



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Mart Corporation

File: B-254967.3

Date: March 28, 1994

Michael Curth for the protester,
Joseph N. Hoback, Department of the Treasury, for the
agency.
David Hasfurther, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Agency's decision to purchase immersible-type washers from a Federal Supply Schedule (FSS) because the agency believed that such a washer would better accomplish its cleaning needs than a spray-type washer, which was also on the FSS, is not objectionable where the agency explains its reason for choice and the protester has not persuasively established that the primary reason for the decision is unreasonable.

DECISION

The Mart Corporation protests the decision of the United States Mint, Department of the Treasury, to place an order for immersible-type washers with Kleer-Flo under a Federal Supply Schedule (FSS) for maintenance and repair shop equipment and cleaning equipment. Mart protests that the agency, by limiting its consideration to only the immersible-type washers on the schedule, is not permitting full and open competition on the procurement. Mart offers a spray-type washer on the same FSS. Further, Mart argues that limiting the purchase to immersible-type washers does not reflect the agency's actual needs, which should be stated as performance specifications, rather than specific design requirements.

We deny the protest.

Originally, the agency issued an invitation for bids (IFB) to purchase the washers, which are to be used to clean die manufacturing components, press parts, truck parts, and other general maintenance items required for the production of coinage. The IFB requested the submission of fixed-price bids for washers "of an immersed, heated aqueous solution

type with belt oil skimmer and solution filtration . . . capable of providing both mechanical agitation and hydraulic turbulence to clean the soiled parts effectively." Subsequent to the issuance of the IFB and to a protest by Mart of these specifications, the agency discovered that as a mandatory user of the FSS, it was obligated to purchase this item under the FSS. Mart subsequently protested the agency's decision to buy an immersible-type washer from the FSS.

Mart contends that the agency should consider the spray-type washers offered under its FSS contract because these washers clean as well as, if not better than, immersible-type washers. It contends that the agency's decision to purchase immersible-type washers is not supported by any evidence that the immersible-type washer can do a better job than Mart's spray-type washers. Further, although Mart provided the agency with technical documentation and customer lists (it also requested that the agency permit it an opportunity to demonstrate its washers), Mart states that the agency has never made any effort to compare spray-type washers to immersible-type washers.

The agency states that spray-type washers and immersible-type washers involve totally different cleaning processes. The agency states that the immersible-type washer, which cleans the item by submerging and soaking the item in a tank of solvent and creating water turbulence like a washing machine, assures that the cleaning solvent is in contact with every surface, whether exposed or hidden, and that all surfaces are thoroughly cleaned. The agency reports that a spray washer is good for exposed surfaces but presents potential problems because hidden surfaces like the chambers and crevices found on the Mint's tooling and dies may not be reached by the spray and therefore may not be adequately cleaned. The spray washer only reaches these hidden surfaces with solvent vapors or liquid flow which may not adequately clean these surfaces because, for example, there may be inadequate solvent flow to eliminate loosened contaminant.

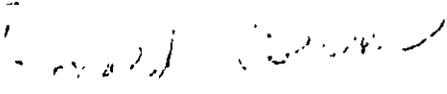
The agency points out that its tooling/dies have many deep holes and hidden areas, and thus, it believes that the immersible-type washer is the most likely to meet its needs. The agency states that its agency representative observed both types of washers at the Machine Tool Trade Show in Chicago in 1992, and discussed the two washing methodologies with salesmen and other engineers at that show. These discussions confirmed the agency representative's concerns that the spray-type washer was not the best method for cleaning Mint tooling and dies. Further, the agency states that it currently uses an immersible-type washer which completely cleans the tooling and dies.

The FSS program managed by the General Services Administration provides agencies with a simplified process for obtaining commonly used supplies and services at prices associated with "volume buying." See Federal Acquisition Regulation (FAR) § 8.401(a); 41 C.F.R. § 101-26.402-1(a) (1993). Contrary to the protester's contention, when placing an order under a schedule, the procuring agency is not required to seek further competition or to synopsise the solicitation or award since the planning, solicitation, and award phases of the FSS comply with FAR requirements. See FAR § 8.404(a); 41 C.F.R. § 101-26.401(a). Further, there is no requirement under the regulations governing FSS use that contractors be given a statement of agency needs, see FAR § 8.401 et seq., since a formal solicitation process is not contemplated for ordering from an FSS. See National Mailing Sys., B-251932.3, Aug. 4, 1993, 93-2 CPD ¶ 78.

The procuring agency, when ordering from an FSS, is required to order from the schedule contractor offering the lowest delivered price for products meeting its needs. FAR § 8.405-1(a). The determination of an agency's minimum needs and which product on the FSS meets those needs is properly the agency's responsibility, and thus we will only examine the agency's assessment of which product meets its needs for reasonableness. National Mailing Sys., supra.

We think the agency's decision to purchase the immersible-type washers was unobjectionable under the FSS procedures. The Mint states that its tooling and dies have chambers and crevices which are hard to clean. It explains that it has doubts that the spray wash can provide the thorough cleaning of these hidden chambers and crevices because the solvent vapor and liquid flow the spray-type washers generate may not be adequate to remove all the dirt. It states that its concerns were confirmed by discussions with salesmen and engineers at the Machine Tool Trade Show and that it currently uses immersible-type washers, which meet its needs. In the absence of any persuasive evidence that the agency is wrong in its belief that the immersible washers it decided to order will best meet its needs, we have no basis to object to this buy.

The protest is denied.


Robert P. Murphy
Acting General Counsel