



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: EG&G Sealol
File: B-232265
Date: December 5, 1988

DIGEST

Where samples and documentation submitted by an unapproved source deviated from the approved design for critical, safety-related flight equipment, and the contracting agency lacks the technical data necessary to assure conformity in all significant respects, it is not unreasonable for the agency to refuse to further consider the proposed product until either the product undergoes testing, or an on-going agency-sponsored reverse engineering effort yields the necessary technical data.

DECISION

EG&G Sealol protests the award of a contract to Kaydon Corporation, under request for quotations (RFQ) No. FD203088-23331, issued by the Oklahoma City Air Logistics Center, Tinker Air Force Base, Oklahoma, for seals and cover rings. The award to Kaydon was made on a sole source basis because that firm was the only source approved to manufacture this item when the RFQ was issued and at the time of award. EG&G, however, asserts that the award was improper because it was not afforded a reasonable opportunity to become an approved source. We deny the protest.

The required seals and cover rings--for the No. 1 seal assembly--retain the oil used on the main bearing of the General Electric Corporation J-79 jet engines which power the F-4 fighter aircraft. The Air Force considers the seals to be critical parts. If they do not work properly, the oil will leak out, causing the main bearing to burn out and the engine to shut down; an engine fire and loss of the aircraft may ensue. The agency lacks detailed drawings for the parts; the technical data on the seals is proprietary to Kaydon and is unavailable for a competitive procurement package. Although the Air Force awarded a contract in 1987 to Stein Seal Company to reverse engineer the seals in order

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to obtain a complete data package, the final data from this contracting out reverse engineering (CORE) contract have not yet been validated and are therefore unavailable.^{1/}

The RFQ was issued on November 16, 1987, after publication of a synopsis in the Commerce Business Daily. The synopsis announced that the agency intended to negotiate a contract with Kaydon as the only previously identified and approved source. The Air Force solicited expressions of interest from other firms, but warned that it lacked an adequate data package for the parts and that offers from firms not previously identified as sources would be considered only if it could be determined prior to award, on the basis of data supplied by the firm, that the proposed material would meet the agency's requirements. The agency further cautioned that its needs for the seals was urgent and that award could not be delayed pending approval of a new source.

On December 30, EG&G submitted a proposal offering its own parts at \$85.20 per unit; shortly thereafter, on January 6, the company requested source approval for the parts. From January 6 until August 3, the Air Force competition advocate attempted to obtain approval for EG&G's parts. In its request for source approval, EG&G pointed out that it had been found technically qualified in the CORE procurement to reverse engineer the rings. Further, EG&G certified that the technical data it would use to manufacture the Kaydon part was legally obtained from General Electric and by reverse engineering to insure compatibility with the Kaydon kit for the No. 1 bearing seal assembly. In response to agency reservations concerning its documentation, however, EG&G conceded in a letter dated April 12, that it was "not possible for us, at this time, to yield a reverse engineering package," noting that the tolerances permitted for these seals are "extremely tight" in order to limit oil leakage. Nevertheless, EG&G maintained that it had acquired the necessary technical data to manufacture the No. 1 seal assembly as a result of its membership in a Japanese joint venture that produced seal assemblies for Japanese F-4 aircraft under license from Kaydon.

Information supplied by EG&G, however, was found to indicate that the Japanese joint venture had modified the design of its seal assembly relative to the original design. Likewise, an examination of the drawings supplied by EG&G revealed several apparent differences in design between EG&G's parts and the Kaydon parts previously approved by the Air Force. Although EG&G subsequently submitted revised

^{1/}EG&G was an unsuccessful offeror for the CORE contract.

drawings on June 23, the agency's concern that the firm might supply parts with differences from the approved design which were not readily apparent was enhanced by its examination of samples provided by EG&G pursuant to an offer made at a June 20 meeting with the agency. Since it had not yet manufactured the No. 1 seal assembly, EG&G supplied samples of a different, No. 3 seal assembly; again, however, the EG&G design differed from the approved Kaydon design.

Based on the continuing¹ design differences, the agency concluded on August 3 that EG&G was unlikely to receive source approval for several months. In view of its urgent requirement for the parts, the agency therefore made award to Kaydon at a price of \$173.13 per unit. The Air Force subsequently denied EG&G's source approval request due to the differences in design relative to the Kaydon parts; the agency would reconsider its decision, however, upon either completion of the CORE reverse engineering contract for a competitive procurement data package, or the actual testing of EG&G's seal assembly in a J79 engine.

In its protest, EG&G contends that it was denied a reasonable opportunity to qualify as a source for the No. 1 seal assembly. In particular, it argues that in the evaluation of its qualifications, the Air Force unreasonably failed to take into consideration the determination made in the course of the CORE procurement that EG&G was technically qualified to reverse engineer the parts, and EG&G's acquisition of technical data from a Japanese manufacturer of seal assemblies used in Japanese F-4 aircraft.

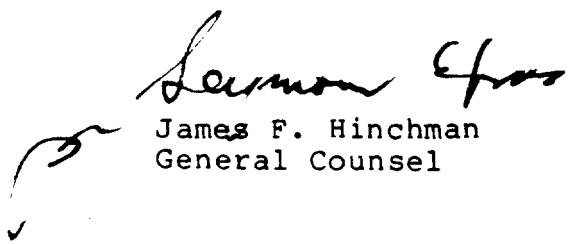
An agency may limit competition for the supply of parts if doing so is necessary to assure the safe, dependable and effective operation of military equipment, B.H. Aircraft Co., B-222565, et al., Aug. 4, 1986, 86-2 CPD ¶ 143, and if nonapproved sources are given a reasonable opportunity to qualify. Pacific Sky Supply, Inc., 64 Comp. Gen. 194 (1985), 85-1 CPD ¶ 53. In such cases, parts should generally be procured only from sources that have satisfactorily manufactured or furnished them in the past, unless fully adequate data, test results, and quality assurance procedures are available. See Aero Technology Co., B-227374, Sept. 25, 1987, 87-2 CPD ¶ 301; see generally Interstate Diesel Services, Inc., B-230107, May 20, 1988, 88-1 CPD ¶ 480 (critical parts). Further, the procuring agency is responsible for evaluating the data supplied by an offeror or bidder and ascertaining if it provides sufficient information to determine the

acceptability of a product; we will not disturb the agency's technical determination unless it is shown to be unreasonable. Hose Co., Inc., B-225122, Mar. 6, 1987, 87-1 CPD ¶ 258.

We find that the Air Force provided EG&G a reasonable opportunity to qualify its parts and did not unreasonably deny its source approval request. Notwithstanding an increasingly urgent need for the parts, the agency afforded EG&G several opportunities over a span of 7 months to demonstrate its qualifications to provide the parts; the firm, however, simply was unable to do so. The fact that EG&G had previously been found technically qualified to reverse engineer the seals in no way established that it had already done so. On the contrary, as EG&G subsequently conceded, the firm was unable to reverse engineer the Kaydon parts to the required tolerances.

Although EG&G claimed nevertheless to have acquired the necessary technical data, EG&G's actions during the approval process did not support its claim. The firm advised the agency that the Japanese joint venture through which it had acquired its data had modified Kaydon's design; the initial drawings the firm submitted contained apparent deviations from the approved parts; and the sample seal assembly submitted as evidence of the firm's ability to produce the required seals likewise contained apparent deviations from the approved design. We recognize that the protester maintains that these deviations would not reduce the effectiveness of the seals and that, in any case, it was willing to correct any deviations. In view of the Air Force's lack of detailed drawings, however, and its consequent inability to ascertain the seriousness of these deviations, or whether there were other less obvious, more significant design deviations, we think the agency reasonably determined that it could not rely solely upon EG&G's assurance of conformity. We conclude that the Air Force reasonably refused to approve EG&G as a source pending actual testing or the availability of the necessary technical data from the on-going, agency-sponsored reverse engineering effort.

The protest is denied.



James F. Hinchman
General Counsel