



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Draeger Safety, Inc.

File: B-285366; B-285366.2

Date: August 23, 2000

David D. DiBari, Esq., William Silverman, Esq., Richard P. Ferrin, Esq., and Anthony M. Cooke, Esq., Clifford, Chance, Rogers & Wells, for the protester. Ron R. Hutchinson, Esq., and James D. Bachman, Esq., Doyle & Bachman, for Scott Aviation, an intervenor. Roger D. Waldron, Esq., General Services Administration, and John M. Davis, Esq., Veronica E. Murtha, Esq., Lisa L. Hare, Esq., Valencia L. Bowers, Esq., and Michael J. Glennon, Esq., Department of the Navy, for the agencies. Christine Davis, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where an agency requests competition among Federal Supply Schedule vendors and decides to shift to the vendors the burden of selecting items on which to quote, the vendors must be given sufficient detail to allow them to compete intelligently and fairly.
 2. Agency reasonably declined to establish blanket purchase agreement for self-contained breathing apparatuses with a Federal Supply Schedule vendor whose offered products either did not meet the agency's stowage size requirements or were otherwise unacceptable.
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DECISION

Draeger Safety, Inc. protests the Department of the Navy's issuance of blanket purchase agreement (BPA) No. N00024-00-A-4030, to Scott Aviation for self-contained breathing apparatuses (SCBA) for use by sailors in fighting shipboard fires. The Navy established the BPA under Scott's Federal Supply Schedule (FSS) contract. Draeger, which also has an FSS contract for SCBAs, protests that the Navy improperly determined that Draeger's equipment would not meet the Navy's needs, and that Scott's equipment was unacceptable and otherwise could not be ordered from the FSS.

We deny the protest.

An SCBA is a respiratory protection device that supplies oxygen to firefighters, allowing them to breathe in areas with unbreathable or contaminated air. The SCBA supplies air to the firefighter from compressed air cylinders worn on the firefighter's back. Navy Report at 2. The SCBA is worn as a backpack, with an adjustable waist belt and shoulder straps. See Navy Report, Tab 37, Intervenor's Product Demonstration Video; Tab 38, Protester's Product Demonstration Video.

The Navy sent a draft BPA to vendors holding FSS contracts for SCBAs, including Draeger and Scott. The agency estimated a requirement for 25,000 SCBAs and stated that it would establish BPAs with either one or two contractors representing "the best value" to meet this requirement.¹ The Navy asked interested vendors to complete pricing grids in the draft BPA, to perform a product demonstration of their SCBA units, and to loan the units to the government for testing and evaluation. Other than stating that the offered SCBAs must be commercially available, certified by the National Institute for Occupational Safety and Health, and meet or exceed National Fire Protection Association Standard 1981, the Navy did not disclose to the vendors any aspect of its particular requirements, its evaluation scheme, its source selection criteria, or its testing procedures. Id., Tab 20, Commerce Business Daily (CBD) Net Announcement; Tabs 22 and 23, Distribution of Draft BPA to Protester and Intervenor. The Navy did answer various questions from the vendors about its requirements, although none directly related to whether the Navy had any size limitations for storage of the SCBAs. Id., Tabs 24 and 25, Questions and Responses.

Draeger, Scott, and another firm responded to the draft BPA. Draeger's FSS contract includes the AirBoss Evolution SCBA, which it demonstrated for the Navy on December 7, 1999. Id. at 5-6; Tab 72, Modification of Protester's FSS Contract. Draeger's AirBoss Evolution SCBA includes a removable comfort pad, which Draeger's commercial literature describes as optional, although this option is not priced in Draeger's FSS contract. Id., Tab 32, Protester's Draft BPA, AirBoss Evolution Specification, General Specifications, at 1; Tab 72, Modification of Protester's FSS Contract. Scott's FSS contract includes the Air-Pak 4.5 SCBA, which it demonstrated for the Navy on that same date. Id. at 5; Tab 27, Modification of Intervenor's FSS Contract, Dec. 2, 1999. Following the vendors' product demonstrations, the Navy borrowed Scott's and Draeger's SCBAs for evaluation and testing.

¹ All FSS contracts contain BPA provisions, and ordering agencies are permitted to establish BPAs with FSS contractors for recurring requirements. Federal Acquisition Regulation (FAR) § 8.404(b)(4).

Based upon its evaluation of the SCBAs, the Navy determined that the Draeger unit was unsatisfactory for Navy use. Most importantly, the evaluation team found that the Draeger SCBA when fitted with the comfort pad would not fit the specially designed, shock-qualified SCBA stowage lockers aboard submarines and various surface ships. Id., Tab 53, Protester's Evaluation Checklist, at 1; Tab 55, Protester's Evaluation Summary, at 2. In addition, the evaluation team rated three other design attributes of Draeger's SCBA unsatisfactory and deemed the unit "operationally and technically weak when compared to the Navy's requirements."² Id., Tab 53, Protester's Evaluation Checklist, at 2-3; Tab 55, Protester's Evaluation Summary, at 2-3.

In contrast, the Navy rated Scott's SCBA technically excellent overall, which led the evaluation team to describe the unit as "technically and operationally strong when compared to the Navy's requirements." Id., Tab 57, Intervenor's Evaluation Checklist; Tab 59, Intervenor's Evaluation Summary, at 1. In addition, the evaluation team determined that the Scott SCBA presented the lowest overall cost. Id., Tab 62, Price Summary for BPA Quantities.

Based upon the recommendations and findings of the evaluation team, the contracting officer elected to establish a single BPA with Scott, stating that the firm "clearly offers the technically superior unit." The contracting officer decided not to award a second BPA to Draeger because its unit (with the comfort pad) did not meet the Navy's stowage requirements and was unacceptable. In this regard, the contracting officer determined that it would cost the Navy approximately \$7.6 million to reconfigure its SCBA lockers to accommodate Draeger's units, which he considered untenable. Id., Tab 61, Source Selection Statement. Accordingly, the contracting officer established a single BPA with Scott. This protest followed.

Section 259(b)(3) of title 41 of the United States Code provides that the procedures established for the General Service Administration's (GSA) multiple award schedule program (that is, the FSS program) satisfy the general requirement in 41 U.S.C. 253(a)(1) (1994) for use of competitive procedures "if--(A) participation in the program has been open to all responsible sources; and (B) orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government." See also FAR § 8.404(a). Use of the streamlined procedures of the FSS in lieu of conducting a competition is thus premised on a determination

² An internal source selection plan (SSP) provided adjectival ratings--"outstanding," "excellent," "satisfactory," and "unsatisfactory"--to rate numerous "critical," "important," and "desirable" design attributes of the SCBAs. Navy Report, Tab 36, Source Selection Plan, attach. 1. To the extent that Draeger protests that the Navy's evaluation was inconsistent with the SSP, the SSP was an internal document not disclosed to or relied upon by vendors, and therefore did not confer any rights upon vendors in terms of the bid protest process. See Pulau Elecs. Corp., B-280048.4 et al., May 19, 1999, 99-2 CPD ¶ 99 at 11 n.13.

regarding what the agency's needs are and which FSS supply or service meets those needs at the lowest overall cost. The fundamental principle of government accountability dictates that those determinations are subject to review, and we view it as axiomatic that, in order to withstand review when challenged in a bid protest, the agency must be able to provide a reasonable basis for its determinations regarding its needs and the FSS supply or service that meets those needs at the lowest overall cost. In FSS buys, as in other procurements, the determination of what the agency needs and which products meet those needs is within the agency's discretion, and we will not sustain a protest in this area unless the determination lacks a reasonable basis. See Delta Int'l, Inc., B-284364.2, May 11, 2000, 2000 CPD ¶ __ at 4.

Draeger protests the rejection of its SCBA, arguing that the requirement that the unit fit into specially designed, shock-qualified SCBA stowage lockers constituted an improper undisclosed evaluation criterion, of which Draeger was not reasonably aware when it responded to the Navy's request for product demonstration.

Where, as here, an agency requests competition among FSS vendors and decides to shift to the vendors the burden of selecting items on which to quote, the vendors must be given sufficient detail to allow them to compete intelligently and fairly; the agency's description of its needs must be free from ambiguity and state the agency's needs accurately. See COMARK Fed. Sys., B-278343, B-278343.2, Jan. 20, 1998, 98-1 CPD ¶ 34 at 4-5; Haworth, Inc.; Knoll N. Am., Inc., B-256702.2, B-256702.3, Sept. 9, 1994, 94-2 CPD ¶ 98 at 5. Specifically, to satisfy its obligation to treat vendors fairly, the agency should in some fashion inform vendors of its essential requirements, so that a fair and intelligent competition can be achieved.³ Haworth, Inc.; Knoll N. Am., Inc., *supra*, at 5-6; see FAR § 1.102-2(c)(3); Computer Prods., Inc., B-284702, May 24, 2000, 2000 ¶ __ at 5.

The Navy's requirement that the SCBAs fit into the Navy's particular stowage units is one of those requirements that we think should have been disclosed to the vendors. Nevertheless, the record here establishes that Draeger was not prejudiced by the Navy's failure to disclose this requirement. We first note that Draeger reasonably should have known that the agency had stowage size limitations (even though it may not have known their precise nature) because of Draeger's previous experience with the Navy's evaluation of its SCBAs for shipboard use, see Navy Report at 3-4; Tab 4, SCBA Commercial Item Description, Jan. 30, 1997, ¶ 2.4; Tab 5, Protester's SCBA

³ The agency's disclosure of its requirements when soliciting quotes under the FSS not only allows for fair and intelligent competition among the vendors, but also promotes the agency's ability to obtain the lowest possible price among available FSS products, and allows a vendor whose products will not meet the agency's needs to choose not to waste its resources responding to the agency's request for quotes where the vendor has no chance of receiving an order.

Evaluation Summary, June 1997, at 2, and Protester's SCBA Evaluation Checklist, June 1997, at 1, and it therefore should have specifically inquired about the matter when it received an opportunity to ask questions about the Navy's requirements.

In any case, the record shows, and Draeger does not dispute, that the SCBAs listed on Draeger's FSS with the comfort pad attached will not meet the Navy's stowage requirements.⁴ Navy Report, Tab 53, Protester's Evaluation Checklist; Tab 55, Protester's Evaluation Summary.

Draeger nevertheless states that its SCBAs without the comfort pad will meet the Navy's stowage requirements and that the Navy should have considered this alternative. The detachable Draeger comfort pad is a relatively stiff, orthopedic-type pad about 4½ inches wide, which threads through the strap assembly of the SCBA's waist belt. Navy Report, Tab 32, Protester's Draft BPA, AirBoss Evolution Specification, ¶ 4f; Hearing Video Transcript (VT) at 9:22:39. As discussed below, the agency reasonably determined that the Draeger SCBAs, without the attached comfort pad, have comfort and stability problems that rendered them unsatisfactory for Navy use.⁵ Thus, the fact that the Draeger SCBAs without the pad will meet the Navy's stowage requirements is irrelevant.⁶

There is no contemporaneous documentation supporting the Navy's determination that Draeger's SCBA without the comfort pad is unacceptable for Navy use. The only evidence supporting the Navy's determination in this regard is a declaration executed by the Navy program manager addressing the protester's comments on the

⁴ Draeger has not protested this determination, beyond mischaracterizing the hearing testimony of the contracting officer, who, contrary to the protester's suggestion, never acknowledged that the Draeger SCBA, with the comfort pad, meets the stowage requirements. See Hearing Transcript (Tr.) at 108-11.

⁵ Although Draeger's commercial literature mentions the comfort pad as optional, Draeger's SCBA, as listed on the FSS, includes the comfort pad and does not mention or separately price the comfort pad as an option, see Navy Report, Tab 72, Modification of Protester's FSS Contract, and according to GSA, the SCBA may not be ordered from the FSS contract without the pad. GSA Report at 2; see Pyxis Corp., B-282469, B-282469.2, July 15, 1999, 99-2 CPD ¶ 18 at 4 (agency may not order items not listed in an FSS contract under an acquisition under the FSS). Given our conclusion that the Navy reasonably determined that the unit without the pad does not meet its needs, we need not decide whether the agency should have considered ordering the Draeger SCBA with the pad and then discarding the pad, or asking Draeger to ship the unit without the pad, or affording Draeger the opportunity to amend its FSS contract to include the SCBA without the pad.

⁶ The Navy concedes that the Draeger SCBAs will meet its stowage requirements if the comfort pad is removed. Letter from Navy to GAO (July 26, 2000).

agency report, where this protest issue was first raised, see Navy Comments, July 11, 2000, exh. 7, Declaration of Program Manager, and the testimony of an evaluator--a Navy officer with extensive shipboard firefighting and emergency response experience--who tested the Draeger SCBA. Tr. at 136-37. Draeger argues that we should not credit this evidence because of the lack of contemporaneous documentation, emphasizing that the Navy shredded individual evaluator worksheets during this procurement and was therefore free to generate a new rationale for its evaluation during the course of this protest without fear of contradiction from the contemporaneous written record. Protester's Post-Hearing Comments at 3, 11 n.7.

We share Draeger's concern regarding the Navy's destruction of documents and held a hearing in this case precisely because the contemporaneous record was silent as to the Navy's consideration of the Draeger SCBA without the comfort pad. However, the testimony of the Navy evaluator, which we find credible, persuades us that the Navy did not generate a new rationale to defend this protest, but presented its contemporaneous rationale. Where post-protest submissions represent a memorialization of contemporaneous analysis, our Office generally considers those submissions, so long as they are credible and consistent with the contemporaneous record, as they are in this case. NWT, Inc; PharmChem Labs., Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16.

According to the evaluator, the Navy evaluated Draeger's SCBA without the comfort pad during the course of "scuttle exercise" testing.⁷ During the scuttle exercise, the evaluator found that the Draeger unit with the comfort pad restricted his ability to move through the scuttle because it was wider than the other evaluated units. Tr. at 149, 153-54. The evaluator believed that he could reduce the unit's width to address this problem by detaching the comfort pad from the unit's waist belt. VT at 14:21:50 to 14:22:25.

After detaching the comfort pad, various members of the evaluation team wore the reconfigured unit. Tr. at 169-70. The evaluator testified that the removal of the comfort pad significantly diminished the SCBA's comfort and stability, and that all evaluators who wore the unit without the pad shared this opinion. According to the evaluator, the evaluation team discussed the comfort and stability problems of the Draeger unit without the pad and reached a consensus that the unit without the pad

⁷ A scuttle is an opening through a ship's deck, resembling a manhole, through which sailors climb. VT at 13:26:40 to 13:27:09. Ship scuttles are 18 inches or 21 inches in diameter. VT at 13:28:40. Navy evaluators created a mock, 21-inch cardboard scuttle to test how easily a sailor could climb through a scuttle wearing the evaluated SCBAs. Tr. at 147-48.

was unsatisfactory for Navy use.⁸ After reaching this consensus, the evaluation team did not further evaluate the Draeger unit without the pad, but continued evaluating the Draeger unit with the pad installed. Tr. at 170-72.

According to the Navy, SCBAs must be comfortable because firefighters may need to wear the units for extended periods--sometimes several hours--while responding to an emergency. Tr. at 128-29, 141-42, 146; VT at 14:44:06. To achieve a comfortable fit, the SCBA should distribute the majority of the unit's weight to the hips, away from the neck and shoulders.⁹ VT at 14:09:20. Too much weight on the neck and shoulders can cause fatigue and headaches, and thereby undermine the sailor's ability to respond to the emergency. VT at 14:09:20 to 14:10:05, 14:46:30 to 14:46:40. In addition, shipboard firefighting is unique because sailors must be able to climb through narrow hatches and scuttles on a ship, and maneuver through narrow passageways with obstructions and protrusions. As a result, the SCBA must not restrict the sailor's freedom of movement, but must fit securely enough so that the unit will not slide, catch on a scuttle or other protrusion, or upset a sailor's balance. Navy Report at 2; Tr. at 156-57; VT at 14:08:42, 14:10:30 to 14:11:40. Sailors must be able to achieve a secure fit without the need to adjust the straps too tightly. Tr. at 156. Because heat from shipboard fires is trapped within the steel confines of the ship, the straps of an SCBA must not be too tight, or else heat from the fire will compress in the sailor's clothing and cause burns. VT at 14:06:42 to 14:07:10; 14:08:09 to 14:08:37.

According to the evaluator, the unit with the comfort pad provided a secure and comfortable fit, as reflected in the contemporaneous evaluation documentation. Tr. at 153, 155-56, 158; Navy Report, Tab 53, Protester's Evaluation Checklist, Attributes--Fit and Sizing, at 1, Padded Harness or Wide Belts, at 3. He testified that the Draeger SCBA with the comfort pad fit securely without the need to fasten the straps too tightly. VT at 14:06:41, 14:08:40 to 14:08:50. Even with the straps relaxed to avert compression burns, the unit remained centered on his back, with a stable cylinder and with most of the SCBA's weight concentrated on his hips. Tr. at 153, 156-58.

⁸ Contrary to the protester's allegation, we find no material differences between the evaluator's testimony and the declaration of the program manager regarding the testing of the Draeger unit without the comfort pad. In particular, both individuals indicated that the presence of the comfort pad hampered mobility through scuttles, but that the absence of the comfort pad made the unit difficult to wear. See Tr. at 153-54, 169-72; Navy Comments, July 11, 2000, exh. 7, Declaration of Program Manager, ¶ 3.

⁹ The Draeger SCBA weighs 19.9 pounds with a filled cylinder. Protester's Post-Hearing Comments at 7.

In contrast, the evaluator testified that, upon donning the unit without the pad, he immediately noticed that the unit began dropping down his waist, past his hips. VT at 14:42:18. He testified that he tightened the waist straps of the unit, which secured the unit around his waist, but cost him the relatively relaxed fit necessary to maneuver properly and to avert compression burns. Conversely, once he loosened the waist straps to alleviate the constriction, he sacrificed the unit's secure fit around his waist, such that the unit again dropped past his hips and forced him to bear the unit's weight on his neck and shoulders, rather than his hips. VT at 14:42:18 to 14:43:50. The evaluator testified that he wore the unit for 15 minutes and, during that time, he could not achieve a proper fit--one that anchored the unit around his waist and the cylinder at the center of his back without cinching the strap assembly to the point of constriction. VT at 14:46:45 to 14:48:40. Based on the evaluator's opinion, which he asserts was shared by other members who wore the unit without the pad, the evaluation team concluded that the unit without the pad did not meet the Navy's needs. Tr. at 171.

The record in this case reasonably supports the evaluation team's judgment that the comfort pad helps to anchor the unit around the user's waist without undue stress from the strap assembly and that the removal of the comfort pad erodes this advantage. This is not surprising given that, during Draeger's December 1999 product demonstration to the Navy, Draeger's fire service specialist described the comfort pad as follows:

Let me introduce the comfort waist pad. It's about 3½ inches thick. It forces the user to carry the majority of the weight on the hips. You carry approximately two-thirds of the weight distributed through your hips, which is obviously one of the strongest parts of the body. It takes less compression off the spine, off the shoulders.

Navy Report, Tab 38, Protester's Product Demonstration Video; see also Navy Report, Tab 32, Protester's Draft BPA, AirBoss Evaluation Specification, ¶ 4f (states that waist belt padding ensures user comfort), PA-90 Evolution Service Manual, Theory of Operation, ¶ 2.3 (states that waist pad helps to transfer weight away from the shoulders for additional support and comfort), and Protester's SCBA Presentation Slides, "The Original Comfort Harness" (describes purpose of comfort harness, including comfort pad, as distributing 2/3 of the weight to the hips); Tab 72, Protester's FSS Master Price List, January 1, 1997, at R13 (describes comfort pad as "[h]ighly recommended").

The protester argues that the above description overstates the importance of the comfort pad and that the orthopedic backplate of Draeger's SCBA forces weight to the user's hips, whether or not the comfort pad is attached. Protester's Post-Hearing Comments at 7 n.5. While we have no reason to doubt that Draeger designed its backplate to transfer weight to the hips, we also find reasonable that the stiff, broad comfort pad enhances the system's overall design by securing the unit around the waist, and that the fit and comfort of the system suffer from the removal of the pad.

In fact, Draeger's fire service specialist testified at the hearing that the purpose of the pad is to enhance the comfort of the system. Tr. at 208.

Draeger argues that the Navy evaluator who testified at the hearing wore the unit without the pad incorrectly and did not tighten the shoulder straps sufficiently to pull the backplate to its proper position. According to the protester, this mistake caused the unit to drop too low on the evaluator's waist and prevented him from carrying the weight on his hips. Protester's Post-Hearing Comments at 8. Draeger's arguments overlook the fact that the evaluator testified that he repeatedly adjusted the strap assembly to prevent the unit from sliding and dropping too low on his waist, but found that he could not do so without tightening the straps to the point of constriction. This problem did not occur when he wore the unit with the comfort pad. VT at 14:42:18 to 14:43:50; 14:45:14 to 14:45:30; 14:46:45 to 14:48:13.

In addition, we note that Draeger's product information does not discuss the "correct" position of the shoulder straps or the backplate, but simply advises the user to pull the waist and shoulder straps until the equipment is secure and comfortable, which, the evaluator testified, was impossible to do once the comfort pad was removed. See id.; Navy Report, Tab 32, Protester's Draft BPA, AirBoss Evolution and ProAir Evolution User's Instructions, "Operation," at 2; Tab 35, Protester's Donning Video. Draeger's product information and production demonstration videos do not suggest that the Navy evaluator wore the unit improperly or differently from the way Draeger representatives demonstrated its use, either during the evaluation or at the hearing in this case. Compare VT at 14:06:22 to 14:08:04; 14:40:45 to 14:42:45 with VT at 16:09:00 to 16:10:45; Navy Report, Tab 35, Protester's Donning Video; Tab 38, Protester's Product Demonstration Video.

Accordingly, we think that the Navy's determination that Draeger's SCBA is unacceptable for the Navy's particular use without the comfort pad is reasonably supported by the record. Since it is not disputed that Draeger's SCBA will not otherwise satisfy the Navy's stowage requirements, the Navy's decision not to place a BPA with Draeger for this item was reasonable.¹⁰

Draeger also protests that Scott's FSS contract does not properly describe its SCBA and cannot serve as the basis for any orders. Protester's Comments, July 11, 2000, at 8-9. This contention is based on the fact that Scott's FSS contract contained a clerical error in the item description for its SCBA with a 45-minute cylinder and incorrectly listed a 30-minute cylinder as a component of the SCBA. See Navy Report, Tab 27, Modification of Intervenor's FSS Contract, Dec. 2, 1999; Tab 66, Intervenor's BPA, attach. 1; Intervenor's Comments, June 30, 2000, Tab B, Declaration of Intervenor's Government Sales/Technical Representative, ¶ 6. During

¹⁰ Thus, we need not consider Draeger's other contentions regarding the evaluation of its SCBA.

the course of this protest, GSA corrected the clerical error through a contract modification to reflect the 45-minute cylinder. GSA Report at 4, Tab 5, Modification of Intervenor's FSS Contract, June 15, 2000. The Navy has yet to place an order under Scott's BPA. Given that GSA corrected the item description in Scott's FSS prior to the placement of any orders, we need not decide whether the error in the item description precluded an order.¹¹

Draeger also argues that the Scott SCBAs being acquired here are not commercially available as required by the Navy in its CBD announcement, but have been specially configured to meet the Navy's particular requirements. However, Scott's Internet site lists the Air-Pak 4.5 SCBA. See <<http://www.scottaviation.com>>. To the extent that Scott has modified this commercial SCBA for Navy use, its FSS contract lists the modified SCBA, see Navy Report, Tab 27, Modification of Intervenor's FSS Contract, Dec. 2, 1999; Tab 37, Intervenor's Product Demonstration Video, and Draeger has not shown that the modifications are anything other than minor modifications made to meet the Navy's requirements, which do not render the product other than commercially available. See TRW Inc.; Systems Research and Applications Corp., B-260968.2 et al., Aug. 14, 1995, 95-2 CPD ¶ 101 at 9.

Draeger also protests that the Navy did not properly test the face piece of Scott's SCBA to determine that it would fit the user population. Protest at 8; Protester's Comments, June 30, 2000, at 13. During the evaluation, the nine members of the evaluation team, whose face sizes varied widely, tried on the face piece of each vendor's SCBA to test whether the face piece fit. Scott's face piece fit each member's face, and, as a result, the evaluation team determined that it would fit the user population and rated the face piece satisfactory. Navy Report at 19, 23. Also, Scott submitted a declaration from its National Service Manager that, based upon Scott's own testing, its standard-size face piece fits 90- to 95-percent of the general population, which the record indicates will satisfy the Navy's needs.¹² See Intervenor's Comments, Tab A, Declaration of Intervenor's National Service Manager ¶ 2; Navy Report, Tab 36, Source Selection Plan, attach. 1, Attributes--Fit and Sizing, at 1.

¹¹ Draeger argues that GSA's modification did not resolve a different mistake in the item description of Scott's SCBA. Protester's Response to GSA Report at 7-8. The Navy's report, submitted on June 20, 2000, included the documentation necessary to raise this issue, yet Draeger did not mention the issue until its August 4 response to GSA's report. We decline to discuss this issue, because our Bid Protest Regulations do not contemplate the piecemeal presentation of protest issues. See Armstrong Motorcycles Ltd., B-238436, B-238436.2, June 5, 1990, 90-1 CPD ¶ 531 at 3-4.

¹² Scott also offers small and extra-large face seals to accommodate the small percentage of the population that cannot achieve an acceptable fit with the standard face piece. Intervenor's Comments, June 30, 2000, Tab A, Declaration of Intervenor's National Service Manager, ¶ 2.

Draeger argues that the most common testing protocol requires a fit test on 25 faces, ranging in size from the 5-percentile to the 95-percentile of the population, and claims that the Navy should have used this testing protocol. Protester's Comments, July 11, 2000, at 5. However, the Navy did not advise vendors that it would use this, or any particular, testing procedure. We have no basis to object to the adequacy of the Navy's fit test, particularly since nothing in the record indicates that Scott's face piece will not fit the target user population. A protester's mere disagreement with the agency does not make the agency's evaluation unreasonable. SC&A, Inc., B-270160.2, Apr. 10, 1996, 96-1 CPD ¶ 197 at 8. Thus, Draeger has provided no basis to question the placement of the BPA with Scott.

Finally, Draeger protests the Navy's cost evaluation and its solicitation of a price decrease from Scott, but not Draeger, during the procurement. We find that Draeger is not an interested party to raise these issues. Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-56 (Supp. IV 1998), only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective supplier whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 31 U.S.C. § 3551(2); 4 C.F.R. § 21.0(a) (2000). Determining whether a party is interested involves the consideration of a variety of factors, including the nature of issues raised, the benefit or relief sought by the protester, and the party's status in relation to the procurement. Four Winds Servs., Inc., B-280714, Aug. 28, 1998, 98-2 CPD ¶ 57 at 2. Here, the Navy properly determined that Draeger did not have a product on the FSS that met its needs. Accordingly, even if Draeger successfully challenged the manner in which the Navy evaluated cost and conducted price discussions with Scott, it still would not be in line for the award of a BPA. Thus, we decline to consider these issues.

The protest is denied.

Robert P. Murphy
General Counsel