

DOCUMENT RESUME

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[Protest Alleging Restriction of Competition by Solicitation Specification]. B-188927. August 8, 1977. 4 pp.

Decision re: Palmer-Shile Co.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Air Force: Hill AFB, UT.

Authority: 55 Comp. Gen. 1362. B-180586 (1975). B-180608 (1975). B-185582 (1977). B-184416 (1976). B-188277 (1977). B-185756 (1976).

The protester objected to the possible award of a contract under a solicitation for storage racks which allegedly contained specifications unduly restrictive of competition. The record indicates that the invitation for bids, as a whole, clearly set forth the Government's minimum needs. There was no showing that there was no reasonable basis for the requirement that the shelf beam be "step-down ledge type" or that such a requirement was unduly restrictive of competition. (Author/SC)

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*Phillips*  
*12.11.77*

**DECISION**



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

FILE: B-188927                      DATE: August 8, 1977  
MATTER OF: Palmer-Shile Company

**DIGEST:**

Record indicates that IFB, as whole, clearly set forth Government's minimum needs and there is no showing that there was no reasonable basis for requirement that shelf beam be "step-down ledge type" or that such requirement unduly restricted competition.

By letter of April 26, 1977, with enclosures, Palmer-Shile Company (Palmer-Shile) protested against the possible award of a contract under invitation for bids (IFB) F42650-77-00068, issued by the Ogden Air Logistics Center, Hill Air Force Base, Utah.

IFB F42650-77-00068 solicited bids for a quantity of storage racks. Palmer-Shile objects to paragraph 3.4.3 of the specifications which requires that the shelf beam be "step-down type with a ledge." In its protest to the Air Force, Palmer-Shile objected to the requirement, on the basis that it was a restrictive design requirement, explaining that according to paragraph 3.4.4 of the specifications the purpose of the ledge was to permit front-to-back support to be installed so that it does not extend above the upper part of the shelf beam, a requirement which can be accomplished by shelves without the step-down ledge. Palmer-Shile requested that the words "be of the step-down type with a ledge" be deleted.

In its response to Palmer-Shile's protest, the Air Force stated that the decision to use the step-down feature as a design for the shelf beam was based on the flexibility and versatility it offers. The Air Force explained that when solid shelves are required (as opposed to pallet storage where the load is placed on a platform which has cross supports allowing fork lift teeth to go under the platform), 2-inch wood decking may be cut and inserted without any additional fabrication. The Air Force further explained that this allowed the Government the opportunity

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to use the racks for pallet loads which only require front-to-back supports at approximately 4-foot intervals (no shelving) and to modify the shelf area for loose material, without additional procurement of special front-to-back shelf supports, by merely cutting 2-inch stock lumber to the desired length, then setting the pieces into the shelf beams. Palmer-Shile's request to have the words "be of the step-down type with a ledge" deleted from the specifications was not granted.

In a subsequent letter dated April 11, 1977, to the contracting officer, Palmer-Shile contends that the Air Force has included a requirement which is not set forth in the specifications, i.e., the use of the 2-inch wood decking for solid shelves, in order to justify a particular design. Palmer-Shile also contends that paragraph 3.4.3 requires that front-to-back supports be 1-5/8 inches thick so that they can be used without extending above the upper part of the shelf beam, whereas if 2-inch lumber is to be used, it would extend above the upper part of the shelf beam by 3/8 of an inch. Also, in a subsequent letter dated April 29, 1977, Palmer-Shile points out that paragraph 3.4.4 calls for the front-to-back supports to be made of steel, rather than wood and more than 22,000 of these supports are being purchased by the Air Force. Palmer-Shile further stated that there is nothing in the specifications indicating that the design be such as to provide for wooden shelving which would "not extend above the upper part of the shelf beam."

In response to the allegations set forth in Palmer-Shile's letters of April 11 and 29, the Air Force states that the reason no mention was made of the requirement that the shelves be designed so that 2-inch wood decking could be used for solid shelving is that they were not procuring wood shelving. Also, the Air Force does not deny that more than 22,000 steel front-to-back supports were procured, explaining that these supports were to be used for pallet storage (two per pallet) and to prevent the racks from spreading under heavy weight, while the 2-inch dimensional lumber is to be used when solid shelving is required. Finally, it is explained that the 2-inch lumber would not extend above the upper part of the shelf beam (which is 1-5/8 inches deep) since dimensional 2-inch lumber is actually 1-1/2 to 1-5/8 inches thick.

We have recognized that Government procurement officials, who are familiar with the conditions under which supplies, equipment or services have been used in the past, and how they are to be used in the future, are generally in the best position to know the

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Government's actual needs and, therefore, are best able to draft appropriate specifications. Manufacturing Data Systems Incorporated, B-180586, B-180608, January 6, 1975, 75-1 CPD 6; Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181. Consequently, we will not question an agency's determination of what its actual minimum needs are unless there is a clear showing that the determination has no reasonable basis. Maremont Corporation, supra; Jerrell-Ash Division of the Fisher Scientific Company, B-185582, January 12, 1977, 77-1 CPD 19; Johnson Controls, Inc., B-184416, January 2, 1976, 76-1 CPD 4; Drexel Dynamics Corporation, B-188277, June 2, 1977, 77-1 CPD 385.

The record indicates that the shelves were to be used for both pallet and solid storage and while the "flush" shelf design offered by Palmer-Shile is suitable for pallet storage, solid storage can only be accomplished by either bolting the shelving to the beams, or by using a sufficient number of front-to-back supports to provide solid shelving. We are advised that either alternative to the "step-down" feature would cost more and would offer less flexibility. Furthermore, the "step-down" feature does not appear to have restricted the competition since 5 firms submitted bids without taking exception to the "step-down" feature and at least 16 firms offer racks with this feature. Moreover, racks with this feature are currently being used at Hill Air Force Base. For that matter, Palmer-Shile objected to this feature on a prior procurement. Thus, there does not appear to be anything unique or new about this feature, and, presumably, the purpose for this feature would be common knowledge throughout the industry since it appears to be an industry standard.

While Palmer-Shile states that its rack can meet all of the performance requirements of the specifications without the "step-down" feature, it appears that the "step-down" feature is a requirement which Palmer-Shile cannot meet. Although the "step-down" feature may have been the reason Palmer-Shile did not submit a bid, we have held that the fact that a particular bidder may be unable or unwilling to meet the minimum requirements of a solicitation will not of itself warrant the conclusion that the specifications unduly restrict competition. Newton Private Security Guard and Patrol Service, Inc., B-186756, November 30, 1976, 76-2 CPD 457, and cases cited therein.

On the basis of the record, we are unable to conclude that the Air Force has failed to provide a reasonable basis for the "step-down" feature of the shelf beam. Also, we are of the view that the IFB, as a whole, was reasonably clear as to the needs of the Government.

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For the above reasons, Palmer-Shile's proceat is denied.

*R. K. Kellum*  
Deputy Comptroller General  
of the United States