



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Purification Environmental
File: B-259494
Date: March 31, 1995

DECISION

Purification Environmental protests the specifications in invitation for bids (IFB) No. N62467-94-B-4435, issued by the Department of the Navy for the removal and replacement of two oil/water separators and other associated construction work at the Naval Weapons Station, Charleston, South Carolina. The protester contends that due to the nature of the wastewater to be treated, the type of gravity oil/water separator specified is incapable of reducing the level of contaminants in the separator effluent to the level required elsewhere in the specification.

We dismiss the protest.

The IFB, which was issued on November 28, 1994, with a bid opening date of January 10, 1995, sought bids for the replacement of two oil/water separators to be used to treat wastewater originating in machine shop and vehicle washrack operations.¹ The specification governing the separators required that they contain an oil coalescing compartment equipped with parallel, corrugated plates. The specification also required that the separators be capable of reducing the grease and oil concentration in the effluent to within the following limitations:

<u>Contaminants</u>	<u>Maximum</u>
Total grease and oil, 30-day average	10 mg/L
Total grease and oil, daily maximum	15 mg/L

To achieve these goals, the specification provided that it would be necessary to remove all free oil droplets equal to or greater than 20 microns. To ensure that the separators were performing up to these standards, the specification provided for testing of effluent samples and for rejection

¹The IFB also called for the installation of a new sanitary sewer and the modification and relocation of an existing Frac Tank to function as an oil/water separator system. This work is not at issue in this protest.

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of the units if required standards were not being achieved due to "poor workmanship" or "wrong fabrication dimensions."²

Purification contends that wastewaters generated in vehicle washrack operations are likely to contain emulsified oils,³ which a gravity separator capable of removing only oil droplets 20 microns or greater in size will be unable to remove, and that such a separator will therefore be incapable of reducing the level of contaminants in the effluent to the required levels. The protester further argues that it is unfair to impose on the contractor the burden of replacing equipment that fails to achieve the required level of performance where the failure is attributable to the agency's failure to specify proper equipment. The protester asks that the specification be rewritten to eliminate the alleged inconsistency between the equipment description and the performance requirements.⁴

²The specification, under the heading "Field Quality Control, Acceptance Criteria," provided as follows:

"Ninety percent of the effluent samples taken shall not exceed the specified daily maximum limit for grease and oil contaminants. The remaining samples shall not exceed 30 mg/L for grease and oil contaminants. If the separator does not meet requirements of this specification due to poor workmanship and wrong fabrication dimensions, the unit may be rejected. If the unit is not operating at design efficiency 5 days after installation, Government may reject system. In the event Government rejects unit, Contractor shall remove separator or defective components and replace with acceptable unit or components and test as specified above."

³Chemically emulsified oils, which contain oil droplets less than 20 microns in size, are generated when detergents are introduced into the oil/water mixture.

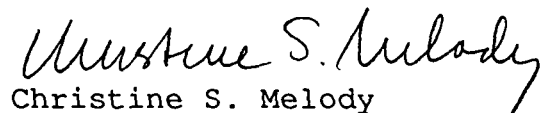
⁴As a preliminary matter, the agency contends that the protester is not an interested party to challenge the specification since it is not an actual or prospective bidder under the solicitation. In this regard, the Navy points out that Purification Environmental is a subsidiary of Purification International, Inc., a supplier/manufacturer of oil/water separators, and that neither Purification Environmental nor its parent has ever been awarded a Navy contract.

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The protester is in essence arguing that the separators described in the IFB will not meet the agency's minimum needs and that the specification should be rewritten to require a more sophisticated type of separator (such as the one manufactured by its parent, Purification International, Inc.). As we noted in a recent decision responding to a similar protest by the same protester, Purification Env'tl., B-259280, Mar. 14, 1995, 95-1 CPD ¶ ___, our Office will not consider the argument that specifications should be written more restrictively--or, at a minimum, differently--to meet the agency's needs since our role is to ensure that the statutory goals for full and open competition are met, not to determine whether different specifications will better meet the agency's needs. Moreover, the agency in any event disputes the premise underlying the protester's argument (i.e., that emulsified oils will be present in the influent), maintaining that their presence in the influent is not anticipated.

The protester also complains that it is unfair to the contractor to require it to replace equipment which fails to achieve the required level of performance due to the presence of emulsified oils in the influent. Since, as noted above, the agency states that it does not anticipate that emulsified oils will be present in significant quantities in the influent, the situation posited by the protester--i.e., failure of the equipment to meet the performance specifications due to the presence of emulsified oils--should not occur. In any event, we note that the specification appears to contemplate rejection of the separator only where the required level of performance is not achieved due to "poor workmanship," "wrong fabrication dimensions," or the unit's failure to operate at "design efficiency," not where it is due to the presence in the influent of emulsified oils.

The protest is dismissed.


Christine S. Melody
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⁴(...continued)

The protester maintains, in response, that it is a prospective bidder under the IFB provided the alleged improprieties in the specification are resolved to its satisfaction. Since we have no basis for questioning the protester's representation in this regard, we decline to dismiss the protest on this ground.