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**DECISION**



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

**FILE:** B-206700

**DATE:** September 8, 1982

**MATTER OF:** Paulmar, Inc.

**DIGEST:**

Protest is sustained where the agency admits it incorrectly evaluated protester's offer of an alternative item under a brand name solicitation which also permitted the submission of alternative offers for evaluation. In addition, GAO recommends that agency attempt to develop a less restrictive purchase description since record suggests doing so is feasible.

Paulmar, Inc. protests the Air Force's award of a contract to Research Technology International (RTI) under request for proposals (RFP) No. FD-2020-82-62274, to supply the Air Force with film inspection and cleaning devices. We sustain the protest.

The RFP listed two specific standard commercial makes and model numbers, one Paulmar model and an RTI model, but contained the following clause permitting offers of alternative items:

"RESTRICTIVE PROCUREMENT METHOD CODE (PMC) ITEM

(A) THE FIRMS LISTED BELOW ARE IDENTIFIED AS APPROVED SOURCE(S). THEY ARE THE ONLY ONES BEING SOLICITED.

(B) OFFERORS OTHER THAN THOSE LISTED BELOW PROPOSING TO MANUFACTURE THE PART WILL NOT BE CONSIDERED FOR AWARD UNDER THIS SOLICITATION UNLESS:

(1) THE OFFEROR SUBMITS, PRIOR TO OR CONCURRENT WITH HIS PROPOSAL, EVIDENCE OF HAVING SATISFACTORILY PRODUCED THE REQUIRED PART(S) FOR THE GOVERNMENT OR THE PRIME EQUIPMENT MANUFACTURER(S); OR

(2) THE OFFEROR SUBMITS, PRIOR TO OR CONCURRENT WITH HIS PROPOSAL, SUCH COMPLETE AND CURRENT ENGINEERING DATA FOR THE PART(S) (INCLUDING MANUFACTURING CONTROL DRAWINGS, QUALIFICATION TEST REPORTS, QUALITY ASSURANCE PROCEDURES, ETC) AS MAY BE REQUIRED FOR EVALUATION PURPOSES TO DETERMINE THE ACCEPTABILITY OF THE PART AS SUPPLIED BY YOUR FIRM FOR GOVERNMENT USE.

(C) OFFERS BASED ON THE SUBMITTAL OF INFORMATION IN ACCORDANCE WITH PARAGRAPH (B) HEREOF MAY, AS DETERMINED BY THE CONTRACTING OFFICER, BE CONSIDERED FOR AWARD UNDER THIS SOLICITATION ONLY IF:

- (1) THE EVALUATION OF SUCH OFFERS IS PRACTICABLE AND IN THE GOVERNMENT'S INTEREST AND CONSIDERING THE AVAILABILITY OF RESOURCES AND COST TO THE GOVERNMENT FOR THE IDENTIFICATION OF NEW SOURCES FOR THE REQUIRED ITEM(S) AS WELL AS THE ADVANTAGES ANTICIPATED TO BE DERIVED BY THE GOVERNMENT; AND
- (2) THE GOVERNMENT CAN, IN FACT, DETERMINE THAT THE ITEM AS SUPPLIED BY YOUR FIRM, IS ACCEPTABLE FOR GOVERNMENT USE; AND
- (3) IN ALL CASES THE EVALUATION/VERIFICATION OF THE SUBMITTAL AND A REQUISITE APPROVAL AND AWARD THEREON CAN BE MADE IN TIME TO MEET THE GOVERNMENT'S REQUIREMENTS."

In addition to offering their approved models listed in the RFP, both Paulmar and RTI offered alternative models. Paulmar offered three different alternative models, one of which was priced (at \$3860 each) lower than the specified models. RTI offered two alternative models, one of which was less

expensive (at \$4600) than the specified models. The Air Force, however, found Paulmar's lower priced alternative model unacceptable, and awarded a contract to RTI for its lowest priced item.

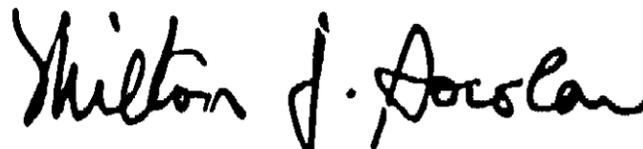
The Air Force admits it improperly evaluated Paulmar's alternate, because the alternate does meet the agency's minimum requirements and is functionally acceptable. The Air Force points out, however, that corrective action is not feasible because RTI's machines have been delivered.

In light of the Air Force's position and our review of the record, we sustain the protest. In addition, we are concerned with the Air Force's use of the brand name only purchase description and the Restrictive PMC clause in this case. Such a restrictive procurement is appropriate only where a particular product meets the Government's needs. Defense Acquisition Regulation § 1-1206.1(b) (1976 ed.); H. R. Simon & Co., Inc., B-199301(1), March 6, 1981, 81-1 CPD 177. Here, however, the record suggests that any of several products might have met the Air Force's needs. The Air Force accepted for award one alternative product, and admits that another alternative product also met its needs. In addition, the Air Force report indicates that in evaluating alternative proposals, the Air Force considered such "minimum mission requirements" as opto-electronic inspection, liquid cleaning, high speed inspection, solid state electronics, adequate work space, and splicing capability. Evaluation on the basis of these minimum requirements suggests that the Air Force might well be able to prepare a functional purchase description, or at the very least a brand name or equal purchase description with salient characteristics, for what clearly is standard commercial equipment. The use of the more restrictive procurement approach in such circumstances is, of course, inconsistent with the statutory requirement that agencies obtain maximum competition consistent with the nature and extent of the items being procured. See 10 U.S.C. § 2304 (1976), H. R. Simon & Co., Inc., supra. Accordingly,

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we are recommending to the Secretary of the Air Force that the agency attempt to develop a more appropriate purchase description for future acquisitions of standard film inspection and cleaning equipment.

The protest is sustained.



Acting Comptroller General  
of the United States