



## Decision

**Matter of:** Chicago Dryer Company

**File:** B-401888

**Date:** December 8, 2009

---

H. K. Tyler, Jr., for the protester.

David W. Altieri, Esq., Department of Veterans Affairs, for the agency.

Frank Maguire, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protest challenging agency's determination that acquisition on sole-source basis is necessary to meet agency's needs is denied where protester fails to show that its equipment would meet agency's compatibility requirements.

---

### DECISION

Chicago Dryer Company (CDC), of Chicago, Illinois, protests the issuance of a purchase order to G.A. Braun on a sole-source basis under request for quotations (RFQ) No. VA-528-09-RQ-0247, issued by the Department of Veterans Affairs (VA) for a flatwork ironer. The protester asserts that it can provide a flatwork ironer that meets the agency's needs.

We deny the protest.

On September 9, 2009 VA posted a pre-solicitation notice on FedBizOpps advising of its intent to acquire a G.A. Braun Delta 3S32 ironer, available only from G.A. Braun. Agency Report (AR) exh. 4. The ironer was to be installed at the VA Medical Center at Canandaigua, New York. The notice advised that the contracting officer had determined that "the only reasonable source is G.A. Braun," since "the item and size is only made by Braun and repairs and technical support is specific to G.A. Braun." Id. The contracting officer's Justification and Approval for Other than Full and Open Competition (J&A) provided:

The ironer that is specified is required as a sole source item because it includes a number of VA "special options" that are specific to each individual laundry site. For example, the DeltaNet Interconnection

between the existing Braun Alpha Sheet Spreader/Feeder and the existing Braun Omega Sheet Folder/Cross folder which enables all three pieces of equipment to function as a “system” and properly communicate item category, speed and temperature settings for optimal efficiency and productivity. Other significant VA “special options” included in the VAMC Canandaigua are included in the attached equipment description and it’s important to note that these have been specifically developed over the last 20 years in partnership between Braun and the VA. In addition to the equipment specification are specific characteristics of the site with respect to access, physical mobility (vertical, horizontal) and overall equipment “footprint” for the Braun 3S32 Delta Ironer. This is in relation to the available space in the laundry to “fit” with the existing equipment and provide fluid, safe, and ergonomic operation.

AR exh. 3.

CDC challenges the sole-source justification, asserting that it manufactures equipment that meets the agency’s requirements. Protest at 1. The protester asserts that, “Any systems can be made compatible with the existing ironing system at VAMC Canandaigua,” *id.*, and that it produces ironers that can meet or exceed the performance requirements of the Braun equipment. Protest at 1; Protester’s Comments at 3. CDC indicates that it has supplied other VA medical centers with ironing systems that will communicate with applicable Braun equipment. Protest at 2; Protester’s Comments at 1.<sup>1</sup>

The agency asserts that its market research indicated that only an ironer manufactured by Braun could meet these requirements and that the sole-source therefore was properly justified by the contracting officer. AR at 3; Contracting Officer’s Statement (COS) at 3.

---

<sup>1</sup> The protester also asserts that, based on the fact that it was not contacted by the agency, “no market research was actually conducted.” Protest at 2. However, there is no requirement that all potential sources be contacted, and the fact that an agency failed to contact a particular firm in researching available equipment thus is insufficient to establish that its research regarding the feasibility of a sole-source procurement may have been inadequate. This assertion therefore is speculative and, accordingly, does not state a valid basis of protest. Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f) (2009); see *View One, Inc.*, B-400346, July 30, 2008, 2008 CPD ¶ 142. We note, in any case, that the agency’s report in response to the protest includes voluminous information establishing that the agency did in fact conduct substantial market research to identify compatible equipment. AR exh. 2.

As a general matter, the Competition in Contracting Act (CICA) mandates “full and open competition” in government procurements obtained through the use of competitive procedures. 41 U.S.C. § 253(c)(1) (2006). CICA, however, provides several exceptions, including when an agency’s requirements can only be satisfied by one responsible source. 41 U.S.C. § 253(a)(1)(a). In this regard, we have recognized that an agency’s legitimate need to standardize the equipment it uses may provide a reasonable basis for imposing restrictions on competition. See, e.g., Sperry Marine, Inc., B-245654, Jan. 27, 1992, 92-1 CPD ¶ 111 (procurement of particular radar system on sole-source basis was reasonable where record established need for same system used in training program).

Here, the protester does not challenge the agency’s stated requirements for interoperability with installed Braun equipment at VAMC Canandaigua but, rather, asserts that it can supply equipment meeting those requirements. As a general matter, a protester challenging an agency’s sole-source determination on the basis that its product meets the agency’s needs has the burden of showing that this is the case. See, e.g., eFedBudget Corp., B-298627, Nov. 15, 2006, 2006 CPD ¶ 159 at 7 (protest against sole-source acquisition denied where protester did not meet its burden of demonstrating that it could perform contract without access to source code and without violating licensing agreement).

CDC has not established that it can provide a flatwork ironer meeting the agency’s needs. Although the protester asserts, generally, that its ironer can “be made compatible in that we have installed other Chicago Dryer ironing, folding and feeding systems with other ironing systems including GA Braun,” Protester’s Comments at 1, it has neither identified a model that can meet all of the agency’s identified requirements nor provided product material that supports its assertions. Further, as the agency points out (unrebutted by CDC), while the protester generally asserts that it has provided equipment compatible with Braun equipment at other VA medical centers—CDC states that it has installed “equipment in concert with GA Braun” at the VA facility at Oklahoma City and has also “installed such systems at VA Perry Point,” Protester’s Supp. Comments at 2—it has not provided any specific reference to an actual customer for which it provided an ironer compatible with the existing Braun system. Supp. AR at 1. We conclude that the protester has not shown that it can supply a product that meets the agency’s needs. See, e.g., Container Prod. Corp., B-270360.2, June 11, 1996, 96-1 CPD ¶ 275 (protest challenging sole-source acquisition denied where protester’s submissions included only general technical information and failed to identify exact equipment being offered). Consequently, there is no basis for us to question the issuance of the purchase order to Braun.

The protest is denied.

Lynn H. Gibson  
Acting General Counsel