

DECISION

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

60055

FILE: B-184127

DATE: October 15, 1975

MATTER OF: Schreck Industries, Inc.

97821

DIGEST:

Protest against failure to amend specification so as to permit party to bid its product is denied since there is no showing of error in contracting activity's determination of its minimum needs, and in view of fact that sufficient competition existed on procurement. However, thorough study of possible specification revision is recommended.

Invitation for bids No. DSA700-75-B-2063 was issued by the Defense Supply Agency, Defense Construction Supply Center, for the procurement of various forklift trucks. The procurement was originally advertised under another invitation, which was canceled after Schreck Industries, Inc. (Schreck), suggested various specification changes. While the specification being used under the present invitation incorporates various Schreck suggestions, it requires, contrary to the wishes of Schreck, items 0003 and 0004 to have a gear reduction-type drive unit directly connected to the drive axle and completely enclosed and running in an oil bath. Schreck protests the use of this requirement on the grounds that it makes the specification proprietary and restricts all manufacturers to offering a Raymond Corporation-type of forklift.

The contracting activity's decision not to enlarge the specification so as to allow the offering of a steel cable reinforced belt drive was made because maintenance personnel felt that type of drive to be outdated (nonstandard in the industry) and to require periodic maintenance, adjustment, and replacement not necessary with the gear drive, which, allegedly, has less parts. It was felt that the additional time that would be required for maintenance would result in added cost to the Government and would affect the efficiency of warehouse operations. It was also stated that "it is safe to assume repair and replacement parts are not

readily available." The drive requirement was not considered restrictive because all manufacturers of this truck type, except Schreck and one other firm (which offers the gear drive as an option), offer the gear drive as standard equipment.

It is the position of Schreck that the refusal to include its drive type as part of the specification simply because the gear reduction-type drive utilizes fewer parts, thereby allegedly reducing maintenance, is "ridiculous." Schreck finds it impossible to conceive that a person could judge the quality, dependability, and durability of a drive system on the basis of the number of parts it utilizes. As regards the availability of spare parts, a Schreck service facility with a full inventory of spare parts is allegedly located less than 10 miles from the Military District of Washington commissary and the steel belt is available off-the-shelf from other local industrial supply retailers. It is believed by Schreck that the using activity is judging the drive system Schreck has proposed solely on the problems it has experienced with the trucks of another firm making drives other than the gear reduction type.

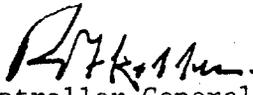
We have consistently taken the position that the preparation and establishment of a specification which reflects the minimum needs of the Government are matters primarily within the jurisdiction of the procurement activity and that such will not be questioned by our Office unless there is clear and convincing evidence that the determination of the activity is in error and that a contract awarded on the basis of such a specification would be unduly restrictive of competition. B-178288, May 24, 1973; B-176081, January 16, 1973; 49 Comp. Gen. 857 (1970); East Bay Auto Supply, Inc.; Sam's Auto Supply, 53 Comp. Gen. 771 (1974), 74-1 CPD 193; Shrink-O-Matic, Inc., B-181555, January 16, 1975, 75-1 CPD 19.

On the basis of the present record, we cannot conclude that there is no reasonable basis for the gear reduction-type drive unit requirement. Also, since four bids were received on item 0003 and five were received on item 0004, we feel sufficient competition was obtained. Therefore, we believe the procuring activity properly exercised its discretion in drafting the revised specifications, and we will not question this determination of its needs.

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However, since there is evidence that similar specifications used by the Departments of the Army and the Navy permit the drive made by Schreck, we are recommending to the Director of the Defense Supply Agency that an attempt be made to standardize specifications for forklift trucks so as to assure that full and free competition has been maximized to the fullest possible extent. (10 U.S.C. § 2305.)

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States