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E. Edwards

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DECISION



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

FILE: B-204648

DATE: January 27, 1982

MATTER OF: Potomac Industrial Trucks, Inc.

DIGEST:

Protester alleging that specifications requiring a standup rider electric forklift are unduly restrictive bears the burden of proof and must show by convincing evidence that the specifications and the agency's determination of its needs are clearly unreasonable. Where agency has reasonable basis for requirement and protester has not met above burden, the protest is denied.

Potomac Industrial Trucks, Inc. (Potomac), protests the proposed award of a contract to The Raymond Corporation (Raymond) under invitation for bids (IFB) No. DAAD05-81-B-7028, issued by the United States Army, Test and Evaluation Command (Army), Aberdeen Proving Ground, Maryland, for electric forklifts for use at the USSAG Publications Center. Potomac contends that the specifications contained in the solicitation are unduly restrictive. For the reasons discussed below, we deny the protest.

Bids were solicited for two standup rider electric forklifts, with 4,000-pound capacity and narrow aisle maneuverability on a "brand name or equal" basis, citing a model manufactured by Raymond. Although the IFB was mailed to 15 potential bidders, the successful bid by Raymond was the only one received.

In a protest letter received by this Office before the scheduled bid opening date, Potomac objects to the specification of a standup rider forklift, stating that sitdown rider forklifts exist which meet or exceed all other salient characteristics and that the standup rider specification is unduly restrictive. We disagree.

This Office has consistently held that contracting agencies are primarily responsible for determining the needs of the Government and the methods of accommodating those needs. Allied Security, Inc. of Maryland, B-201365, May 4, 1981, 81-1 CPD 337. Since the agency is most familiar with the particular conditions involved, it is in the best position to determine the specifications which will meet its future requirements. Maremont Corp., 55 Comp. Gen. 1362 (1976), 76-2 CPD 181. We therefore will not question a restriction in a solicitation's specifications unless it is shown by convincing evidence to be unreasonable and, therefore, restrictive of competition. Edward E. Davis Contracting, Inc., B-198725, January 13, 1981, 81-2 CPD 19.

According to the Army, the requesting activity wishes to procure forklifts which are suitable to both dock operations and general warehousing. Of particular importance is the requirement that the forklifts be suitable for frequent short usage, rather than long continuous usage, as dock operations at the Publications Center require constant dismounting and remounting of forklifts to do related tasks, such as opening cargo doors, adjusting dock-leveling mechanisms and handling receipts. Standup rider forklifts would improve the efficiency of dock-handling operations and would prevent operator fatigue caused by constant mounting and dismounting of a sit-down forklift and, in addition, the requesting activity has determined that the standup rider model has a number of other features which make it superior to comparable sitdown models in terms of speed, stability and maneuverability. These features include low overhead clearance, improved front visibility and a short turning radius.

While Potomac alleges, without supporting evidence, that comparable sitdown models have equal or better speed, stability and maneuverability, even if this claim had been substantiated, it would not support Potomac's contention that the standup rider

specification was unreasonable. Potomac's entire support for this claim rests on the fact that only one bid was received in response to the solicitation, together with an opinion that the standup rider specification would contribute to, rather than prevent, operator fatigue.

Having carefully examined the record, we conclude that Potomac has failed to produce any convincing evidence that the agency's determination here was unreasonable. The fact that The Raymond Corporation submitted the sole bid in this case does not in itself render the specification unduly restrictive. We find the agency has reasonably justified the specifications as reflecting its minimum needs.

Regarding the issue of driver fatigue, Potomac's statement that an operator would suffer more fatigue from standing all day as opposed to sitting is only valid where the source of fatigue is continuous use of forklift equipment. In this case, however, the agency has made it clear that the source of fatigue is constant mounting and remounting of forklifts in conjunction with the performance of other duties. Specifying standup rider forklifts to combat this problem appears to have a reasonable basis, notwithstanding Potomac's contrary opinion.

The protest is denied.


Acting Comptroller General
of the United States