



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Interstate Diesel Services, Inc.--
Reconsideration
File: B-230107.3; B-230107.4
Date: August 30, 1988

DIGEST

1. Request for reconsideration of prior decision, holding that solicitation's prequalification testing requirements were not unduly restrictive of competition, is denied where the protester fails to present facts or legal arguments to establish that the prior decision was erroneous.
2. Protest that the original equipment manufacturer (OEM) should be required to undergo the same 400-hour endurance test for the parts being procured as required of all alternate offers is denied where the solicitation did not require testing of OEM parts but only imposed testing for previously unapproved alternate parts.

DECISION

Interstate Diesel Services, Inc. requests reconsideration of our decision in Interstate Diesel Services, Inc., B-230107, May 20, 1988, 88-1 CPD ¶ 480. In that decision, we denied the firm's protest against allegedly unduly restrictive prequalification testing requirements contained in request for proposals (RFP) No. DLA700-87-R-1963, issued by the Defense Logistics Agency (DLA) for the acquisition of a quantity of plunger and bushing assemblies which have been assigned National Stock Number (NSN) No. 2910-00-903-0910. In a separate submission, Interstate also protests award to any offeror proposing to furnish a General Motors part in response to the solicitation.

We deny the reconsideration request and the protest.

The RFP called for the submission of offers on a unit price basis and contemplated the award of a requirements contract to furnish plunger and bushing assemblies manufactured either by General Motors Detroit Diesel Corporation, the original equipment manufacturer (OEM), or Korody-Colyer Corporation, the only firm currently approved as an alternate manufacturer (AM). Firms interested in submitting offers for assemblies which were not manufactured either by

the OEM or the approved AM (i.e. alternate offers) were invited to do so but were apprised that source approval might be required by the Army-Tank Automotive Command (TACOM), prior to the award of a contract. In this regard, the solicitation specifically imposed source approval requirements only for alternate offers and did not require any prequalification testing requirements for the OEM items.

By closing, eight offerors had responded to the solicitation with Interstate submitting the second low offer. The offer of Interstate was an alternate offer for plunger and bushing assemblies manufactured by the firm. Interstate was informed by TACOM that it could not receive source approval for its assemblies until it performed extensive testing thereon. Specifically, the firm was informed that it was required to perform testing in accordance with TACOM Regulation 70-14 which essentially calls for the conduct of a test whereby the manufacturer places its offered part into an engine which is then run for a 400-hour period of time under controlled conditions. The purpose of the procedure is to insure both the reliability and design integrity of the part being tested. Interstate objected to this requirement.

In our May 20 decision, we found that the agency had demonstrated that the prequalification testing requirements demanded were reasonably related to its minimum needs since the item had been reasonably classified as a "critical application" item, and that the protester had failed to show that the agency's actions in imposing these requirements were unreasonable.

In its request for reconsideration, Interstate claims that there are "new facts" recently discovered and not known at the time of our May 20 decision, supporting its earlier assertion that prequalification testing is unnecessary.

Initially, we note that to obtain reversal or modification of a decision, the requesting party must convincingly show that our prior decision contains either errors of fact or of law or information not previously considered that warrant its reversal or modification. See 4 C.F.R. § 21.12(a) (1988); Roy F. Weston, Inc.--Reconsideration, B-221863.3, Sept. 29, 1986, 86-2 CPD ¶ 364. Repetition of arguments made during the resolution of the original protest or mere disagreement with our decision does not meet this standard. Id. In addition, our Office will not reconsider a decision on the basis of an argument previously considered but supported for the first time in a request for reconsideration by evidence that could have been furnished

at the time of our original consideration. J.R. Youngdale Construction Co., Inc.--Request for Reconsideration, B-219439.2, Feb. 20, 1986, 86-1 CPD ¶ 176.

The new facts alleged by Interstate are: (1) General Motors, the OEM, did not undergo a 400-hour endurance test or an engine test similar to the 400-hour endurance test; (2) Korody-Colyer did not perform a 400-hour endurance test for the part in question; (3) "Critical Application" (use of the parts in the M113 personnel carrier) existed since 1964, prior to the imposition in 1983 of the testing requirement; and (4) these parts are also used in other noncritical applications.

We are not persuaded by these "new facts" that our prior decision was erroneous. First, the fact that the General Motors part did not undergo the specific 400-hour endurance test is irrelevant since, as stated in our prior decision, the entire OEM engine had been subjected to extensive testing at the time it was selected for deployment. Specifically, it is the agency's position, which was taken into consideration in our May 20 decision, that the OEM part has met the demands of the testing requirement by virtue of it being a part of the engine that successfully underwent an extensive first article test which took approximately 10 months to complete. In this regard, Interstate challenges the agency's statement that General Motors underwent any type of engine testing because the agency failed to provide Interstate with a copy of the General Motors test report. Instead, the agency has provided a 1983 Inter-Office Memorandum, prepared by the contract administrator for the end item, which describes the testing performed on the entire OEM engine. Notwithstanding the protester's contention, we have no basis on which to conclude that this memorandum written in 1983 is not authentic and that the entire OEM engine did not successfully complete first article testing.^{1/} We therefore find reasonable the agency's determination that the OEM part, having successfully completed a first article test, requires no additional qualification testing.

Second, concerning Korody-Colyer, the agency has provided documentation dated November 12, 1985 indicating that Korody-Colyer had in fact undergone the endurance test on

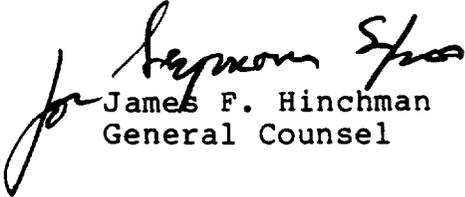
^{1/} The memorandum states that the first article tests occurred in early 1979 which could explain TACOM's inability to locate them. The memorandum also describes the testing conditions and results.

the particular part for the engine in question. We therefore find no merit to this contention.

Finally, the remaining arguments and "new facts" advanced by Interstate were also raised in Interstate's original protest and were considered by our Office in our decision. Interstate's repetition of these arguments and reliance on the same facts show that it simply disagrees with many of the conclusions in our prior decision; however, mere disagreement or reiteration of previously-rejected positions does not provide a basis for reconsideration. Sony Corp. of American--Reconsideration, B-225512.3, Apr. 10, 1987, 87-1 CPD ¶ 397. We therefore will not consider these arguments again. See Durable, Inc.--Reconsideration, B-228911.2, Dec. 31, 1987, 88-1 CPD ¶ 5. Accordingly we deny the request for reconsideration.

In a separate submission, Interstate protests any award to an offeror which proposes to furnish a General Motors part that did not pass the 400-hour endurance test. Interstate contends that "if the agency continues to require endurance testing of alternate manufacturers, the agency [should also] require the same testing for General Motors parts." The short answer is that the RFP did not require testing of the OEM part but, rather, only required testing of alternate parts since the OEM part had successfully passed first article testing. We therefore find no merit to this argument.

The request for reconsideration and the protest are denied.


James F. Hinchman
General Counsel