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Comptroller General  
of the United States

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Washington, D.C. 20548

# Decision

**Matter of:** Masbe Corporation Limited

**File:** B-260253.2

**Date:** May 22, 1995

Sam Zalman Gdanski, Esq., for the protester.  
John E. Pettit, Esq., and Cassandra Wong, Esq., Department  
of the Air Force, for the agency.  
Andrew T. Pogany, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

## DIGEST

A proper basis for a sole-source for a critical military aircraft engine part exists where only one known responsible source is available to provide the item which will satisfy the government's needs, such as where adequate data does not exist or is not available to permit conducting a competitive procurement. Further, the kind, amount, and need for testing of a critical part is a matter within the competence of the procuring agency, so that we will not disturb the agency's position in that respect in the absence of clear evidence indicating the position is unreasonable.

## DECISION

Masbe Corporation Limited protests the award of a contract to General Electric Co. (GE) under request for proposals (RFP) No. F41608-94-R-46267, issued by the Department of the Air Force for a quantity of outer combustion shells for J85 aircraft engines. Masbe submitted an unsolicited proposal to supply the part which was rejected by the agency because the government did not have adequate data to define the part's performance.

We deny the protest.

Briefly, the outer combustion shell is critical to the performance of the aircraft engine and is complex to manufacture.<sup>1</sup> The Air Force previously determined several years ago that it was necessary to prequalify potential

<sup>1</sup>The protester does not dispute that this part is critical. Failure of this part in service could result in catastrophic engine failure and fire, resulting in extreme hazard to personnel and aircraft.

offerors. The Air Force also determined that it was not in possession of adequate data to establish qualification requirements for the part since it did not possess "form and fit" drawings; procedures necessary to test the part for proper function; and performance standards which the part must meet when tested for proper function. The Air Force was aware of only one source which possessed the missing data, GE, the designer of the J85 engine.

By letter dated July 17, 1992, the Air Force requested GE to provide the missing data and otherwise assist the agency in testing other offerors for source approval. On December 7, GE denied this request, stating that it considered this information to be proprietary and that its participation in qualifying other sources could subject the firm to lawsuits. On February 2, 1993, the Air Force therefore approved a 2-year waiver from specifying qualification requirements for this part for other potential offerors to meet pursuant to Federal Acquisition Regulation § 9.202(b). As a result of this waiver, GE remained as the only qualified source for this part from February 2, 1993 to February 2, 1995.

On September 14 and 19, 1994, the Air Force synopsised this sole-source requirement in the Commerce Business Daily. By letter dated September 28, Masbe requested a copy of the solicitation; Masbe stated that it was in the process of challenging the waiver of qualification requirements with the Secretary of the Air Force. On October 4, the Air Force issued this RFP for 267 outer combustion shells; the RFP was addressed to GE and stated that the closing date was November 4. The Air Force also provided Masbe with a copy of the RFP. On October 31, the Air Force received a proposal and source approval request (SAR) from Masbe for this solicitation. On January 11, 1995, the Air Force notified Masbe that its SAR had been disapproved. On January 23, the Air Force executed a justification and approval authorizing the use of other than full and open competition procedures to purchase this part on the basis that the part was available only from GE and that no other part would satisfy Air Force requirements, as authorized by 10 U.S.C. § 2304(c)(1) (1994).<sup>2</sup> This protest followed.

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<sup>2</sup>In anticipation of the expiration of the waiver on February 2, 1995, the Air Force again requested GE by letter dated January 25 to provide the necessary data to the government or assist the government in testing other offerors for source approval. By letter dated January 31, GE denied this request. The Air Force then approved a new waiver from establishing qualification requirements for a new 2-year period beginning February 21, 1995.

A proper basis for a sole source exists where only one known responsible source is available to provide the item which will satisfy the government's needs, such as where adequate data does not exist or is not available to permit conducting a competitive procurement. See Piezo Crystal Co., 69 Comp. Gen. 97 (1989), 89-2 CPD ¶ 477. Further, the kind, amount, and need for testing of a critical part is a matter within the competence of the procuring agency, so that we will not disturb the agency's position in that respect in the absence of clear evidence indicating the position is unreasonable. See D Square Eng'g Co., B-204998, Apr. 6, 1982, 82-1 CPD ¶ 316.

The protester presents very specific technical arguments as to why and how the Air Force should test and qualify its part as an approved part. The protester is not requesting that the agency perform a reverse engineering process on the part; rather, the protester states that a comprehensive dimensional inspection of the part followed by a "side-by-side instrumented rig (engine) test and subsequent metallurgical analysis of a Masbe produced liner versus a General Electric produced liner will [prove] that they are equivalent." According to Masbe, such a test would also prove that Masbe's manufacturing parameters are similar or the same as General Electric.<sup>3</sup> Further, Masbe states that by using a 50-piece sampling lot, the Air Force could determine variables such as a "rich blowout/lean blowout limits, temperature profile [and] stability profile." The protester also argues that the agency lacks the commitment to lower cost through competition (Masbe's proposed part is substantially less expensive than GE's part), and that the Department of the Army, unlike the Air Force, has made substantial effort and investment in competing critical parts for Army helicopters.

We find reasonable the agency's technical rationale, as stated below, for not approving the protester's part. The agency states that the part is subject to considerable variability due to its configuration and the processes used in manufacture. Without technical data, the agency states that it would not be able to tell what variation in configuration and manufacturing process led to acceptable performance or what aspect of the part's dimensional

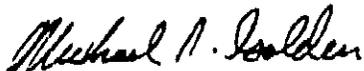
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<sup>3</sup>Masbe states that "form and fit" can only be verified with full component layout to ensure dimensional accuracy to the blueprint as well as an engine assembly "fit" check verifying physical acceptance of the component to the engine and its mating parts. Masbe "assume[s] that a dimensionally accurate part built in accordance with [the GE] blueprint procedures will fit an engine possessing dimensionally correct mating parts."

configuration adversely affected performance or longevity. Examples of the standards for performance of this component and the effect of this part on other components within the engine are: (1) performance limits for combustor pressure drop vs. inlet flow parameter (affects overall engine efficiency), (2) effective area vs. pressure ratio, (3) peak temperature vs. exit temperature probe immersion location (affects the life of parts downstream of the component in question), (4) profile factor vs. exit temperature probe immersion location, and (5) temperature rise capability vs. fuel/air ratio. Without appropriate standards from GE, the Air Force states that the part cannot be properly tested; simply put, the agency does not know what or how to test the part.

We do not think that the protester, with its arguments concerning dimensional and fit testing, has shown that the agency's concern about the fundamental reliability and safety of Masbe's alternate part to have been unreasonable. Because of the criticality and complexity of the part, and because the agency lacks testing standards available only from GE, we will not disturb the agency's rejection of the protester's unsolicited proposal.

The protest is denied.

  
For Robert P. Murphy  
General Counsel