DACW05-85-B-0007, issued by the Army Corps of Engineers, unduly restricts competition.

We dismiss the protest.

The IFB was issued to lease a trail building machine and operator to construct hiking and equestrian trails at Lake Sonoma, California. As issued, bidders were required to bid on an Acutrac machine. Harvey Bell protested to the Corps that this requirement precluded Harvey Bell from submitting a bid because it desired to bid on a Morrison Trail Blazer, a tractor allegedly capable of constructing the desired trails. In response, the Corps amended the specifications to delete the requirement for an Acutrac and to require only a trail building machine meeting safety requirements and having certain other features.

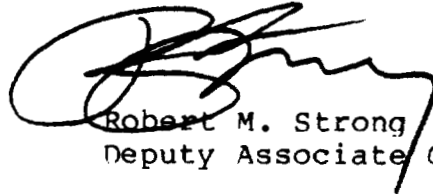
The Corps received nine bids, including two submitted by the protester. The protester's bid of \$196,000, evidently an offer of an Acutrac, was the highest bid received, while the firm's alternate bid of \$125,800 to provide a Morrison Trail Blazer was the third low bid. The Corps intends to award the contract to R.A. Triplett Distribution, Inc., the low bidder at \$80,250.

This Office will not review a protest against allegedly restrictive specifications where bid opening discloses that the protester, bidding on the item it believes the solicitation improperly disallows is not the low bidder, and it does not appear that the specifications otherwise had a

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material impact on the protester's bid price. Tom Shaw, Inc., B-212771, Dec. 21, 1983, 84-1 C.P.D. ¶ 11. Here, Harvey Bell's alternative bid to provide the Morrison Trail Blazer, the equipment Harvey Bell believed the specifications precluded, was not the low bid. Thus, the protest is academic, and no useful purpose would be served by our review of its merits.

The protest is dismissed.



Robert M. Strong  
Deputy Associate General Counsel