

GAO

Report to the Honorable
Mervyn M. Dymally, House of
Representatives

April 1987

ARMY PROCUREMENT

Restricted Competition for Water Purification Equipment Not Justified



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**National Security and
International Affairs Division****B-226511**

April 28, 1987

The Honorable Mervyn M. Dymally
House of Representatives

Dear Mr. Dymally:

As you requested, we are reviewing the Army's procedures in awarding and administrating contracts for the design, development, and production of 600 and 3,000 gallon-per-hour (GPH) reverse osmosis water purification units (ROWPUS). These units, used to convert seawater and contaminated fresh water into potable water, are essential in areas where adequate potable water is not available to meet the needs of U.S. armed forces. Although our review is not complete, we are bringing to your attention a proposed Army acquisition plan for the 3,000 GPH ROWPU which, we believe, unnecessarily restricts competition.

The Army currently plans to limit competition for the first production quantity of the 3,000 GPH ROWPU. We have reviewed the Army's acquisition plan for this procurement and believe that the justification for limiting competition is inadequate. The Competition in Contracting Act (CICA) of 1984 requires the use of full and open competition to the maximum extent possible. The Congress specifically enacted this legislation to enhance competition and better limit unnecessary sole-source contracting. The Army's Project Development Officer, Water and Petroleum Division, Fort Belvoir, Virginia, plans to issue a restrictive solicitation for the first production quantities of this ROWPU in May of this year.

Background

In 1984, using competitive procedures, the Army selected two contractors to independently design, develop, and build three test models of a 3,000 GPH ROWPU. These ROWPUS were to meet the Army's performance requirements. In addition, both contractors were required to deliver to the Army all drawings and data necessary to solicit full and open competition for production quantities. These contractors have been paid over \$6 million. We were recently advised that the contractors have delivered test models that meet the Army's performance specifications.

The Army Project Development Officer, Water and Petroleum Division, Fort Belvoir, however, told us that the drawings and data furnished by these development contractors are currently not adequate for use in soliciting full and open competition. According to the Project Officer, it will take at least 6 months for the development contractors to update

the drawings to include changes made during testing. Citing an urgent need for these ROWPUS, the Project Officer said that the first production contract cannot be delayed until drawings adequate to solicit full and open competition become available. Accordingly, he has prepared an acquisition plan calling for the purchase of about 250 units, using performance specifications that are currently available and limiting competition to the two development contractors. The actual number of units procured will depend on the money available to the Army for this ROWPU.

No Analysis to Support the Need for Restricted Competition

CICA places a heavy burden on the procuring activity to fully support the need to limit competition. In this case, the justification and approval documents state that there is an urgent need to field units by the third quarter of fiscal year 1989. According to the Project Officer, this date cannot be met if full and open competitive procedures are followed because of the time required to update and validate the drawings. We are unaware of any analysis that demonstrates that (1) use of restricted procedures will allow the units to be provided by the desired date, (2) open competition will not allow the desired date to be met, or (3) existing water purification equipment will not be adequate until the units can be obtained using full and open procedures.

The Deputy for Procurement, Office of the Deputy Assistant Secretary of the Army (Acquisition), advised us that, while the 3,000 GPH ROWPU is a priority item with the Army, the restriction of competition to the two development contractors is not being justified on the basis of urgency. Rather, it will be justified based on a recent amendment to CICA. This amendment permits an agency to use other than competitive procedures when the property or services needed by the agency are available from a limited number of responsible sources and no other type of property or service will satisfy the needs of the agency. Prior to this amendment, CICA allowed a sole-source procurement when only one responsible source was available.

The Deputy for Procurement advised us that the Army has determined that its two development contractors are the only responsible sources that can be expected to meet the Army's needs for a 3,000 GPH ROWPU. This decision is apparently based on the fact that these are the only contractors known to have developed and produced working models of the 3,000 GPH ROWPU that meet the Army's performance specifications.

Other firms, however, experienced in the manufacture of ROWPUS or similar equipment are interested in competing for the Army's 3,000 GPH ROWPU requirement. We were advised by the Deputy for Procurement that the drawings and data purchased for the 3,000 GPH ROWPU cannot be used to solicit proposals from these interested suppliers until they are validated by the development contractors through full-scale production, a process estimated to take at least 18 months.

Restricted Competition Is Not the Only Means Available to Validate Drawings

The Project Officer and the Deputy for Procurement believe that the risk of using drawings and data not validated by the development contractors to solicit competitive proposals is unacceptable. This risk primarily involves the potential for claims from the winning contractor for increased costs resulting from defects in government-furnished drawings and data.

Restricted competition, however, is not the only way to validate drawings and data. The Army avoided or limited the potential problems with any drawing and data defects in the initial production of the 600 GPH ROWPU by requiring the contractor to produce and test a sample unit (first article test) prior to full-scale production. Even though the 600 GPH ROWPU drawings had been prepared for the Army by a development contractor and had not been validated through actual production, first article testing provided the production contractor with an opportunity to discover and correct any deficiencies in the drawings and manufacturing process before substantial costs were incurred. The use of first article testing is common practice within the Department of Defense. The Deputy for Procurement told us that, even under the current plan of restricted competition, first article test and approval will be required before authorizing either development contractor to proceed with full-scale production.

Effect of Restricted Competition on Future Procurements

The Deputy for Procurement has stated that other interested suppliers will have the opportunity to compete for future requirements. However, the Army's tentative plan is to procure, under the first production contract, about 250 units, or 60 percent of the Defense Department's current requirement of about 417 of the 3,000 GPH ROWPU's. We are concerned about whether the remaining 167 units will provide a new supplier with a sufficient quantity to effectively compete with the incumbent supplier.

Conclusion and Recommendation

We believe that the decision to limit competition for the first production quantity of the 3,000 GPH ROWPU is questionable. We recommend that the Secretary of the Army direct procurement officials to solicit full and open competition for the planned procurement of the 3,000 GPH ROWPU, unless an analysis shows that the risk of doing so outweighs the benefits envisioned by CICA.

Objective, Scope, and Methodology

Our objective was to determine whether the actions taken by the Army to procure the 3,000 GPH ROWPU were in compliance with the Competition in Contracting Act of 1984. To achieve this objective we reviewed the solicitation and contracts awarded for the research and development of the 3,000 GPH ROWPU. We also evaluated the original production acquisition plan and updates to that plan. We interviewed program officials at the Fort Belvoir Research and Development Center, Fort Belvoir, Virginia; the Troop Operational Support Command, St. Louis, Missouri; the Army Materiel Command, and the Office of the Deputy Assistant Secretary of the Army (Acquisition), Washington, D.C.

We discussed a draft of this report with Army officials responsible for the 3,000 GPH ROWPU program and made changes in the report, where appropriate, to reflect their views. As agreed with your office, we did not obtain official agency comments.

Our review was performed in accordance with generally accepted government auditing standards.

As arranged with your office, we are sending copies of this report to the Secretary of Defense; the Secretary of the Army; and Senator Jesse Helms. Unless you publicly announce its contents earlier, no further distribution of this report will be made until 30 days from the date of the report. At that time, we will make copies available to other interested parties.

Sincerely yours,



Frank C. Conahan
Assistant Comptroller General

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