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Decision

Matter of: Gear Wizzard, Inc.

File: B-298993

Date: January 11, 2007

Kirk J. McCormick, Esq., Watt, Tieder, Hoffar & Fitzgerald, LLP, for the protester.
Gail L. Booth, Esq., Defense Logistics Agency, for the agency.
Peter D. Verchinski, Esq., and John M. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly rejected protester's proposal for failure to meet approved source requirement is denied where, although protester proposed the part of an approved source, additional information developed by agency showed that part was to be manufactured by [DELETED] that was not contemplated by agency's source approval.

DECISION

Gear Wizzard, Inc. (GWI) protests the award of a contract to Ruta Supplies, Inc. under request for proposals (RFP) No. SP0750-06-R-4369, issued by the Defense Logistics Agency (DLA), Defense Supply Center Columbus, for propeller shafts. GWI asserts that the agency improperly rejected its proposal for failure to meet an approved source requirement.

We deny the protest.

The RFP, issued on July 26, 2006, sought proposals for propeller shafts with a universal joint, which were identified by national stock number 2520-01-459-0050 and were further identified in a drawing attached to the RFP. Vendors were informed that the propeller shafts were a "critical application item," and that the cited drawing was a source controlled drawing. There were two approved sources--AM General, Inc. and Dana Corporation--and the solicitation identified the commercial and government entity (CAGE) code associated with each firm's item, as well as each firm's part number.

GWI timely submitted a proposal, offering to provide the Dana part. The contracting officer subsequently determined that GWI intended to have the offered Dana part

manufactured by [DELETED], which was not a Dana facility associated with the CAGE code. The agency, therefore, rejected GWT's proposal as unacceptable and made award to Ruta.

GWI asserts that rejection of its proposal was improper, since it proposed the proper Dana part, manufactured by [DELETED]. GWI concludes that it was entitled to award as the lowest-priced offeror.

Clearly stated RFP requirements are considered material to the needs of the government, and a proposal that fails to conform to such material terms is unacceptable and may not form the basis for award. National Shower Express, Inc.; Rickaby Fire Support, B-293970, B-293970.2, July 15, 2004, 2004 CPD ¶ 140 at 4-5.

The agency's rejection of GWT's proposal was unobjectionable. DLA explains, citing Defense Federal Acquisition Regulation Supplement § 204.7201, that a CAGE code is a "contractor identification code" assigned to a contractor's name and address, so as to avoid any confusion regarding the entity identified. Letter from DLA to GAO, Dec. 15, 2006, at 1. CAGE codes are assigned to discrete business entities for a variety of purposes (e.g., facility clearances and pre-award surveys) to dispositively establish the identity of a legal entity for contractual purposes. See Perini/Jones, Joint Venture, B-285906, Nov. 1, 2000, 2002 CPD ¶ 68 at 5.

Here, the RFP included a CAGE code for Dana's part that identified the manufacturing entity as "Dana Corp. Spicer Universal Joint Div.," at an address in Holland, Ohio.¹ The agency states, and GWI does not dispute, that GWT's proposed parts were to be manufactured by [DELETED], not by Dana's Spicer Universal Joint Division in Holland, Ohio, and Dana has advised the agency that it is not aware of any approved sites to manufacture this part outside the United States. Agency Motion to Dismiss, exh. 2, at 2. The agency advises that [DELETED] is not included under the specified CAGE code; as a foreign entity, it would be assigned a different code, specifically, a North Atlantic Treaty Organization commercial and government entity code. Thus, while GWI appears to be proposing the specified Dana part, the information subsequently developed by the agency indicates that the part would be manufactured by [DELETED] that was not contemplated by the agency's source

¹ This information was obtained from the "Search Now!" link on the Defense Logistics Information Service, Commercial and Government Entity (CAGE), website found at http://www.dlis.dla.mil/cage_welcome.asp. The "Search Now!" link leads to another website, https://www.bpn.gov/bincs/begin_search.asp, that allows one to search for company information by CAGE code.

approval. We think this was a legitimate and reasonable basis for the agency's action here, that is, rejecting GWT's proposal as unacceptable.

The protest is denied.

Gary L. Kepplinger
General Counsel