

DECISION



17268
Fitzmaurice
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

[Protest of IFB Specifications]

FILE: B-201683

DATE: March 9, 1981

MATTER OF: Ring Power Corporation

DIGEST:

1. GAO will not question contracting agency's determination of its minimum need, maximum engine rotational speed, where requirement has reasonable basis.
2. If argument is that contracting agency improperly relaxed specification, GAO will not question agency determination that less restrictive specification will meet Government's needs since, absent evidence of fraud or intentional misconduct, such determinations are within agency's discretion.

Ring Power Corporation (RPC) protests the specifications under invitation for bids (IFB) No. N62467-80-B-0020 issued by the Southern Division, Naval Facilities Engineering Command (Navy), Charleston, South Carolina. The IFB solicited bids for the installation of an "uninterruptable power source" system at the Data Automation Center, Jacksonville Naval Air Station, Florida.

[RPC objects to paragraph 5.2 of the technical specifications, entitled "Diesel Engine and Accessories," because it permits a maximum engine speed of 1,800 r.p.m. RPC maintains that the maximum engine speed for the 750-kilowatt (KW) diesel-electric generating unit called for in the IFB should be 1,200 r.p.m. It bases this assertion on the guidelines published in technical report #69 prepared by the Ad Hoc Committee of the Federal Construction Council (FCC) Building Research Advisory Board, National Academy of Sciences. According to Table 1 of that report, a class "C" engine above 600 KW, such as the one being procured, should have a maximum rotational speed of 1,200 r.p.m. RPC requests that the specifications be modified to reflect this requirement.]

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[The Navy, however, argues] that the 1977 (technical report #69 is advisory only and thus is not an absolute norm which must be followed by all agencies.) Moreover, the Navy points out that some manufacturers, as well as certain Government agencies, have expressed dissatisfaction with technical report #69.) As a result, the report [is being updated] by the FCC Standing Committee on Electrical Engineering and one of the changes in the most recent draft is that the recommended maximum rotational speed for a 750-KW class "C" engine is now fixed at 1,800 r.p.m. Based on this and its assertion that the 1,800-r.p.m. requirement represents its legitimate needs, the Navy concludes that RPC's protest is without merit.) We agree.

Our Office has held that [since Government procurement officials are generally in the best position to know the Government's actual needs and, as a result, are best able to draft appropriate specifications, we will not question an agency's determination of its minimum needs unless there is a clear showing that the determination has no reasonable basis.] Sub-Sea Systems, Inc., B-195741, February 12, 1980, 80-1 CPD 123.

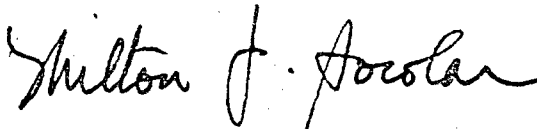
Here, [RPC believes that the Navy has acted in an arbitrary and unreasonable manner since its specifications fail to implement technical report #69's guideline for a maximum rotational speed of 1,200 r.p.m.) It points out that, [with the exception of the protested speed, the IFB conforms to technical report #69; that no update of technical report #69 has been published nor has any draft of such an update been made available to the public; and, lastly, that Government agencies have insisted in the past that contractors conform with the requirements set out in technical report #69.]

However, [we do not believe that any of these factors forces the Navy, as RPC contends, to draft a specification establishing the maximum engine

speed at 1,200 r.p.m. There appears to be no legal requirement that the Navy, or any other Government agency, follow the guidelines established by technical report #69. It may be, as RPC maintains, that this technical report was developed at a great deal of taxpayer expense. Nevertheless, it is still primarily the contracting agency's responsibility to determine its minimum needs for any particular procurement and then draft the appropriate specifications. Sub-Sea Systems, Inc., supra. The Navy's procurement officials decided in this instance that a maximum engine speed of 1,800 r.p.m. met the Government's minimum needs. They based this decision on the Government's past experience with diesel engines having a maximum engine speed of 1,200 r.p.m. and also the proposed change in technical report #69. Under the circumstances, we believe that the Navy's decision had a reasonable basis and thus should not be disturbed.

In the alternative, if RPC's protest is viewed as arguing that the Navy has improperly relaxed the specification, then the protest is not for our consideration. Assurance that sufficiently rigorous specifications are used is ordinarily the concern of procurement personnel and the user activities. It is they who must suffer any difficulties due to inadequate equipment. Therefore, absent evidence of fraud or intentional misconduct, such issues will not be reviewed under our Bid Protest Procedures. See Miltope Corporation--Reconsideration, B-188342, June 9, 1977, 77-1 CPD 417.

Protest denied.



Acting Comptroller General
of the United States