



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Purification Environmental

File: B-259280

Date: March 14, 1995

C. G. Steiner, for the protester,
Lawrence Field, for Great Lakes Environmental, and Kirby
Mohr, for Facet International, interested parties.
Cynthia S. Guill, Esq., and Christopher Bellomy, Esq.,
Department of the Navy, for the agency.
Ralph O. White, Esq., and Christine S. Melody, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protest alleging improprieties in the specifications for flight-line oil/water separators is dismissed where the protester does not allege that the specifications are unduly restrictive of competition, but instead claims that the specifications will not result in the best possible system for the agency; fail to ensure agency compliance with other environmental regulations; and fail to adopt recent technological advances in the field of oil/water separation.

DECISION

Purification Environmental protests certain alleged improprieties in the specifications for flight-line oil/water separators identified in invitation for bids (IFB) No. N62470-93-B-3203, issued by the Department of the Navy, Naval Air Station, Oceana, Virginia Beach, Virginia. Purification argues that the specifications are ambiguous and will not result in the purchase of the best possible system for the agency.

We dismiss the protest.

The oil/water separators at issue in this procurement are part of the Navy's effort to capture and contain fuel and oil spills on airfields, and to capture residual fuel and oil accumulations that are washed off pavement during the initial flush of storm water runoff from a rainfall. The separators here are built-in units consisting of concrete tanks with oil/water separation channels and bypass channels.

The protester's initial filing raised questions about numerous specifications in the RFP, arguing that they are defective for various reasons.¹ In its report on the protest, the agency replied to each of these specific arguments, in large part asserting that they were addressed by amendment No. 0005 to the RFP. In its comments on the report, the protester does not rebut the agency's specific responses to the initial protest.² Rather, the protester sets forth additional arguments contending that the oil/water separators in this procurement are not consistent with the Navy's guidelines for such equipment, will not work as intended, and will not help the Navy meet environmental requirements for storm water runoff. Thus, Purification asks our Office to help it "stem the tide of ill advised oil/water separator DOD purchases" because it has "decided that bid protests can be helpful in achieving a much better marketplace understanding of this little understood but greatly important technology."

The protester's contentions involve matters simply not appropriate for resolution in our forum. The determination of the government's minimum needs and the best methods for accommodating those needs are generally the responsibility of the contracting agency which is most familiar with the conditions under which the products will be used. Loral Fairchild Corp.--Recon., B-242957.3, Dec. 9, 1991, 91-2 CPD ¶ 524. Although an agency is required to specify its needs in a manner designed to achieve full and open competition, and is required to include restrictive provisions or conditions only to the extent necessary to satisfy its needs, without a showing that competition is restricted, we will not substitute our judgment for that of the agency. Simula, Inc., B-251749, Feb. 1, 1993, 93-1 CPD ¶ 86; Infection Control and Prevention Analysts, Inc., B-238964, July 3, 1990, 90-2 CPD ¶ 7.

¹Purification filed an earlier protest against this solicitation and stated that it intended to participate as a subcontractor. Purification filed the instant protest only after our Office dismissed the first protest on the basis that a subcontractor or prospective supplier is generally not an interested party to file a protest under the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988). See Purification Industries, Inc., B-258403, Oct. 11, 1994. Although the current protest stated that Purification was considering submitting a bid, we note that it did not do so.

²Since the protester has not rebutted the agency's responses, we consider these points abandoned. See Atmospheric Research Sys., Inc., B-240187, Oct. 26, 1990, 90-2 CPD ¶ 338.

Here, the protester has not shown that the specifications used by the Navy for its oil/water separators are restrictive of competition. Rather, the protester contends that there is a need for more stringent requirements that were omitted from the current specifications; complains about the Navy's alleged failure to assure compliance with environmental regulations; and asserts that the Navy's identification of potential offerors is based on an erroneous view of the agency's needs. These contentions reflect what appears to be the protester's central position--that the separators described in the RFP specifications will not meet the agency's minimum needs. Thus, despite its assertion to the contrary, the protester in essence is arguing that the specifications should be more restrictive--or, at a minimum, different--in order to meet the agency's needs. This is not an issue which we will consider; our role is to ensure that the statutory requirements for full and open competition are met, not to determine whether different specifications will better meet the agency's needs.³ See Mine Safety Appliances Co., B-242379.2, B-242379.3, Nov. 27, 1991, 91-2 CPD ¶ 506.

The protest is dismissed.

Christine S. Melody
Christine S. Melody
Assistant General Counsel

³The protester apparently believes generally that the Navy does not understand the ramifications of the two separator designs--inclined plate and vertical perforated tubes--identified in the IFB. Any specific challenges to the actual specifications, however, are not sufficiently clear in the protester's submissions to allow meaningful consideration by our Office. For example, while the protester asserts that the requirement for 45 square feet of effective surface area cannot be met with the inclined plate design if the required plate spacing and inclination are to be achieved, nowhere is there a clear or detailed explanation of the rationale supporting the protester's conclusion. Moreover, we note that the protester's concerns in this regard may best be raised in the first instance with agency technical personnel.