



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Supreme Edgelight Devices, Inc.

File: B-230265

Date: June 20, 1988

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### DIGEST

Allegation that agency improperly relaxed specifications for awardee without advising protester of change is denied where, due to substantial difference in proposed costs, award decision would have remained the same even had protester been afforded opportunity to adjust cost to reflect relaxation.

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### DECISION

Supreme Edgelight Devices, Inc., protests the award of a contract to Burke Products, under request for proposals (RFP) No. DLA900-87-R-3232, issued by the Defense Electronics Supply Center, Defense Logistics Agency (DLA). The contract is for 82 optic light reticles, an obsolete part purchased by the contracting activity to replace existing units on the F-104 Starfighter aircraft. This relatively simple, non-critical item includes a mounting plate and brackets, and is designed to hold an out-of-production, specially coated, 12-1/2 volt incandescent lamp. The solicitation identified this part by its national stock number and specified that it was to be manufactured in accordance with a General Electric (GE) drawing dated May 14, 1962 (G.E. had commercially manufactured this part, including the light bulb, during the 1960s.) Supreme Edgelight principally contends that the product offered by Burke does not conform to this G.E. drawing, and that the contracting activity therefore should have rejected Burke's offer as technically unacceptable.

We deny the protest.

In 1987, Supreme Edgelight was awarded a contract to furnish 17 of these reticles; it was the only offeror, and furnished unused, surplus items at a price of \$1,406 per unit. Prior to the issuance of the current solicitation, the contracting activity generated four additional purchase requests for this item, each of which was solicited under DLA's automated

small purchase system. Again, Supreme Edgelight was the only firm responding to these requests; it once more proposed to offer unused, surplus reticles, but this time at substantially higher prices, ranging from \$1,940.50 to \$2,595 per unit. The contracting activity found these price to be unreasonable and thus did not award any contracts. Subsequently, additional purchase requests were generated for this item, increasing the total requirement to 82 units. Since the price for this quantity of reticles was expected to exceed \$25,000, small purchase procedures were no longer available, and the contracting activity issued the subject RFP under its master solicitation procedures. (Solicitations issued on this basis are streamlined documents which incorporate by reference pertinent standard terms and conditions set forth in the master solicitation.)

Supreme Edgelight and Burke were the only two firms responding to the solicitation. Supreme Edgelight offered to supply 69 surplus units at a price of \$797.10 each, and 13 units of its own manufacture at \$2,467.30 each, for a total price of \$87,074.80. Burke offered 82 reticles of its own design and manufacture at a price of \$792 per unit for a total price of \$64,944. The contracting activity reviewed the drawings Burke submitted with its proposal and determined that Burke's product conformed to the G.E. drawing and would meet the government's requirements. Burke thus was awarded the contract as the low, technically acceptable offeror.

Supreme Edgelight questions whether the product offered by Burke conforms to the G.E. drawing. Since the award document referenced a military standard, which according to the protester allows for furnishing alternate products functionally equivalent to the G.E. item identified in the solicitation, Supreme Edgelight speculates that the Burke product was not an exact replica of the G.E. part.

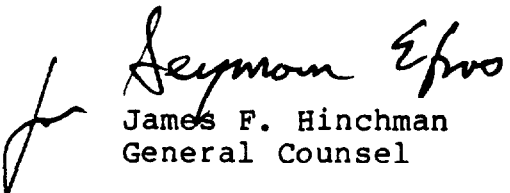
When specifications are written in terms of a specific product, an offer must meet these requirements precisely; an offer that is only functionally equivalent to the product specified is not acceptable. See Thorn EMI Technology Inc., B-228120, Jan. 15, 1988, 88-1 CPD ¶ 36. Here, the reticle proposed by Burke differs from the specified G.E. part; the mounting plate and bracket of the item appear identical, but the bulb, while apparently functionally equivalent to the original lamp, is not of the exact same design as the G.E. bulb. The record indicates that while DLA required only a functionally equivalent part, the solicitation did not incorporate the standard "Products Offered" clause (or any other similar clause) set forth in its entirety in the master solicitation, which permits offers of products

physically, mechanically, electronically, and functionally interchangeable with the one cited.

Even had Supreme Edgelight been advised that a functionally equivalent, but not identical, item would be acceptable, there is no evidence suggesting, or any reason to believe, that any resulting change in the firm's proposal would have affected other than the 13 units to be manufactured in accordance with the specification (since the other 69 units were surplus). The record indicates that the cost savings to be achieved through modifications to these 13 units would not have been sufficient to overcome the considerable cost advantage enjoyed by Burke; to overcome the \$22,130.80 cost differential, Supreme Edgelight would have had to offer the 13 manufactured units at a price below \$792 per unit, a reduction of more than \$1,675 per units. Moreover, it appears that the only parts of the reticle that could be modified without rendering it incompatible with existing units, *i.e.*, not functionally equivalent, were the light bulb (the part Burke apparently modified), and perhaps the item's internal wiring. These changes seemingly would have had only a minimal cost impact and thus would not have eliminated the great disparity in prices between the items of new manufacture offered by the two firms. Again, Supreme Edgelight has not attempted to establish otherwise.

Supreme Edgelight also speculates that its price for the 69 surplus units must have been disclosed in view of the closeness in price between the two proposals (\$797.10 per unit quoted by the protester for 69 surplus units versus \$792 per unit quoted by Burke). The record, however, contains no evidence even suggesting an improper disclosure by contracting officials. In fact, the record reveals that Burke's offer was dated one day prior to the date Supreme Edgelight submitted its offer of \$797.10 per unit. A protester's mere speculation provides no basis for sustaining a protest. Sargent Controls, B-224313.3, Jan, 14, 1988, 88-1 CPD ¶ 32.

The protest is denied.

  
James F. Hinchman  
General Counsel