



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Gilman Corporation

File: B-265812

Date: December 6, 1995

DECISION

The Gilman Corporation protests the specifications under request for proposals (RFP) No. SPO451-95-R-0595, issued by the Defense Logistics Agency (DLA) for three different sizes of marine fenders. Gilman argues that the specifications contained in the solicitation limit competition to a narrow range of materials and suppliers and complains that the agency has prevented Gilman from documenting that its fenders would meet or exceed the agency's minimum needs.

We dismiss the protest.

DLA, through the Defense General Supply Center (DGSC), is the procuring agency for these marine fenders, which are to be supplied to the Navy. The RFP, issued on August 11, 1995, described the fenders by their National Stock Number (NSN) and, for each size fender, provided a detailed technical specifications package which expresses the Navy's requirements. The packages list required characteristics, including, for example, shape, construction, material, color, performance, and strength.¹ While no technical proposals are required, the RFP requires first article testing prior to production of the contract quantities.

¹For example, the technical specifications for the 32 by 50 inch fender provided that the fenders were to have cylindrical mid-bodies with ends having a 4.0 inch minimum radius of curvature at the outer edge, a cylinder diameter of 32 inches (+ or - 1 inch), and an overall length excluding end fittings of 50 inches (+ 2 inches, - 1 inch). The fender casing was to be polyester urethane rubber, meeting 6 specifications including, for example, specific gravity, elongation, flex life, abrasion resistance, and tensile strength. Fenders were to be pigmented haze gray to approximate color number 36270 of Federal Standard (FED-STD) 599. Eight performance specifications, such as working energy rating, proof energy rating, and working compression, and four strength requirements, such as working strength, ultimate strength, and weight and specific gravity, were also listed.

In its protest, Gilman states that it previously responded to two solicitations for fenders issued by DLA by offering commercial products that differed "only slightly in material and construction" from those specified, and that these offers were rejected. Gilman enclosed the Navy's rejection letter under one of these procurements, which states that the agency had determined that Gilman's fenders did not meet the shape, construction, material, color, performance or strength requirements and therefore were technically unacceptable. Gilman disagrees with this finding and complains that "it has been impossible to determine in a timely fashion how Gilman Corporation might document to the Navy the ways and manner in which our fenders do or could, in fact, meet Navy requirements." Gilman states that although the firm had contacted the agency's point of contact, this representative knew little about ship fenders. The protester argues that the current solicitation unfairly eliminates potentially competing products.

Our Bid Protest Regulations provide that a protest shall include a detailed statement of the legal and factual grounds of protest, 4 C.F.R. § 21.1(c)(4) (1995), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). This requirement contemplates that the protester will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. Professional Medical Prods., Inc., B-231743, July 1, 1988, 88-2 CPD ¶ 2.

Here, while Gilman makes the broad general assertion that the technical specifications are restrictive and that therefore it and other firms are unable to compete, Gilman does not specifically challenge any of the agency's stated requirements; it has not indicated why any of the stated requirements exceeds the Navy's needs, or how it believes the requirements should be modified. Rather, Gilman states that it has "not stipulated the overly restrictive terms because [Gilman has] not been able to find a point of information within [the agency] that can cite the US Navy's minimum needs other than by reference to this material-based specification." Gilman takes the position that before it can demonstrate that a particular specification is not necessary to meet the Navy's minimum needs, the Navy must define those needs, that in order to protest the specifications, Gilman must "research the Navy's minimum needs for fenders" among individual Navy users.

Notwithstanding Gilman's position in this regard, if it believes a specification is unnecessary or overly restrictive, it must challenge that specific specification, and indicate why the specification is not necessary to meet the agency's minimum needs. Bombardier, Inc., Canadair, Challenger Div., B-244328, June 17, 1991, 91-1 CPD ¶ 575.

Because Gilman has failed to indicate why any of the particular technical specifications are unnecessary, or how Gilman believes the specifications should be modified, Gilman has not established the likelihood that the agency's determination of its minimum needs was improper. Id. We therefore have no basis for considering the matter.

The protest is dismissed.

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