



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: RMS Industries
File: B-247233; B-247234
Date: May 1, 1992

Richard Snyder for the protester,
Philip F. Eckert, Jr., Esq., Defense Logistics Agency, for
the agency,
Daniel I. Gordon, Esq., and Paul I. Lieberman, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protest that solicitation requirement that unit containers for abrasive wheels destined for indefinite storage be weather resistant exceeds the agency's minimum needs is denied where the requirement reflects the applicable industry standard, which the agency reasonably concluded was appropriate for its needs.

DECISION

RMS Industries protests the specifications in request for quotations (RFQ) Nos. DLA400-92-T-4287 and DLA400-92-T-4294, small purchase solicitations, issued by the Defense Logistics Agency (DLA) for abrasive wheels. RMS contends that the packaging specifications under both RFQs exceed the government's minimum needs.

We deny the protest.

Each RFQ lists somewhat different preservation and packing methods required for the wheels. Those methods, which are detailed in Military Specification MIL-A-3816, establish three levels, in decreasing order of stringency: A, B, and "commercial." RFQ No. DLA400-92-T-4287 allows both preservation and packing to be at the commercial level, the least demanding method. RFQ No. DLA400-92-T-4294 requires that the A level be met for the preservation, thus requiring weather-resistant boxes, but allows commercial-level packing.

RMS protested that both RFQs require A-level packaging and contends that the A-level requirement exceeds the government's minimum needs because the government is unnecessarily requiring offerors to package the abrasive wheels in multiple layers of moisture-resistant boxes.¹

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition, 10 U.S.C. § 2305(a)(1)(A) (1988), and may include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs, 10 U.S.C. § 2305(a)(1)(B). Where a protester alleges that a requirement is unduly restrictive, we review the record to determine whether the requirement has been justified as necessary to satisfy the agency's minimum needs. Admiral Towing and Barge Co., B-245600; B-245602, Jan. 16, 1992, 92-1 CPD ¶ 83.

Here, the agency has included the least restrictive packing specification for RFQ No. DLA400-92-T-4294. Consequently, to the extent that RMS's protest is premised on the assumption that A-level is required for the packing under that RFQ, the protest is without factual basis. The RFQ does specify A-level preservative application, which requires that unit containers for the wheels be weather resistant. RMS argues that such weather-resistant unit containers exceed the agency's minimum needs because the wheels being packaged are made with a resinoid bonding that does not absorb moisture.

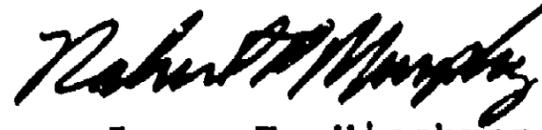
DLA explains that A-level preservative is not always required, but is generally specified when the wheels are to be held in a storage depot. In support of that requirement, the agency cites American National Standards Institute (ANSI) safety requirements for the use, care, and protection of abrasive wheels. The ANSI standard provides that organic bonded wheels, including those with resinoid bonding, should be protected, when stored, from exposure to water, excessive humidity, or dampness. Thus, the ANSI standard, which is the applicable industry standard, calls for all abrasive wheels, including those with resinoid bonding, to be stored away from exposure to water, excessive humidity, or dampness.

¹The agency correctly points out in its report that RFQ No. DLA400-92-T-4287 does not require A-level preservation or packing; thus, RMS's protest is factually misplaced as to that RFQ. Since RMS did not respond in its comments, we will not address RMS's challenge to RFQ No. DLA400-92-T-4287. See Hampton Rds. Leasing, Inc., 71 Comp. Gen. 90 (1991), 91-2 CPD ¶ 490.

While RMS contends that DLA is acting unreasonably in requiring that all organic bonded wheels, even those with resinoid bonding, be protected from moisture, the agency's action reasonably reflects the industry standard. The lesser requirement under RFQ No. DLA40-92-T-4287 evidences the fact that the agency does not impose the strict A-level requirement in all cases, but imposes the requirement only where the wheels are actually destined for storage. Indeed, since the wheels at issue are to be stored for an unspecified period of time, requiring that the unit containers be weather resistant appears reasonable, even without the industry standard to support that position.

The determination of the agency's minimum needs and the best method of accommodating them are primarily within the agency's discretion and, therefore, we will not question such a determination unless the record clearly shows that it was without a reasonable basis. See CardioMetrix, B-234620, May 1, 1989, 89-1 CPD ¶ 415. Here, we find that the agency's reliance on the applicable industry standard in determining the minimum needs for preserving abrasive wheels destined for storage depots constitutes a reasonable basis for the requirement that unit containers be weather resistant.

The protest is denied.


for James F. Hinchman
General Counsel