



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

Comptroller General
of the United States

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. No party requested redactions; we are therefore releasing the decision in its entirety.

Decision

Matter of: Ridgeline Industries, Inc.

File: B-402105

Date: January 7, 2010

Mark Lamer, Esq., Kostos and Lamer, P.C., for the protester.
Jessica C. Abrahams, Esq., and Erin B. Sheppard, Esq., McKenna Long & Aldridge LLP, for Camel Manufacturing Company, an intervenor.
Lynne Georges, Esq., and Judith Pullman Gever, Esq., Defense Logistics Agency, for the agency.
Paul N. Wengert, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging sole-source contract for complete tent systems is denied where agency sole-source justification reasonably determined that award was necessary for industrial mobilization purposes.

DECISION

Ridgeline Industries, Inc., of Clayton, New York, protests the award of a contract to Camel Manufacturing Company, of Caryville, Tennessee, by the Defense Logistics Agency (DLA) under request for proposal (RFP) No. SPM1C1-09-R-0187 for 2,677 modular general-purpose tent systems. Ridgeline argues that the award of a sole-source contract to Camel to preserve the industrial base was unreasonable. Instead, Ridgeline argues that it should have been considered for award.

We deny the protest.

BACKGROUND

In response to this protest, DLA explains that it began to explore the reasons for its difficulties meeting the wartime need for tents produced according to military specifications as early as 2004. A detailed study was prepared in May 2007, which identified seven vendors capable of producing military specification tent systems, of

which six constituted the core group of tent manufacturers for DLA.¹ The study concluded that producing military tents requires specialized skilled labor and production lines. The study also noted that vendors had experienced difficulty increasing their production to meet the military's requirements, and were beginning to lay off employees and reduce production facilities. AR, Tab 3, Excerpt from Minimum Sustaining Rate Study, May 2007, at 1. In response, DLA decided to fund a minimum sustaining rate of production to preserve domestic production capacity in the interim, and began planning for the long term.

On August 6, 2009, DLA approved a sole-source procurement of tents from Camel. The sole-source justification invoked the authority of 10 U.S.C. § 2304(c)(3) and Federal Acquisition Regulation (FAR) § 6.302-3, which provide for award of a contract to particular source(s) to maintain the source for a national emergency or to achieve industrial mobilization. The sole-source justification explained that the contract was required so that the Camel could keep its production line in operation while the military services assessed their requirements for tents. AR, Tab 1, Justification for Other than Full and Open Competition, at 2. The justification explained why each of the other firms identified in the earlier study did not require support, while a minimum sustaining rate contract with Camel was necessary for the firm to continue operating its military specification tent production line.² Id.

On September 30, 2009, DLA posted an electronic notice, advising that the agency intended to award a contract to Camel on a sole-source basis under the authority of Federal Acquisition Regulation (FAR) § 6.302-3. Ridgeline filed this protest on October 9.

DISCUSSION

Ridgeline argues that the sole-source justification is unreasonable because DLA did not consider Ridgeline for a contract, and because Ridgeline too is at risk of having to close its doors. Protest at 4. Ridgeline states that it has only a handful of key employees with the knowledge and skills to manufacture military specification tents, and is performing only one small contract, for tent floors. Protest at 5.

In response, DLA acknowledges that Ridgeline has produced military tent components (such as floors, liners, window sections, and ductwork sections), but distinguishes Ridgeline's experience producing tent components from the complete tent (or "tent system" in DLA's terminology). DLA produced records showing that Ridgeline last produced a complete military tent system, as opposed to components,

¹ Ridgeline was not among the seven firms.

² The sole-source justification noted that one of the six core vendors identified in the 2007 study had since gone out of business. AR, Tab 1, Sole-Source Justification, at 4.

in 1985.³ DLA states that only recently has Ridgeline even sought to compete under solicitations for complete tent systems. Accordingly, DLA argues that it appropriately did not consider Ridgeline as a part of the relevant industrial base. DLA argues its effort to maintain the existing industrial base does not require making award to a firm that wishes to become a new supplier of tent systems, such as Ridgeline. AR at 7.

In response, Ridgeline briefly asserts that DLA is incorrect, but provides no facts to support its contentions. Protester's Comments at 1-2. Thus, although Ridgeline argues that it should have been considered an active participant in the market for tent systems (as opposed to components), it has provided no factual basis upon which our Office could reach such a conclusion, given the detailed information submitted by DLA, which shows that Ridgeline is not an established supplier of tent systems.

Under the Competition in Contracting Act of 1984, agencies have authority to conduct procurements to establish or maintain sources of supply for a particular item in the interest of the national defense, see 10 U.S.C. §§ 2304(b)(1)(B) and 2304(c)(3). Agencies need not obtain full and open competition where the procurement is conducted for industrial mobilization purposes and may use other than competitive procedures where it is necessary to award the contract to a particular source or sources. Decisions as to which producers should be included in the mobilization base, and which restrictions are required to meet the needs of industrial mobilization, involve complex judgments that must be left to the discretion of the military agencies. We will question those decisions only if the evidence convincingly shows that the agency has abused its discretion. Minowitz Mfg. Co., B-228502, Jan. 4, 1988, 88-1 CPD ¶ 1 at 3.

In our view, Ridgeline has failed to meaningfully challenge the agency's explanation for limiting this award to Camel. In contrast with the factual support and reasoned explanation provided in the agency report, Ridgeline's comments responding to the agency report do not show that the sole-source justification was unreasonable.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

³ DLA also explains that the fabric, sealing method, and flame resistance requirements for its tents are all different than those under the 1985 contract. AR at 7.