

Comptroller General
of the United States

Washington, D.C. 20548

1465703

Decision

Matter of: RMS Industries

File: B-217394

Date: May 19, 1992

Richard Snyder for the protester,
Philip F. Eckert Jr., Esq., Defense Logistics Agency, for
the agency.

Stephen J. Gary, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Federal Acquisition Regulation (FAR) § 10.006(a) specifically exempts small purchases from the mandatory use of federal specifications, and the FAR does not prohibit the use of manufacturers' part numbers as item descriptions in small purchases.

DECISION

RMS Industries protests the terms of request for quotations (RFQ) No. DLA400-92-T-4661, issued by the Defense General Supply Center, Defense Logistics Agency (DLA), for procurement on a small purchase basis of welding torch bodies. RMS contends that the agency improperly used a manufacturer's part number as an item description, and that it instead should have used a military specification to describe its needs.

We dismiss the protest.

The RFQ, issued in January 1992, requests quotations for welding torch bodies, described as Smith Equipment Division, Tescom Corporation, part number AW1, National Stock Number (NSN) 3439-00-162-3972. RMS asserts that the use of a manufacturer's part number to describe the item improperly discriminates against firms offering torch bodies produced by manufacturers other than Smith, by imposing on them the additional cost of demonstrating that any alternate product offered is technically equivalent to the Smith item. According to RMS, the proper item description to use for this procurement is the general military specification for torch bodies, MIL-H-45998, under which all offerors would be required to meet the same performance requirements. RMS claims that in using the manufacturer's part number DLA is

"violating FAR § 1.602-2(b), which requires that contractors be afforded impartial, fair, and equitable treatment.

DLA responds that it did not use the military specification for torch bodies because the Smith AW1 torch body most clearly meets its needs, but does not meet the specification, and the specification encompasses some items that do not meet its need for lightweight replacement torch bodies to mate with Smith welding heads. Consequently, DLA explains, its designation of the Smith AW1 torch body was the best method of describing its minimum needs.

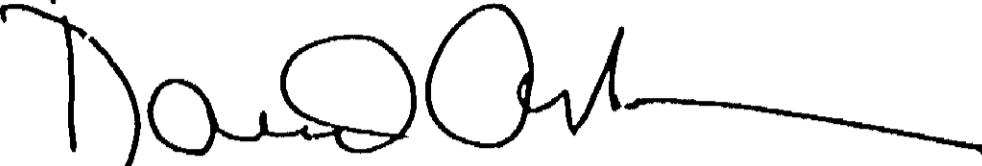
This protest is one in a long series filed by RMS and its predecessor, East West Research, Inc., arguing that DLA should purchase items under a government specification rather than a manufacturer's part number or national stock number.¹ See RMS Indus., B-246082 et al., Jan. 22, 1992, 92-1 CPD ¶ 104. In denying or dismissing those protests, we have explained that Federal Acquisition Regulation (FAR) § 10.006(a) specifically exempts small purchases such as this from the mandatory use of federal specifications, and that the FAR does not prohibit the use of a manufacturer's part number as a small purchase item description. Id.; East West Research, Inc., B-243623, Apr. 29, 1991, 91-1 CPD ¶ 421; East West Research, Inc., B-238234.2; B-239682, Sept. 17, 1990, 90-2 CPD ¶ 218; East West Research, Inc., B-239620, Aug. 28, 1990, 90-2 CPD ¶ 169. Where a protester does not show that the use of a manufacturer's part number will prevent the protester and other vendors from offering equal items, there is nothing objectionable in using such item descriptions in small purchase procurements. East West Research, Inc., B-238177 et al., Apr. 18, 1990, 90-1 CPD ¶ 399.

RMS does not argue here that vendors of other than the specified item are precluded from offering equal items, and the possibility that such offerors will have to incur additional costs in doing so simply is not a basis for objecting to purchase descriptions based on manufacturer's part numbers. As indicated in our prior decisions, we believe the use of such purchase descriptions "is consistent with the reason Congress authorized small purchase procedures--'to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors.' 10 U.S.C. § 2304(g)(1)." East West Research, Inc., B-238177 et al., supra. In other words, the agency's interest in expediting

¹The protester has not objected, however, to the use of its own part number in a small purchase item description. See East West Research, Inc., B-238892, July 3, 1990, 90-2 CPD ¶ 6.

small purchases is sufficient to offset the burden on offerors of alternate items to establish the acceptability of those items.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "David Ashen".

David Ashen
Acting Assistant General Counsel