



Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: Astro-Valcour, Inc.

File: B-257485

Date: October 6, 1994

Richard D. Lieberman, Esq., Sullivan & Worcester, for the protester,
Marie N. Adamson, Esq., General Services Administration, for the agency.
Behn Miller, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging unit of issue quantities and pallet dimension packaging specifications as unduly restrictive is denied since challenged specifications are necessary to enable General Services Administration to fulfill its inventory mission on the most cost-effective, efficient basis.

DECISION

Astro-Valcour, Inc. protests the terms of invitation for bids (IFB) No. 2FYP-DW-94-0004-S, issued by the General Services Administration (GSA) for paper shipping sacks. Astro-Valcour contends that the solicitation's unit of issue and pallet dimension packaging specifications are unduly restrictive of competition.

We deny the protest.

The IFB was issued on March 25, 1994, for various quantities of 24 types of paper shipping sacks--commonly referred to as "jiffy" sacks. The IFB identifies each jiffy sack by its national stock number (NSN) and requires bidders to complete and submit a pricing schedule for a total of 74 line items.

Section D of the solicitation, "PACKAGING AND MARKING," sets forth a "PACKAGING/PACKING" clause for each NSN jiffy sack which instructs bidders on how to package and deliver the sacks. Of significance here, each clause requires offerors to package the specified NSN jiffy sack as a particular

"unit of issue quantity." For example, with respect to NSN 8105-00-117-9791, the IFB provides as follows:

"PACKAGING/PACKING: Five hundred (500) sacks shall be packaged in accordance with commercial practice and packed to assure acceptance by common carrier and to provide product protection against loss or damage during multiple shipments, handling and storage. The shipping container shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification."

In addition, under the IFB, bidders are limited to using wooden pallets with dimensions of either 40 inches long by 48 inches wide, or 48 inches long by 40 inches wide; further, the pallet and its jiffy sack load cannot exceed 53 inches in total height or 2,500 pounds in weight.

Astro-Valcour challenges the specified unit of issue quantities and pallet size specifications as ambiguous. Based on the "commercial practice" language in the "PACKAGING/PACKING" clauses, Astro-Valcour maintains that it is unclear whether bidders are to package the entire unit of issue quantity in one container--or whether bidders could, in accordance with their individual practices--subdivide the unit of issue quantity into smaller packages and load these quantities onto numerous pallets for delivery purposes. To the extent the agency requires each unit of issue quantity to be delivered in one container on one pallet, Astro-Valcour challenges the combination of unit of issue quantities and specified pallet dimensions as unduly restrictive; the protester maintains that the specified unit of issue quantities cannot be safely delivered or stored on the specified pallet size without substantial risk of damage.

In the agency report responding to Astro-Valcour's protest as well as a supplemental report responding to questions for the record presented by this Office,¹ GSA explained that although the IFB permits bidders to use any type of commercially acceptable container or carton to package the jiffy sacks--and that this was the intent of the "PACKAGING/PACKING" clause "commercial practice" reference--the solicitation mandates that all sacks be delivered as the specified unit of issue quantity on one pallet. That is, offerors may not subdivide a unit of issue quantity into smaller containers or cartons unless the smaller amounts are

¹Shortly after receiving the agency report, this Office issued questions for the record to the agency requesting additional information about the challenged specifications.

bundled together, identified as the full unit of issue quantity, and delivered on one pallet. Thus, for NSN 8105-00-117-9791, which set forth 500 jiffy sacks as the unit of issue quantity, the entire 500 sack quantity must be delivered in one container or one bundle on one pallet; bidders may not divide the specified 500 sack quantity into two groups of 250 sacks for delivery on two pallets.

In its comments on both the agency's report and the agency's response to questions from this Office, Astro-Valcour argues that the IFB's combination of quantity and pallet provisions is unduly restrictive and reiterates its contention that the specified unit quantities are not designed to fit safely on the specified pallet dimensions. As relief, Astro-Valcour requests that the solicitation be amended to permit bidders to subdivide the specified quantities on more than one pallet, or that bidders be permitted to supply the mandatory quantities on differently sized pallets, selected at each bidder's discretion.

To the extent Astro-Valcour argues that the inclusion of the term "commercial practice" in each of the unit of issue quantity specifications renders the "PACKAGING/PACKING" requirements ambiguous, we find the protester's interpretation to be unreasonable. A solicitation requirement is only considered ambiguous when it is susceptible to two or more reasonable interpretations in the context of reading the solicitation as a whole. See Pulse Elecs., Inc., B-243769, Aug. 2, 1991, 91-2 CPD ¶ 122.

Here, Astro-Valcour maintains that the inclusion of the "commercial practice" reference in each NSN "PACKAGING/PACKING" specification makes it unclear whether the unit of issue quantity is to be the cited number in the clause (i.e., 500 sacks for NSN 8105-00-117-9791) or may be the vendor's actual commercial packaging practice (i.e., Astro-Valcour's practice of packaging NSN 8105-00-117-9791 into smaller delivery units of 250 sacks). Given the plain language and clear arrangement of the words in each "PACKAGING/PACKING" provision, which state that a specific number of sacks (e.g., 500) "shall be packaged in accordance with commercial practice", we think it clear that the term "commercial practice" only refers to the types of materials and stacking methods used by a vendor to provide the specified number of units of issue. To interpret the clause otherwise would nullify the significance of including a particular number in each "PACKAGING/PACKING" provision.

Astro-Valcour next contends that the unit of issue quantities and pallet size provisions are unduly restrictive. As explained below, we think that the record shows that the challenged specifications are reasonable.

In preparing a solicitation for supplies or services, a contracting agency must specify its needs and solicit offers in a manner designed to achieve full and open competition, 41 U.S.C. § 253a(a)(1)(A) (1988), and may include restrictive provisions or specifications only to the extent necessary to meet the agency's minimum needs. 41 U.S.C. § 253a(a)(2)(B). Determinations of the agency's minimum needs and of which products meet those needs are properly the agency's responsibility; government procurement officials, who are familiar with the conditions under which supplies and equipment have been and will be used, are generally in the best position to make these determinations. Woodland Container Corp., B-255000, Feb. 3, 1994, 94-1 CPD ¶ 70. An agency's minimum needs include the need to procure supplies and services on the most cost-effective basis; for example, the possibility of avoiding unnecessary duplication of costs may justify consolidating several requirements under a total package procurement approach. See Precision Photo Labs., Inc., B-251719, Apr. 29, 1993, 93-1 CPD ¶ 359. Our Office will not question an agency's determination of its minimum needs, and the resulting solicitation specifications, unless the record clearly shows that the determination was without a reasonable basis. RMS Indus., B-247233; B-247234, May 1, 1992, 92-1 CPD ¶ 412.

GSA acknowledges that in the past, bidders have been permitted to package and palletize the jiffy sacks as they chose; the agency also admits that currently there is no standard industry package quantity. Nevertheless, GSA reports that as part of a National Performance Initiative, it decided to specify a unit of issue quantity in order to facilitate efficient handling and distribution within the GSA inventory system. Consequently, bidders are now being required to deliver according to GSA's inventory needs and are not permitted to alter the specifications--such as the unit of issue quantities--to suit their own packaging practices.

GSA is responsible for purchasing millions of commercial and common use items for thousands of federal and military agency customers. See 40 U.S.C. § 481 (1988); 41 C.F.R. § 101-25.203 (1993). To that end, GSA stocks and maintains four national inventory warehouses and associated stock depots where millions of products ranging from jiffy sacks to computer equipment are stored. Each warehouse typically receives thousands of electronic customer requisitions each day for a variety of products.

In order to maintain an efficient inventory and delivery system which serves the needs of its many customers, and to procure items at the lowest possible price, GSA now conducts all its inventory procurements in unit of issue quantities. GSA determines each unit of issue quantity on an

item-by-item basis; to establish this quantity, the agency reviews an item's procurement history and customers' ordering trends to ascertain what quantity of the item is typically requested by a customer and sets this figure as the unit of issue.

According to GSA, the purpose of the inventory practice is twofold. First, the agency asserts that by procuring a greater number of sacks per carton, the agency can procure a greater volume of goods in return for a lower price. Additionally, the agency reports that it also realizes substantial savings using established unit of issue quantities which reflect customer demand since the agency can take the delivered unit of issue quantity and reship it to the customer without the expense and delay of unloading, unpacking, counting out a particular supply quantity, and repackaging the amount for shipment to the customer; in effect, with the current unit of issue quantities, fewer laborers can accomplish more inventory processing more efficiently. In this regard, the agency asserts that the timely processing of supply items is crucial to maintaining a successful inventory program so that the warehouses and depots do not run out of storage space, and so that customers' orders do not become backlogged. Second, GSA explains that the less time spent repackaging and counting supplies, the less likelihood of loss and damage during the storage and distribution process, and the greater likelihood of customer satisfaction.

Astro-Valcour does not dispute GSA's position that high-volume purchasing results in significant quantity discounts. Nevertheless, the protester maintains that GSA can just as efficiently and economically procure its required jiffy sacks in delivery quantities set by each vendor. Astro-Valcour points to several Department of Veterans Affairs (VA) procurements wherein contractors are allowed to supply any unit of issue quantity on any size pallet. Astro-Valcour also contends that if GSA is unwilling to change its unit of issue quantities, the agency should relax the 40- by 48-inch size limitations for the shipping pallets.

To the extent Astro-Valcour asserts that bidders should be allowed to use any size pallet, the record shows that only 40- by 48-inch pallets will serve the agency's minimum needs since this is the only size pallet which the GSA warehouse and depot racking systems will accommodate. The 40- by 48-inch pallets conform with the pallet rack configuration used at all GSA inventory sites, which the record shows is representative of the warehouse industry standard. If the pallets do not fit into the dimensions of the racking system, they must be stored on floor space, which is severely limited and which is typically reserved for

nonpallet loads and machinery. The record shows that items stored on the floor are more cumbersome to monitor and process since they are not part of the bar code scanning process established for the racking configuration systems.

While Astro-Valcour suggests that GSA should install new racking systems which will accommodate all pallet sizes, the agency responds that this type of modification would require GSA to expend millions of dollars to replace the existing industry-standard racking systems. Moreover, although Astro-Valcour has relied on several VA procurements to show that less costly alternatives to the current IFB's unit of issue quantity and pallet specifications are possible, GSA points out that unlike GSA warehouses and depots, the VA facilities have no racking systems and rely solely on floor space storage. Further, unlike GSA, the VA does not procure items for a vast customer base, nor does the VA maintain similarly sized inventories. Instead, the VA has its required goods shipped directly to the VA facility for which the items are procured.

Although Astro-Valcour argues that the current unit of issue quantities cannot be safely packaged on the specified pallet sizes, GSA has introduced drawings from another commercial vendor of the jiffy sacks which unequivocally show that the unit of issue quantities are compatible with and can be safely and efficiently packaged on the 40- by 48-inch pallets.² Moreover, while Astro-Valcour asserts that it

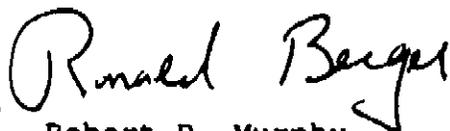
²Astro-Valcour disagrees with the accuracy of the drawings furnished by its competitor to demonstrate the feasibility of properly loading the specified unit of issue quantities onto the required 40- by 48-inch size pallets. In one instance, Astro-Valcour contends that the total number of unit of issue quantities which the competitor claims will fit on one pallet is "impossible" and that only half the claimed number of units of issue can be safely loaded onto one pallet; the protester also challenges another of the competitor's loading examples on the ground that the load demonstrates "a cubic efficiency of only 72 percent." We find these arguments unpersuasive. First, regardless of how many units of issue will fit on one pallet, the competitor's examples nevertheless show that the full unit quantity of each jiffy sack--for example, the entire 500 sack quantity specified for NSN 8105-00-117-9791--can be loaded and delivered on the specified pallet size without dividing the unit of issue into the smaller quantities argued by the protester. Next, while Astro-Valcour challenges its competitor's pallet stacking examples as inefficient, the crux of these objections is the protester's concern about incurring additional shipping fees; however, as explained

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will incur more shipping fees as a result of the IFB's current packaging specifications, GSA responds that the bidders may reflect these fees in their bid prices. GSA reports that even assuming higher shipping fees, GSA's total costs will still be substantially lower than if it were not able to rely on the established unit of issue quantity and the 40- by 48-inch pallet storage system.

We find reasonable the agency's justification for the specified unit of issue quantities and pallet specifications. The record demonstrates that these specifications are required to keep GSA's costs down, promote efficiency, and minimize administrative confusion; delay; and damage in the federal inventory process. Under these circumstances, where the challenged specifications clearly enable GSA to fulfill its inventory mission on the most cost-effective, efficient basis, we find the specifications unobjectionable. See Precision Photo Lab., Inc., supra (avoiding unnecessary duplication of costs justified bundling requirements for photographic materials into one contract); Abel Converting, Inc., B-224223, Feb. 6, 1987, 87-1 CPD ¶ 130 (GSA specification for "pop-up" packaging dispensers justified where user customers indicated they would not purchase any other dispenser type); and Marquette Elecs., Inc., B-221334, Mar. 13, 1986, 86-1 CPD ¶ 253 (size specification justified to ensure medical records are consistently and efficiently maintained).

The protest is denied.


 Robert P. Murphy
 Acting General Counsel

²(...continued)

above, the agency is willing to assume these costs as part of the bid prices in order to realize the advantages of sacks delivered in the quantities and on the size pallets specified.