



Decision

Matter of: RMI

File: B-405409

Date: October 20, 2011

Mark S. Jewson for the protester.

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DIGEST

Protest that the agency improperly approved the protester as an authorized dealer/distributor rather than as a manufacturer of a critical application item that requires source approval fails to state a valid basis for protest where the protester is qualified to compete for contract award.

DECISION

RMI, of Stafford Springs, Connecticut, protests its status as an approved dealer/distributor with respect to request for quotations (RFQ) No. SPM4A7-11-Q-9115 issued by the Defense Logistics Agency (DLA) for a compressor shroud segment for the F-108 engine. RMI complains that it should be approved as a manufacturer of the shroud segment.

We dismiss the protest as failing to state a valid basis of protest.

BACKGROUND

The RFQ, issued on July 20, 2011, seeks F-108 engine shroud segments, national stock number (NSN) 2840-01-263-3318. Offerors were advised that the engine shroud segment is a critical application item which requires source approval.¹ In this

¹ The RFQ and other documents provided by DLA variously indicate--often in the same document--that the engine shroud segment is a critical safety item and a critical application item. In a telephone hearing conducted by our Office, one of the engineers responsible for approving sources confirmed that the part is a critical

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regard, the RFQ identified three companies, ADOM Engineering, Inc., CFM International, Inc., and General Electric Company as approved sources to provide this part, and instructed offerors seeking source approval to provide supporting documentation and certifications. RFQ at 3, 6.

Various types of entities may receive source approval to supply critical application items.² For example, source approval may be given to system or subsystem prime contractors, actual manufacturers (i.e., original equipment manufacturers (OEM) that supply items to the prime contractor where the prime contractor provides no value added), fully-licensed manufacturers (companies making the part under a licensing agreement with the prime contractor or OEM), distributors that provide items made by other approved sources, and alternate sources such as companies that hold parts manufacturing approvals (PMA) from the Federal Aviation Administration (FAA).³ Agency Reply to Protester's Comments, Sept. 14, 2011, Tab 3, Aviation Source Approval and Management Handbook § 1.1. As relevant here, a PMA holder cannot automatically receive source approval to supply parts for military use, but must instead apply for source approval from the design control activity. See id. § 1.10.

Prior to the issuance of the RFQ, RMI, a PMA holder, submitted a source approval request to DLA for the engine shroud segment. DLA forwarded RMI's request to the Air Force's design control activity for the F-108 engine for review, and in August 2010 the design control activity conducted a site survey of RMI's facilities. The Air Force concluded that RMI did not have production facilities and therefore could not be approved as an actual manufacturer of the part. Agency Report (AR), Tab 8, Air Force Memorandum for DLA, Oct. 1, 2010. Instead, the Air Force determined that RMI could be approved as a dealer/distributor for ADOM Engineering, an approved source for the part, if RMI provided additional

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application item—meaning here that the item is essential to the performance or operation of the engine, or the preservation of life or safety of operating personnel.

² Each military service has a design control activity which evaluates potential sources for critical application and critical safety items. The Air Force design control activity for the F-108 engine is responsible for reviewing RMI's request for source approval.

³ A PMA is a combined design and production approval bestowed by the FAA for modification and replacement aircraft parts for civil aircraft. See RMI Comments, Tab 8.2, FAA Order 8110.42C, Ch. 1 at 1. The FAA considers the producer of a part to be a person who participates significantly in at least one of several activities, such as fabricating or treating the part, performing a value-added part inspection, or controlling or supervising the manufacture of the part. Id., Tab 8.3, FAA Order 8110.42C, at M-2.

information. AR, Tab 7, Air Force Memorandum for RMI, Jan. 5, 2011, at 1. RMI provided the information, and in June 2011, RMI was approved as an authorized distributor to ADOM, the approved source.⁴

After the RFQ was issued, RMI filed this protest.

DISCUSSION

RMI raises multiple arguments objecting to the agency's designation of RMI as an approved dealer/distributor.⁵ The crux of RMI's arguments is that the Air Force erroneously concluded that RMI is not a manufacturer of the engine shroud segment. RMI does not contend, however, that the approval requirement is unnecessary or that RMI will not be permitted to compete under the RFQ. In this regard, RMI has not identified any provision in the solicitation that prevents it from competing on an equal basis with other approved sources.

The Competition in Contracting Act of 1984 requires agencies to obtain full and open competition in their procurements through the use of competitive procedures. 10 U.S.C. § 2304(a)(1) (2006). Accordingly, when an agency restricts contract award to an approved source, it must give nonapproved sources a reasonable opportunity to qualify. 10 U.S.C. § 2319(c)(3); Classic Mfg., B-249776, Dec. 14, 1992, 92-2 CPD ¶ 412 at 4. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Pacific Photocopy and Research Servs., B-278698, B-278698.3, Mar. 4, 1998, 98-1 CPD ¶ 69 at 4. Thus, in the context of complaints regarding the qualification of parts or supplies, we will review challenges that impact a federal agency's competition under a procurement, such as whether the agency has a reasonable need for a qualification requirement, see B.H. Aircraft Co., Inc., B-222565, B-222566, Aug. 4, 1986, 86-2 CPD ¶ 143, or whether an agency has presented an offeror with a reasonable opportunity to qualify its parts or to become approved. See Classic Mfg., *supra*.

Here, RMI has not demonstrated that it has been restricted from competing by the agency's actions. During a telephonic hearing we conducted with regard to this protest, the Air Force confirmed that, as an approved dealer/distributor, RMI may

⁴ As a dealer/distributor, RMI is required to buy the shroud segment from the approved source, in this case, ADOM Engineering.

⁵ For example, RMI complains that other companies that use subcontractors have received source approval as manufacturers and suggests that GAO investigate the qualifications of other companies that have received source approval. See Comments, Parts 2, 8. However, our Office does not conduct investigations as part of our bid protest function. New SI, LLC, B-295209, *et al.*, Nov. 22, 2004, 2005 CPD ¶ 71 at 3.

compete under the RFQ on an equal basis with other types of approved sources. See Audio Recording, File 3.

RMI's complaint that, as a dealer/distributor, RMI will be disadvantaged in negotiating with ADOM, RMI's only approved supplier, does not state a valid basis of protest. The price a company is charged by its supplier is a private matter not for consideration by this Office. See Monarch Eng'g Co., B-218374, June 21, 1985, 85-1 CPD ¶ 709 at 6; Diesel Energy Sys. Co., B-213428.2, Jan. 13, 1984, 84-1 CPD ¶ 69 at 1. Moreover, an agency is not required to equalize a competitive advantage that a firm may enjoy--or a disadvantage it may experience--because of the firm's particular business circumstances, where that advantage or disadvantage does not result from a preference or unfair action by the government. See Missouri Machinery & Eng'g Co., B-403561, Nov. 18, 2010, 2010 CPD ¶ 276 at 5.

The protest is dismissed.⁶

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General Counsel

⁶ Moreover, there is no merit to RMI's complaint that the Air Force was required to approve RMI as a manufacturer because RMI retains control over design and manufacturing quality, and because the FAA, through its issuance of a PMA to RMI, recognizes RMI as a manufacturer of the part. See Comments, Part 6; RMI Post-Hearing Comments, Comment 2. The Air Force concluded as a result of its site visit to RMI's facility that RMI possesses no shop personnel, in-house shop processes, or other manufacturing facilities, and therefore cannot be approved as a manufacturer. DLA Post-Hearing Comments at 2. RMI does not dispute the Air Force's determination that RMI has no in-house manufacturing capability and admits that its subcontractors are responsible for actual production of the part. Protest at 5; see Audio Recording, File 3. Rather, RMI, without support, simply disagrees with the Air Force's conclusion with regard to its status as a manufacturer.