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Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: Ecotat Systems Company

File: B-253691.2

Date: April 1, 1994

Monroe S. Ozment for the protester.
E.J. Stolark, Marine Corps Systems Command, for the agency.
Christina Sklarew, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation provides that award will be based on the technically acceptable, low-priced offer, protester's assertion that awardee's product would not perform as well as protester's own proposed product does not invalidate award decision where the agency reasonably determined that the awardee's product was technically acceptable.

DECISION

Ecotat Systems Company protests the award of a contract to Tennier Industries, Inc. by the Marine Corps under request for proposals (RFP) No. M67854-93-R-0039. Ecotat contends that the award is improper because the product that Tennier offered allegedly does not comply with the RFP's specifications. We deny the protest.

The Marine Corps Systems Command issued the RFP in April 1993. The solicitation contemplated the award of a firm, fixed-price contract for the fabrication, manufacture, and delivery of 2,400 modular sleeping bags during the base year, with four 1-year options for 50,000 additional sleeping bags. The RFP provided for award to the firm with the low, technically acceptable offer. The specifications describe a two-component sleeping bag, including a lightweight patrol bag for use in a specified temperature range and an intermediate cold bag for use in a colder, specified temperature range. The description specifies such design features as the ability to combine together to create an extreme cold weather bag (for use at a designated temperature), compatibility with a cover sack (identified by a National Stock Number), and a maximum gross weight for the two components. The salient characteristics of the component bags are described at length, and include the requirements that the insulation material in each of the

two types of sleeping bags be "a lightweight, highly compressible, hydrophobic, synthetic material," and that the insulation "will regain at least 80 percent of its original loft after 3 months of continuous compression in the stuff sack." The record shows that the Marine Corps deliberately chose not to require the use of a specific insulation in the sleeping bags, instead describing its minimum needs in terms of performance specifications that alternate approaches could meet, in order to maximize competition.

Prior to the closing time for receipt of initial proposals, a vendor submitted a protest to our Office, objecting to the specifications as overly vague. During the pendency of that protest, four offerors, including Ecotat, submitted timely proposals and sample sleeping bags. After our Office denied the protest against the specifications, see Isratex, Inc., B-253691, Oct. 13, 1993, 93-2 CPD ¶ 221, the Marine Corps awarded contract No. M67854-93-M-0039 to Tennier as the technically acceptable, low cost offeror. This protest followed.

Ecotat contends that Tennier uses Polarguard or Polarguard HV to insulate the sleeping bags it is offering, and asserts that these materials do not comply with the specification's requirement for compressibility and loft-retention. Ecotat argues that the manufacturers of this insulation material specifically state in their care instructions that sleeping bags using this material should not be stored in compression stuff sacks, and quotes one manufacturer's label as advising: "Never store down or synthetic bags in their small nylon stuff sacks for long periods of time. If the insulation is tightly compressed for too long, the loft structure of the insulation will break down and lose its capability to trap air." Ecotat states that its own sleeping bags are made with Lamilite insulation, which it describes as an unbonded, silicone-coated, and continuous filament fiber. The protester contends that Lamilite is the only insulation on the market that will regain 100 percent of its loft after being stored in a compression stuff sack for a period of 3-1/2 months.

In considering protests against an agency's evaluation of proposals, we will examine the record to determine whether the evaluation was reasonable and consistent with the evaluation criteria. SeaSpace, 70 Comp. Gen. 268 (1991), 91-1 CPD ¶ 179. The procuring agency is required to specify its needs in a manner designed to promote full and open competition. See LaBarge Prods., Inc., B-232201, Nov. 23, 1988, 88-2 CPD ¶ 510. The contracting agency, which is most familiar with its needs and how best to fulfill them, must make the determination as to its needs in the first instance. Similarly, it must reasonably determine the type

and amount of testing necessary to ensure that a particular product will meet these stated needs. Tennessee Apparel Corp., B-253178.3; B-253178.4, Sept. 21, 1993, 94-1 CPD ¶ 104.

The agency explains in its report that the loft-retention requirement was used as one of the performance-based specifications for insulating material, rather than designating a particular type of insulation, in order to maximize competition. The project officer concluded that the majority of commercially available, high-performance sleeping bag insulation materials would meet the requirement, based on information provided by commercial sleeping bag and insulation manufacturers. Before the RFP was issued, the agency tested this assumption by arranging to have an independent laboratory evaluate a representative sample of commercially available, high-performance sleeping bag insulation materials. Polarguard HV and Lamilite were among the materials tested. The evaluation report shows that Polarguard HV performed slightly better than Lamilite in the compression tests.

The protester questions the validity of the tests that were performed to determine whether the various insulation materials could meet the loft-retention requirement. The report explains that the laboratory simulated the effects of 3 months' storage in a stuff sack by increasing the amount of pressure on the materials and applying that pressure for a shorter period of time. The method of testing was based on the premise, supported by several representatives in the sleeping bag/insulation industry, that any change that occurs in an insulation material is most likely to occur in the first few hours of compression. In addition to the fact that the evaluation was conducted by a firm that is considered an expert within the commercial outdoor equipment industry, the agency contracting personnel were able to verify the effectiveness of the test results by comparing the performance of Lamilite--for which the Marines had field-user evaluation data reporting favorable results--with the performance reported for the other types of insulation. Since the test showed that a majority of the materials tested met or exceeded Lamilite's performance in the tests, and the agency had been satisfied with Lamilite's performance in actual use, the project officer concluded that the test provided a reasonable measure of performance.

While the protester argues that the Polarguard HV insulation proposed by the awardee will not meet the loft-retention and compression requirements, the Corps' uncontroverted test results show that this insulation meets these requirements. We think the Marine Corps reasonably relied on the test

results provided by the independent laboratory. See Tennier Indus., Inc., B-252338, June 18, 1993, 93-1 CPD ¶ 471. Moreover, Ecotat has not provided any specific support for its allegation that the material offered by the awardee does not comply with the RFP's loft-retention requirement. Rather, the protester relies on general statements regarding the improvidence of storing any insulation materials (natural or synthetic) in a compressed state for too long a time. Even accepting at face value the premise that it is inadvisable to compress insulation materials for extended periods of time, we find no evidence in the record that Polarguard HV does not comply with the loft-retention requirement at issue here.

The protester's argument that Polarguard HV does not comply with the loft-retention requirement appears to also be based on its allegation that its own proposed insulation material will produce a higher-quality product than the insulation material that Tennier is offering, that its product, in fact, exceeds the actual requirements under the RFP because it regains 100 percent of its loft after being stored in a sack for 3-1/2 months. However, the RFP does not provide for a relative evaluation of products, or otherwise allow for higher scoring of materials that exceed the specified requirements; rather, award was to be based on the technically acceptable, low-priced offer.

The protest is denied.

Robert P. Murphy
Acting General Counsel