

Proc II

**DECISION**



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

9607

FILE: B-192694

DATE: April 2, 1979

MATTER OF: Stevens Air Systems, Inc.

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*[Protest of Proposal Rejection By Department of Navy]*

DIGEST:

Agency properly restricted procurement of A-6 aircraft tailpipes pursuant to Defense Acquisition Regulation §§ 1-313(a) and 1-313(c) to only those firms which had previously manufactured or supplied those tailpipes since agency lacked full and adequate data which would enable it to conduct fully competitive, unrestricted procurement and qualification testing could not be completed within the time available. However, continued failure to establish procedures by which alternate suppliers can be qualified would be unduly restrictive of future competition for procurement of tailpipes.

Stevens Air Systems, Inc. (Stevens) has protested the Department of the Navy, Aviation Supply Office, Philadelphia's (ASO), rejection of its offer to supply tailpipes for the Grumman A-6 aircraft under request for proposals (RFP) No. N00383-78-R-1784, and ASO's subsequent award to Lavelle Aircraft Company (Lavelle).

ASO issued the RFP for the purchase of tailpipes necessary to replace those on A-6 aircraft. Since only Grumman Aerospace Corporation (Grumman), the manufacturer of the A-6, and Lavelle, Grumman's supplier of A-6 tailpipes, had been designated as approved sources, only those firms were solicited. Stevens, who claimed to be a manufacturer of similar tailpipes and capable of supplying A-6 tailpipes, submitted a proposal in response to the RFP. Lavelle also submitted a proposal; Grumman declined.

ASO rejected Stevens' proposal on the basis that Stevens was not a qualified supplier and that an extensive

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qualification procedure of approximately 22 months would be required to qualify Stevens. ASO concluded that it did not presently have the ability to qualify a new source for the tailpipes, and that even if it did it could not qualify Stevens in time to allow it to meet ASO's delivery requirements.

Stevens was not permitted to compete for this procurement: it contends it should have been because it is a responsible supplier of similar items and "fully detailed" specifications exist for the A-6 tailpipe. In its initial protest, Stevens set forth a variety of arguments in support of its position. One of them (that the procurement should have been formally advertised) is untimely. Some others speculate on matters which are not at issue (such as Stevens' responsibility) or which have been clearly refuted by the record (such as whether negotiations were preceded by an appropriate determination and findings). We believe Stevens' protest boils down to the question of the propriety of ASO's decision to restrict the procurement to qualified sources and its conclusion that Stevens could not qualify in time to meet the Navy's needs.

ASO states that the A-6 tailpipe is a highly sophisticated and critical item: Stevens does not appear to disagree. However, contrary to Stevens' position that "fully detailed" specifications exist for this item, ASO states that a complete engineering data package for it does not exist. We believe ASO's position in this regard is supported by Stevens' intention (expressed both in its proposal and protest) to use reverse engineering to produce the item and its request for "tooling and other aid" from Grumman.

Upon receipt of Stevens' proposal, ASO contacted the Naval Air Systems Command (NAVAIR) to see if the proposal could be considered for award. NAVAIR's advice can be summarized as follows:

1. Any new source must qualify to the same specification and test as the current source;

2. The current source (Lavelle) was qualified on the basis of a 450 hour test of the EA6 tailpipe. The EA6 tailpipe is similar to the A6 tailpipe and experiences more severe temperatures and pressures;
3. The original qualification tests took 22 months to complete;
4. The data package for this item was not complete, and an update would require three months of engineering effort for which NAVAIR had no money;
5. Even if the data package was complete, a test program would require the availability of a J-52 jet engine and a test facility. [Estimates of the cost of this testing ranged from \$225,000 to \$380,000.]

ASO states that in view of this advice, particularly regarding the time involved in qualifying a new supplier, it decided that Stevens could not qualify in time for this procurement and that rejection of its proposal was required. Subsequent investigation by ASO indicates that the EA-6B qualification test procedure, which requires 150 hours of testing, might be appropriate. Nevertheless, ASO estimates that at a minimum, this testing would require 3 1/2 months after the J-52 engine and test facility were made available.

We believe that the Navy acted properly in limiting the procurement to only Lavelle and Grumman pursuant to DAR §§ 1-313(a) and 1-313(c) (1976 ed.), since only those firms had previously manufactured or supplied the A-6 tailpipe and the Navy lacked fully adequate data to conduct the procurement on an unrestricted competitive basis and to assure the requisite reliability and interchangeability of parts. Although Stevens maintains that fully adequate data exists, it has failed to prove this allegation. We believe the record supports ASO's position that the Navy in fact does not currently possess full and adequate data in sufficient form to enable it to conduct an unrestricted procurement.

Our conclusion that the procurement was properly restricted to Lavelle and Grumman is based on the Navy's un rebutted position that Stevens could not have been qualified in time to meet the Navy's current need for replacement tailpipes. See, e.g., Applied Devices Corporation, B-187902, May 24, 1977, 77-2 CPD 362. However, we believe a continued failure to at least attempt to establish tests and procedures by which alternate suppliers of A-6 tailpipes could be qualified would be unduly restrictive of competition. Rotair Industries; D. Moody & Co., Inc., B-190392, December 13, 1978, 58 Comp. Gen. \_\_\_ (1978), 78-2 CPD 410. In this regard, the Navy has indicated it is currently studying the possibility of conducting future A-6 tailpipe procurements (other than the next procurement) on a competitive basis.

In view of the fact that Stevens would have been unable to meet the Navy's current need for replacement A-6 tailpipes even if qualification procedures had existed, Stevens' protest is denied.



Deputy Comptroller General  
of the United States