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L. I. Marsh, Jr.

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540**

FILE: B-191224

DATE: July 20, 1978

MATTER OF: Washex Machinery Corporation

DIGEST:

Where agency fails to show reasonable basis for limiting solicitation to pass-through washer-extractors as opposed to non-pass-through machines, and evidence shows pass-through equipment exceeds Government's minimum needs, solicitation should be canceled and requirement resolicited without restrictive specification.

Washex Machinery Corporation (Washex) protests request for proposals (RFP) DLA400-78-R-0749, issued on December 19, 1977, by the Defense Logistics Agency (DLA), for three 600-pound washer-extractors to be used in the laundry facility at Fort Bragg, North Carolina. The washer-extractors are of the "pass through" variety, which means that dirty laundry is loaded from one side of the machine and clean laundry is removed from the other side. Washex manufactures "non-pass-through" washer-extractors, in which both loading and unloading are accomplished from the same side.

The basis of Washex's protest is that the specification of a pass-through washer-extractor is overly restrictive and limits competition, in that, according to the protester, only two manufacturers can supply 600-pound pass-through units, while four or five make non-pass-through models. The protester also takes issue with DLA's determination that the purchase will provide increased efficiency, lower cost and improved sanitary conditions as compared with the present equipment.

A protester who objects to the specifications in an RFP bears a heavy burden. This is because, recognizing the wide discretion accorded to agency procurement personnel in determining the minimum needs of the Government, we have declined to disturb a specification unless it is clearly shown to be without a reasonable basis. Hydro Conduit Corporation, B-188999, October 11, 1977, 77-2 CPD 282;

Microcom Corporation, B-186057, November 8, 1976,
76-2 CPD 385.

On the other hand, as we noted in Drexel Dynamics Corporation, B-186277, June 2, 1977, 77-1 CPD 385 (reversed on new facts in The Raymond Corporation; Air Force--requests for reconsideration, B-186277, September 16, 1977, 77-2 CPD 197):

"* * * we have recognized that procurement agencies are required to state specifications in terms that will permit the broadest field of competition within the minimum needs required and not the maximum desired. 32 Comp. Gen. 384 (1953). Specifications based only on personal preference or on a finding that a particular item has superior or more desirable characteristics in excess of the Government's actual needs are generally considered overly restrictive. 32 Comp. Gen. 384, supra; Precision Dynamics Corporation, 54 Comp. Gen. 1114 (1975), 75-1 CPD 402. * * *"

DLA states that the three 600-pound washer-extractors will replace ten 350-pound washers and four 50-inch extractors now in use in the Fort Bragg laundry. Apparently, the present machines are quite old, and the manufacturer will no longer supply parts for them. The laundry intends to adopt a new work-flow scheme, using two aisles instead of one, which it believes will improve sanitary conditions and reduce labor needs, as well as increase efficiency. It intends to use two existing 1,200-pound non-pass-through washers on a supplemental basis.

The protester disputes DLA's justification because, according to its analysis, use of pass-through machines combined with the present 1,200-pound units would require more labor, worsen sanitary conditions, and result in confusion and inefficient workflow.

At the conference on the merits of the protest, the protester stated, and DLA did not dispute, that it was unaware of any laundry facility using pass-through washers other than a hospital. Indeed, descriptive literature of the two manufacturers of pass-through machines specifically states that they are designed for hospital or clean room use. Furthermore, the military specification used in the RFP, MIL-W-43001E, paragraph 3.5.3, states with respect to the washer-extractor specified in this procurement:

"Type III - pass through (loading and unloading isolated). The type III washer-extractor shall be designed for installation in partition walls. The machine shall be equipped with a loading door on the pre-wash side of the machine and partition and an unloading door on the post wash and extract side of the machine and partition. * * *"

Paragraph 3.5.3.1 provides that the loading and unloading doors shall not be capable of being opened simultaneously, and that there will be no openings that would allow air to pass between the pre- and post-wash sides of the machine. Finally, paragraph 3.5.3.6 states that:

"* * * The machine shall be such so as to permit its installation in a partitioning wall so as to

isolate loading side from unloading side * * *. The partitioning shall form a tight air seal to prevent any air passage from loading side to unloading side."

The RFP does not provide for any deviation from the military specification. Thus, the machines DLA would receive must be designed for installation in partitioning where complete isolation between the loading and unloading sides is a requirement. It is clear from the air tightness specification that the purpose is to maintain a sterile environment which will prevent contamination of clean laundry. DLA does not intend, nor does it claim it requires, such a sterile installation in the Fort Bragg laundry.

It is also conceded that the cost of pass-through equipment is higher than that of comparably sized non-pass-through machines.

Although cleanliness and compatibility with future plans for upgrading the laundry were cited in DLA's written submissions, at the conference the Agency conceded that its sole rationale for specifying pass-through machines was the use of one less operator. However, apart from flow charts and speculation, the Agency admits that it has no way of proving that pass-through equipment would be more efficient than non-pass-through other than by a time and motion study that could not be performed until the equipment is purchased and installed. The Agency stated that tests at Veterans Administration hospitals known to use pass-through machines would be inconclusive because of dissimilar installations and requirements.

The protester, in addition to rebutting the Agency's contentions for greater efficiency, presented evidence of manpower saving using non-pass-through equipment in a commercial laundry setting.

While the commercial setting may also be nonanalogous to a military installation, " * * * absent any information concerning normal operating condition productivity * * * [from DLA] * * * other than unsupported conclusions * * *." we find Washex's arguments persuasive. Drexel Dynamics Corporation, supra, at p.3. DLA has failed to show that the advantages of pass-through machines are greater than non-pass-through or that the Government's minimum needs cannot be satisfied by non-pass-through washer-extractors.

It appears to us that the equipment specified will be engineered and built with features that are clearly excessive to the Government's needs, and that there is no reasonable basis for the specification of pass-through washer-extractors for this procurement. Accordingly, the solicitation should be canceled and the requirement resolicited without the restrictive specification.

Parenthetically, we can see no need for negotiation of this procurement, and it would seem appropriate to proceed by formal advertising if the requirement is resolicited. See Drexel Dynamics Corporation, supra, at p.3.

Protest sustained.

Since this decision contains a recommendation for corrective action, we are furnishing copies to the Senate Committees on Governmental Affairs and Appropriations and the House Committees on Government Operations and Appropriations, as required by section 236 of the Legislative Reorganization Act of 1970, 31 U.S.C. § 1176 (1970). Pursuant to this section, the Agency is required to submit written statements to the committees concerning the action taken with respect to our recommendation.

R. F. Kistner
Deputy Comptroller General
of the United States