



Comptroller General  
of the United States

Washington, D.C. 20548

D. McArthur  
146257

## Decision

**Matter of:** Sheffield Schaudt Grinding Systems Incorporated

**File:** B-246699

**Date:** March 27, 1992

Ronald J. Wilson for the protester.  
Jewel L. Miller, Esq., Defense Logistics Agency, for the agency.  
C. Douglas McArthur, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Contracting officer properly may rely on an offeror's self-certification that it is providing domestic machine tool, where there is no indication that the certificate is not accurate; in response to protester's post-award challenge, agency reasonably determined that awardee was supplying domestic product where list of components showed that domestic components accounted for more than two-thirds of the cost of all components, awardee identified only two components as foreign, and contracting officer surveyed suppliers of the major domestic components, all of whom confirmed plans to manufacture components in-house.

2. Agency reasonably accepted offeror's descriptive literature and express written commitment to meet each specification requirement, as supported by oral explanations during discussions, for purposes of determining technical acceptability of proposal in areas not addressed by the awardee's descriptive literature.

### DECISION

Sheffield Schaudt Grinding Systems Incorporated protests the award of a contract under request for proposals (RFP) No. DLA002-91-R-5078, issued by the Defense Logistics Agency for a grinding machine. The protester contends that the awardee will not provide a domestically manufactured machine as defined by the Department of Defense Supplement to the Federal Acquisition Regulation (DFARS) § 252.225-7023,<sup>1</sup>

<sup>1</sup>A revised version of this clause appears in the current DFARS § 252.225-7016.

Restriction on the Acquisition of Foreign Machine Tools (JUL 90), and that the descriptive literature submitted by the awardee does not demonstrate that the offered product meets the solicitation specifications.

We deny the protest.

#### A. BACKGROUND

On June 19, 1991, the agency issued the solicitation for a firm fixed-price contract for a floor-mounted, horizontal spindle, cylindrical, universal, computer numerical-controlled (CNC) grinding machine in accordance with DIPEC (Defense Industrial Production Equipment Center) purchase description No. SSM-90-1099A, included as section C of the solicitation. The solicitation directed offerors to supply information regarding the manufacturer's name and model number and the country of origin of the machine.

The solicitation included the clause at Federal Acquisition Regulation (FAR) § 52.214-21, which states that descriptive literature is required to establish that an offered product meets solicitation specifications, and that the requirement pertains to significant elements such as (1) design; (2) materials; (3) components; (4) performance characteristics; and (5) methods of manufacture, assembly, construction or operation. The clause requires offerors to submit sufficient descriptive data to describe how they intend to comply with the government's requirements. The solicitation provided for evaluation of proposals, including descriptive literature, to insure compliance with requirements and directed offerors to indicate any deviation from or exception to requirements.

The solicitation required that the machine be of United States or Canadian origin, i.e., that the machine itself be manufactured in the United States or Canada and that the cost of its components (including transportation costs and duty) manufactured in the United States or Canada also exceed 50 percent of the cost of all components. DFARS § 252.225-7023 (DAC 88-17). The solicitation also required each offeror to certify, in clause K.28 of the RFP, that the product offered met the criteria of DFARS § 252.225-7023. The solicitation clauses address the requirements of the 1988 Mattingly Amendment, 10 U.S.C. § 2507(d)(1) (1988), which restricts Department of Defense procurement of foreign machine tools.

The solicitation provided for award to the lowest priced acceptable offeror proposing a United States or Canadian manufactured machine; the solicitation advised offerors however that if there was no acceptable proposal for a United States or Canadian machine, and provided that the

agency obtained a departmental waiver to purchase a foreign machine, the agency would award a contract to the low responsible offeror.

On July 31, the agency received five offers, three of which were for domestic machines. The eventual awardee, Manufacturing Technology Associates, Inc. (MTA) submitted a technical proposal in which it stated "comply" next to each of the numbered paragraphs of the purchase description. MTA furnished no descriptive literature with its initial proposal. Discussions, primarily oral, were conducted with the three domestic firms. The agency asked MTA for a brochure or drawing of the machine, and MTA submitted descriptive literature from NASA Machine Tools. Upon receipt of this information, the contracting officer and technical representative telephoned MTA to clarify and discuss specific questions concerning the machine. The agency was satisfied that the offered product complied with specifications.

Sheffield submitted descriptive literature with its initial offer. Sheffield also stated that it would comply with each specification, providing explanations where necessary to demonstrate how its product complied. The agency identified areas where there was question whether the protester's model met the specifications and conducted discussions, primarily oral, with Sheffield and also accepted oral clarifications and statements of compliance from Sheffield. Finding the third remaining offer technically unacceptable, the agency requested a best and final offer (BAFO), consisting essentially of new prices, from the protester and MTA. MTA submitted the lower offer, and on September 30, the agency awarded a contract to MTA, based on its low technically acceptable proposal.

On October 7, Sheffield filed a protest with the agency, contesting the domestic origin of the NASA Machine Tools model CG 1670 offered by the awardee and the sufficiency of the descriptive literature submitted with the awardee's proposal. The contracting officer denied this protest by letter dated October 25, which the protester received on November 7; Sheffield filed this protest with our Office on November 19, with additional allegations based upon its review of the awardee's descriptive literature, which it received on November 12.

#### B. DOMESTIC MANUFACTURE

The protester argues that the agency should not have accepted the awardee's self-certification of compliance with the requirement for domestic manufacture of machine tools. The protester contends that the machine offered by the awardee, which includes two major foreign components--a CNC

controller from Spain and a base machine from Czechoslovakia--cannot possibly have less than 50 percent foreign components. The protester contends that the agency should have required bills of material with supporting invoices from suppliers, many of whom, the protester argues, while domestic, may be providing foreign components.

Unless the agency has reason to question whether a domestic product will in fact be furnished, a contracting officer properly may rely on an offeror's self-certification without further investigation. Discount Mach. & Equip., Inc., B-242793, June 6, 1991, 91-1 CPD ¶ 541. There is no evidence that on the face of MTA's offer, the contracting officer should have been on notice that the certification was not accurate. Further, in responding to the agency-level protest, the awardee advised the contracting officer that beyond the carcass and the CNC controller, costing \$82,094 or 32 percent of the cost of all components, all components of its machine were of domestic origin; the awardee provided invoices from suppliers, showing that the cost of domestic components was 68 percent of the value of all components, well in excess of the required 50 percent. Additionally, the agency contacted the major domestic suppliers of components--representing 67 percent of the cost of domestic components and 46 percent of the cost of all components--who confirmed their intention to manufacture the components in-house. We find that in addition to the awardee's self-certification, which was itself sufficient to satisfy the regulatory requirement, there is ample evidence to support the reasonableness of the agency's determination that MTA is supplying a domestic product.

### C. TECHNICAL ACCEPTABILITY

The protester contends that the awardee's descriptive literature does not demonstrate compliance with the statement of work.<sup>2</sup> In responding to the agency-level protest and the one before this Office, the agency explained the bases for its determination that the awardee's proposal was technically acceptable; beyond its recurring and general

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<sup>2</sup>While the protester cites many paragraphs of the purchase description, compliance with which it contends the awardee's technical literature does not demonstrate, it generally fails to identify specific features in those paragraphs which allegedly were not addressed. Where the protester has been specific in its initial allegations, the agency in its report has offered explanations supporting its view that the product complies with specifications. Absent any substantive rebuttal to the agency report from the protester in its comments, we are unable to find the agency determination unreasonable in those areas.

allegations that the proposal did not demonstrate compliance with a variety of solicitation requirements, the protester has offered nothing to refute the agency's position, which is that the awardee can meet its requirements and has committed itself to do so. In essence, the protester is challenging the propriety of the agency's consideration of information, oral and written, supplementing that contained in the published NASA Machine Tool descriptive literature.


The procuring agency is responsible for evaluating the data supplied by an offeror and ascertaining if it provides sufficient information to determine the acceptability of the offeror's item; we will not disturb this technical determination unless it is shown to be unreasonable. Where descriptive literature does not expressly address a requirement, it is not unreasonable in the conduct of a negotiated procurement, for an agency to accept an offeror's oral explanations, in conjunction with a specific commitment in the written proposal to comply with the specifications, for the purpose of determining the product's acceptability. Panasonic Indus. Co., B-207852.2, Apr. 12, 1983, 83-1 CPD ¶ 379.

The agency, in the case of both the protester and the awardee, found the written proposals, as clarified orally during discussions, technically acceptable. The BAFOs merely incorporated the two firms' initial offers and provided revised prices. The oral discussions with the awardee extended over a period of several days and involved representatives of DIPEC, the contracting agency, and the user activity at Tinker Air Force Base. The agency concluded that the information obtained in these sessions, combined with the awardee's express commitment to comply with each paragraph of the statement of work and the descriptive literature accompanying the awardee's proposal were sufficient to demonstrate MTA's technical acceptability. The record before us shows that the agency treated both offerors consistently in this regard, in that it held oral discussions with the protester about several areas where its own descriptive literature did not demonstrate total compliance with various elements of the statement of work. See, e.g., Technical Assistance Group, Inc., B-211117.2, Oct. 24, 1983, 83-2 CPD ¶ 477. We have no basis for finding that the agency's procedure for determining technical acceptability was unreasonable or that the agency improperly found the awardee's product acceptable. See VG Instruments, Inc., B-241484, Feb. 7, 1991, 91-1 CPD ¶ 137.

The protester also alleges that the agency did not exercise diligence in contacting references provided by the awardee, in support of its statement that the NASA machine was a current production model. The record shows that agency

personnel spoke with two of the references by telephone, including one company that had purchased the model offered by MTA under this RFP, although DLA concedes that the conversations generally were to verify customer satisfaction with quality and maintenance services, rather than to verify whether the features of the machines were similar to those being delivered under the solicitation. The record also shows that the model offered by MTA is described in the NASA Machine Tool commercial brochure and appears to have been commercially available for sale to the general public over the last 18 months. The protester makes no showing that the awardee must materially modify this machine to meet solicitation requirements, see Omatech Serv. Ltd., 70 Comp. Gen. 99 (1990), 90-2 CPD ¶ 411. We therefore have no basis to find unreasonable the agency's determination that the awardee met the commercial product requirements of the solicitation.

The protest is denied.

  
James F. Hinchman  
General Counsel