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DECISION



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

FILE: B-218138 **DATE:** May 29, 1985
MATTER OF: ConDiesel Mobile Equipment

DIGEST:

Agency is not required to procure component of an item listed on the industrial readiness program planning list on an unrestricted basis unless the component itself is on the list and a large business listed as a Planned Emergency Producer of the component desires to be a source of supply.

ConDiesel Mobile Equipment protests the rejection of its low bid and the award of a contract to Freund Precision, Inc., under invitation for bids (IFB) No. DAAA09-85-B-0031, issued and set aside for small business by the United States Army Armament, Munitions, and Chemical Command, Rock Island, Illinois. The solicitation sought offers to supply manifold assemblies that are components of M198/M39 155 millimeter howitzer carriages. ConDiesel, a large business, contends that, since it is a Planned Emergency Producer of the howitzer carriages and since it wished to compete, applicable regulations prohibit the Army from restricting the procurement to small business.

We deny the protest.

The Federal Acquisition Regulation (FAR), 48 C.F.R. § 19.502-2 (1984), requires agencies to set aside a procurement for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns and that award will be made at a reasonable price. The regulation makes an exception to this general rule for items that are on an established planning list under the Department of Defense (DoD) Industrial Readiness Planning Program. 48 C.F.R. § 19.502-5 states that a total set-aside shall

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not be made when the planning list contains "a large business Planned Emergency Producer of the item" that desires to be the source of supply.

The manifold assemblies being procured by the Army in this case are spare parts for m198/M39 howitzer carriages. As a Planned Emergency Producer of these carriages, ConDiesel argues that the procurement may not be set aside for small business as long as it desires to supply the manifold assemblies. The protester has previously supplied the manifold assemblies as components under contracts for howitzer carriages and as spare parts under a contract for the manifold assemblies.

ConDiesel initially protested to the Army concerning the decision to set aside the procurement before bid opening, which took place on January 8, 1985. At the contracting officer's suggestion, ConDiesel submitted a bid while the Army considered the protest. On January 30, ConDiesel received a letter from the Army confirming its decision to set aside the procurement.

In response to ConDiesel's protest to our Office, filed on February 7, the Army points out that the manifold assemblies are themselves not on an established planning list. The agency argues that since ConDiesel is not a planned producer of the assemblies, the restriction on small business set-asides in FAR § 19.502-5(b) is inapplicable.

We agree. DoD's Industrial Readiness Planning Program (also described as the Industrial Preparedness Production Planning Program) encompasses planning by DoD with possible producers of essential military items in order to assure the capability for production during periods of national emergency. See DoD FAR Supplement, 48 C.F.R. 208.070 (1984). In selecting items for industrial readiness planning, defense agencies are required to include and list separately components of essential military end items which meet the criteria established for selection of the end items themselves, such as those which require a long lead time for production or require specialized production equipment. DoD Instruction 4005.3, "Industrial Defense Preparedness Planning Procedures" (July 28, 1972), p. 2. Defense agencies enter into planning agreements with subcontractors which manufacture critical components that

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are included on the list of items in the planning program. DoD Manual 4005.3-M, "Industrial Preparedness Planning Manual" (July 1972), pp. 33-47.

In view of the policy of DoD to include separately critical components on the established planning list, we do not believe that an agency is prohibited from setting aside its requirement for a component of a military item unless the component is itself on the list and a large business Planned Emergency Producer of the component desires to be the source of supply. Since the manifold assemblies being procured by the Army are not on the established planning list, the Army could restrict the procurement to participation by small businesses. We therefore find that the Army properly rejected ConDiesel's low bid, since the firm was not eligible for an award.

The protest is denied.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel