

C. Huppert



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: O.V. Campbell & Sons Industries, Inc.

File: B-236799; B-236800; B-237074

Date: January 4, 1990

DIGEST

1. Where protester argues that awardee's proposed roofing system does not meet specification requirement for 100 percent polyester ply sheets, but protester proposed using ply sheets of the same composition as offered by awardee and agency has determined that both roofing systems will satisfy its minimum needs, contracting officials have treated both offerors equally and there is no basis to sustain protest against award.

2. Agency's determination that awardee met requirement that manufacturer possess 3 years experience with roofing system specified in solicitation is unobjectionable where record indicates manufacturer had at least 3 years experience with the same basic type of roofing system, if not necessarily with all the same materials to be used on current project.

DECISION

O.V. Campbell & Sons Industries, Inc., protests the Army's award of three contracts to Perrill Construction Company, under invitation for bids (IFB) Nos. DAEA18-89-B-0020, DAEA18-89-B-0022, and DAEA18-89-B-0026, for reroofing various units of government housing at Fort Huachuca, Arizona. Perrill was the low bidder and Campbell the second low bidder on each IFB. Campbell contends that Perrill's bids should have been rejected as nonresponsive because the roofing system it specified in its the bids does not meet the solicitation requirements and Perrill's roofing system manufacturer did not have 3 years of experience installing the specified system, as required by the solicitation.

We deny the protests.

Each solicitation required submission with bids of an attached certification identifying the proposed roofing system; the manufacturer was to certify that it had reviewed

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the specifications for the required built-up roofing system, that the system specified in the certification was suitable for use with the roof system construction required for the project as it relates to normal wear and tear, that the roofing contractor was a licensed applicator able to obtain a 15-year warranty, and that in fact the system was subject to a material and workmanship warranty for 15 years. The specification in each IFB also required that the roofing system manufacturer have a minimum of 3 years experience with the specified roofing systems.

Campbell contends that Perrill's proposed roofing system, as identified in the required certification, does not meet the specification requirement that the roofing ply sheets be 100 percent spunbond, uncoated polyester, or the requirement that the thickness of the ply sheets be within the range of 17 to 23 mils. Campbell concludes that Perrill's bid therefore should be rejected.

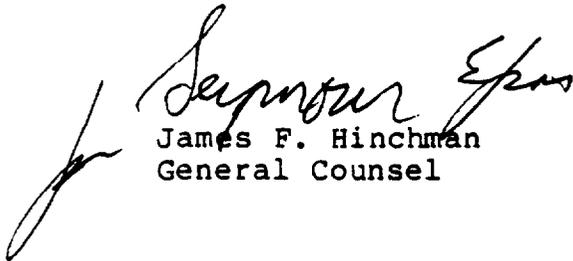
We find this argument unpersuasive. The Army reports that, while Perrill did in fact offer a system with ply sheets that are only 80 percent polyester and 20 percent acrylic, these 80/20 ply sheets are sufficient to meet its needs and, more significantly, that Campbell offered a system with ply sheets of the exact same composition (Campbell has failed to respond to our specific requests that it confirm whether its system's ply sheets are 100 percent polyester). Since both offerors therefore were treated equally and the Army's needs will be met by the 80/20 ply sheets, there is no basis for sustaining Campbell's protest in this regard. See Emulex Corp., B-236732, Dec. 27, 1989, 89-2 CPD ¶ _____. As for the thickness of the ply sheets, the record indicates that the roofing system Perrill proposed in fact includes ply sheets that fall within the required range of 17 to 23 mils.

With respect to Campbell's challenge to the experience of Perrill's proposed manufacturer, the IFBs required the manufacturer to have 3 years experience with "the system specified herein;" the solicitation did not require submission with the bids of evidence of such experience, but instead provided that "upon request, manufacturer shall submit list of all prior applications" of the specified system. It appears that, prior to award, in response to an inquiry from the Army, the manufacturer of the system Perrill specified verified that it possessed the required 3 years of experience. Although it is unclear whether the manufacturer had 3 years experience with a system identical in every respect to the system specified by Perrill here--it appears different ply sheets may be substituted into the system for different applications--the manufacturer reported experience with hot process, built-up polyester roofing, the

general system specified in the specifications, with specific installations of the system occurring in 1984, 1985 and 1986, and the record includes a report from a roofing installer that it has installed the manufacturer's systems in 51 projects since 1984. Applying the above standard, we think the Army reasonably determined that Perrill's manufacturer met the experience requirement.

The protester questions the representations by Perrill's system manufacturer, maintaining that because some of the materials used on some of the prior projects were different than those to be used on this project, the manufacturer should not be deemed to have the requisite 3 years of experience with the specified roofing system. However, we find no basis for such a restrictive reading of the experience requirement. Perrill's manufacturer clearly has experience installing its own hot process, built-up polyester roofing system, and the Army considers this experience acceptable to satisfy the experience requirement. We are not persuaded that substitution of certain materials into such a roofing system to tailor it to the particular requirements of individual projects detracts from the safeguard the experience requirement was intended to provide, and thus cannot conclude that substitution of materials rendered experience with the basic system inapplicable to satisfy the experience requirement here.

The protests are denied.



James F. Hinchman
General Counsel