



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Magnum Products, Inc.

File: B-265604

Date:

Thomas Joseph for the protester.

Octavia R. Johnson, Esq., and Granette A. Trent, Esq., Department of Justice, for the agency.

Jeanne W. Isrin, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Requirement that generators have an individual line harmonic distortion of less than 5 percent is not unduly restrictive of competition where the record demonstrates that the requirement, which is based on a military specification, represents a reasonable judgement as to the agency's minimum needs.

DECISION

Magnum Products, Inc. protests provisions of request for proposals (RFP) No. IPI-R-0337-95, issued by the Federal Bureau of Prisons, Federal Prison Industries, Inc. (UNICOR), for diesel engine-driven, 6-kilowatt engine-generator sets.

We deny the protest in part and dismiss it in part.

The engine-generator sets are being procured for the Air Force to replace its existing engine-generators which power NF-2D floodlight assembly carts. The solicitation requirements were developed (1) to remedy reliability and support problems, including engine generator failures, with the Air Force's current NF-2D floodlight assemblies, and (2) to refurbish the floodlight cart assemblies in such a manner that they could be used not only for the originally intended purpose of illuminating a makeshift air landing strip, but also to simultaneously serve as a portable power source for the operation of sensitive electronic test equipment and other electrical equipment. The solicitation, as amended, contemplated a 2-year, firm, fixed-price, indefinite delivery/indefinite quantity contract to supply a minimum of 1,200 and a maximum of 2,035 engine-generator sets per year.

Magnum objects to the specification requirements with respect to the maximum permitted harmonic line distortion of the generator, which essentially is a way of measuring distortion in the voltage put out by a generator. The RFP requires that the generator have an individual line harmonic distortion of less than 5 percent and

a total (average from line-to-line) harmonic distortion of less than 10 percent. Magnum maintains that its generator, which has an individual line harmonic distortion of 7.2 percent and a total harmonic distortion of 8 percent, should suffice to meet the Air Force's requirements. According to the protester, equipment powered by the engine-generator sets will not be affected by harmonic distortion until the distortion exceeds 10 percent.

Where a protester challenges a solicitation provision as unduly restrictive, we review the record to determine whether the restriction imposed is reasonably related to the agency's minimum needs. Coastal Computer Consultants Corp., B-253359, Sept. 7, 1993, 93-2 CPD ¶ 155. The harmonic distortion requirement meets this standard.

UNICOR explains that the restriction on individual line harmonic distortion is based on the fact that military specification MIL-T-28800D--which includes the restriction--governs the procurement of most Air Force electrical equipment and electronic test equipment. That specification requires that equipment procured be manufactured to operate and maintain its specified performance and accuracy notwithstanding input power variations of not greater than 10-percent total harmonic distortion and 5-percent individual line harmonic distortion. According to the agency, allowing greater distortion not only could prevent test equipment from operating as required, but also may cause lamps to strobe or flicker, reduce the life expectancy of equipment (due to higher peak voltages), and produce radio frequency interference.

The agency has reasonably supported the requirement. While UNICOR concedes (and as we gather from the record) that it is not possible to conclude with certainty that relaxing the harmonic distortion restriction would have an immediate adverse impact on the equipment, the 5- and 10-percent restrictions represent the government's best judgement as to where the line should be drawn in gauging how much distortion should be permitted. There has been no showing that these numbers were developed by the military arbitrarily--indeed, they reportedly are the result of testing by the Department of Defense, consultation with outside engineering consultants, and the performance of equipment meeting the specification. Neither has Magnum demonstrated that there is another proven standard upon which the agency reasonably should have based the requirement. Under these circumstances, there is no basis for us to take exception to the distortion requirement.

Magnum challenges several other aspects of the RFP, including, for example, the adequacy of the amount of time permitted for proposal submission. In view of our conclusion above, however, these protest grounds are not for consideration. Under our Bid Protest Regulations, only an "interested party" may pursue a protest; that is, a protester must be an actual or prospective offeror whose direct economic

interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. §§ 21.0(a) and 21.1(a) (1995). Here, Magnum states that the engine-generator set it will offer has individual line harmonic distortion of 7.2-percent, and thus will not meet the less than 5-percent distortion requirement. Magnum therefore is not a prospective offeror which would be eligible for award, and is not an interested party to pursue these other protest grounds. See H.L. Bouton Co., Inc., B-256014.4, Oct. 24, 1994, 94-2 CPD ¶ 149.

The protest is denied in part and dismissed in part.

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