



Comptroller General
of the United States

Washington, D.C. 20548

Mr. Vickers

Decision

Matter of: Warrensville File & Knife, Inc.

File: B-241805

Date: March 1, 1991

Hubert J. Bell, Jr., Esq., Smith, Currie & Hancock, for the protester.
Roger D. Waldron, Esq., General Services Administration, for the agency.
James Vickers, Esq., Andrew T. Pogany, Esq., and John Brosnau, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Preaward samples of hand files were reasonably found unacceptable because they were not "double-cut," the length of the files as required by solicitation's commercial item description and also contained other defects of height, shape and form.

DECISION

Warrensville File & Knife, Inc. protests the rejection of its proposal submitted under request for proposals (RFP) No. FPMR AR-900041-N, issued by the General Services Administration (GSA). The RFP was for a Federal Supply Schedule requirement contract for hand files. Warrensville's preaward samples were rejected because GSA found that they were not "double-cut" as required by the commercial item descriptions (CIDs).

We deny the protest.

The RFP was issued on March 28, 1990, for 32 line items to be awarded on an item-by-item basis. Items 2, 5, 9, 14, 17 and 19 are the items being protested by Warrensville. Each of the CIDs for these items required the following for the rounded work side of the files: "Double-cut (two sets of parallel cuts in the surface, one set crossing the other)." The RFP advised offerors that preaward sample inspection procedures would be used to determine compliance with required characteristics, including workmanship characteristics that may impair serviceability, durability and/or safety. The RFP required that the teeth of the file be well-defined, sharp, and uniform in height and formed throughout the fully cut

portion, with no evidence of rust or other defect which may impair serviceability, durability, or appearance.

Warrensville submitted a timely proposal on May 10, the initial closing date for receipt of proposals. Warrensville's initial preaward samples were rejected for various reasons, and Warrensville was given an opportunity to submit additional samples for the above items. Warrensville's second set of samples (consisting of round or half-round files) was rejected by GSA because the samples were found not to be double-cut. Award of the protested items was subsequently made to William Dixon Company.^{1/}

The protester argues that GSA's rejection of its preaward samples was the result of a misevaluation since its files should have been properly evaluated as double-cut with two sets of parallel cuts on their surface, one crossing the other.

The protester's allegations that its samples were misevaluated constitute a challenge to the agency's technical evaluation. Our Office will review an allegedly improper technical evaluation of such samples to determine whether the evaluation was fair and reasonable and consistent with the evaluation criteria.

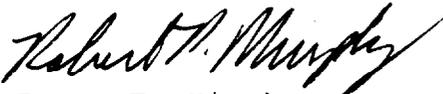
There is much argument in the record as to what the solicitation specifically required by "double-cut." We limit our discussion to our finding that GSA reasonably rejected the bid samples based on our own examination of these samples. The RFP clearly required, in addition to the files being double-cut, that the files be well-defined, sharp and uniform in height with no defect impairing serviceability or appearance. GSA found that Warrensville's samples were not uniformly cut throughout the length of the files. GSA states that some of the samples were only single cut in certain sections and in others the second set of parallel cuts were not of the same depth as the initial cut, resulting in uneven

^{1/} Warrensville's files are produced using the chisel-cut method of production. William Dixon offered files produced the etch-cut method. Both methods of production are acceptable under the CIDs. The chisel-cut method produces the file teeth by having the file block pass through the cutting machine and being struck by a chisel which raises a tooth on the block during each downstroke. The etch-cut method uses etching file which passes over the file block, cutting a continuous line in one direction, and then the block is moved to produce a line in the opposite direction which crosses the first line and produces the file teeth.

teeth height. We have examined the Warrensville samples that GSA submitted to our Office and conclude that GSA's description of the samples is accurate. In some of the samples, there are in certain sections only one single cut with no intersecting second cut to produce the file teeth. The corresponding second set of parallel cuts is missing or is made up of slight indentations of varying depths. Other sample files contain gaps or valleys, and teeth are of inconsistent height, shape and form. All sample files contain these or similar defects. Accordingly, we find that GSA reasonably determined that Warrensville's samples did not comply with the requirements of the RFP and, therefore, properly found Warrensville's proposal for these items technically unacceptable.^{2/}

While Warrensville argues that these same type files were accepted under the same CIDs in previous procurements by GSA, each procurement is a separate transaction and the fact that product may have been acceptable under one procurement does not affect the rejection of samples under another procurement. See Rack Eng'g Co., B-208554, Mar. 7, 1983, 83-1 CPD ¶ 224.

The protest is denied.


for James F. Hinchman
General Counsel

^{2/} Warrensville also contends that since it is a small business and it believes the rejection of its preaward sample relates to its responsibility, the matter should have been referred by GSA to the Small Business Administration (SBA) under the certificate of competency procedures. This protest ground was raised more than 10 working days after the protester knew or should have known of the basis of this ground of protest. Accordingly, we dismiss this protest ground. 4 C.F.R. § 21.2(a)(2) (1990).