

**DECISION**



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

**FILE:** B-219635

**DATE:** November 1, 1985

**MATTER OF:** Rix Industries

**DIGEST:**

1. Protest against agency's refusal to extend bid opening date is denied where agency obtained adequate competition and reasonable prices and protester does not allege that the agency deliberately attempted to preclude the protester from submitting a bid.
2. Protest alleging that agency has no rational basis for changing the weight limitation for high pressure portable compressors from 140 pounds to 210 pounds is denied since agency determination of its needs will not be disturbed absent clear evidence that the agency's decision is arbitrary or unreasonable and agency provides reasonable explanation for its determination.

Rix Industries protests the award of any contract under invitation for bids (IFB) No. M00027-85-B0055 issued by the United States Marine Corps for high pressure portable compressors which are used to fill scuba tanks with air for breathing. Rix contends that it did not have sufficient time to revise its bid in response to an amendment which changed the maximum allowable weight of the compressors from 140 to 210 pounds. Also, Rix argues that the specifications for the compressor are defective in several respects.

We deny the protest.

The IFB was issued on June 14, 1985 and initially provided that the overall weight of the compressor shall not exceed 210 pounds. On July 8, 1985, amendment No. 0001 was issued. That amendment extended the bid opening date to August 2, 1985, made several technical

033671

changes to the IFB and also revised the weight limitation for the compressor from 210 to 140 pounds. Subsequently, on July 18, 1985, amendment No. 0002 was issued which changed the weight limitation back to 210 pounds. Bid opening was held as scheduled on August 2, 1985.

Rix states that it received amendment No. 0002 only 7 working days before bid opening and argues that additional time was necessary to revise its bid based on the 210 pound limitation. Rix submitted its bid based on its pre-existing more expensive 140 pound unit and contends that it could not alter its production plans nor determine the material list and production costs associated with the heavier product within that timeframe. Rix argues that the Marine Corps' actions precluded Rix from preparing a bid which allowed it to fairly compete with other bidders.

In addition, Rix complains that the Marine Corps has not provided an adequate explanation for the reduction of the weight limitation to 140 pounds and its subsequent increase to 210 pounds. Rix argues that increasing the weight has no rational basis since the systems are designed to be carried by two men and with the added weight, this will no longer be possible under the conditions in which the system will operate.

Also, Rix argues that the IFB's requirement that the items furnished be a standard commercial product is defective since there is no standard commercial product which would meet the IFB's specifications without substantial modification. In addition, Rix contends that the IFB's prohibition on the use of carbon or desiccant filters is inconsistent with the Marine Corps' acceptance of oil lubricated compressors since these compressors cannot meet the IFB's air quality requirements without these types of filters. Finally, Rix argues that the IFB requires only manufacturers to provide all stainless steel bolts, nuts and screws and that this confers an unfair competitive advantage to firms that only assemble the system.

Our Office has repeatedly held that the propriety of a federal procurement does not depend upon whether a particular firm has been given an opportunity to bid, but upon whether the agency obtained adequate competition and reasonable prices. Capital Engineering & Mfg. Co., B-213924, Apr. 2, 1984, 84-1 CPD ¶ 374. We have applied this rule to the denial of a bidder's request for an extension of the bid opening date and we will not object to the agency's refusal to extend the due date unless the agency deliberately

attempted to preclude the protester from competing.  
Avitech, Inc., B-216398, Feb. 4, 1985, 85-1 CPD ¶ 133;  
Capital Engineering & Mfg. Co., B-213924 supra.

Here, the initial IFB issued on June 14, restricted the weight of the compressor to 210 pounds. This limitation was in effect until July 8 and the reduction of the weight limitation made on that date was only effective until July 18. Although Rix argues that it needed additional time, we note that the five remaining bidders were able to satisfactorily respond to the amendment within the required timeframe. Since Rix does not allege that the Marine Corps deliberately attempted to exclude it from competing, and does not dispute that the Marine Corps obtained adequate competition and reasonable prices, Rix's inability to revise its bid does not provide a basis for us to object to the procurement.

Furthermore, we note that it is within the agency discretion to determine the best method of accommodating its needs and we will not substitute our judgment for that of the contracting agency absent clear evidence that the agency's decisions are arbitrary or unreasonable. Hydro-Dredge Corp., B-215873, Feb. 4, 1985, 85-1 CPD ¶ 132. The Marine Corps indicates that the original 210 pound limitation was correct and that, in changing this limitation, the Marine Corps inadvertently relied upon the weight limitation imposed by the Navy in similar procurements. The Marine Corps states that, unlike the Navy, there is no need to ensure that two men are able to carry the item and that by increasing the weight limitation, the Marine Corps enhanced the ability of other bidders to compete. Under these circumstances, we see no basis to require the Marine Corps to procure a lighter, more expensive compressor where the agency determines that a heavier, less expensive unit will meet its needs.

We find Rix's remaining allegations also without merit. The IFB required that the compressor be a standard commercial product but permitted bidders to add features that were necessary to meet the IFB's requirements. The Marine Corps states that the provision was written in this manner because the Marine Corps was interested in obtaining a modified commercial item rather than one which required research and development. Although Rix argues that no standard commercial product will meet all of the IFB's requirements, the IFB, in our view, clearly recognized that modifications to the standard unit would have to be made and we see no inherent inconsistency in a provision which allows bidders to do so.

With respect to Rix's argument that an oil lubricated compressor cannot satisfy the IFB's air quality requirements without the use of carbon and desiccant filters, the Marine Corps states that no other bidder questioned this requirement and that comments received from three of the bidders indicate their belief that oil lubrication can be utilized under these circumstances. Rix's allegation that the Navy has had problems with oil lubricated compressors meeting air quality standards does not demonstrate that it is impossible for the IFB requirements to be satisfied and, accordingly, we cannot conclude that the IFB is defective on this basis. See, e.g., Rosemount, Inc., B-218121, May 16, 1985, 85-1 CPD ¶ 556.

Finally, we note that the Marine Corps indicates that any confusion over the use of stainless steel screws, nuts and bolts is of a de minimus nature when compared to the overall item cost and that assemblers did not have a competitive advantage over bidders who are manufacturers of compressors. While Rix has alleged that the apparent low bidder, an assembler, may not have been low had it been required to add on the additional cost for the stainless steel bolts, nuts and screws, Rix has not suggested that the firm's own relative standing would be affected. Since no other bidder has raised this issue and since we do not find that Rix was prejudiced because of the alleged confusion, we decline to consider the matter further. Keco Industries, Inc., B-216396.2, Nov. 2, 1984, 84-2 CPD ¶ 491.

The protest is denied.

*for Seymour E. Van Cleve*  
Harry R. Van Cleve  
General Counsel