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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Camnetics Mfg. Corporation

File: B-299738

Date: June 21, 2007

Mark Reaney for the protester.

Michael Walters, Esq., and Edward C. Hintz, Esq., Defense Logistics Agency, for the agency.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably rejected protester's quotation offering surplus parts where the surplus parts had been determined by the agency to be defective, and the protester did not show that this determination was unreasonable.

DECISION

Camnetics Mfg. Corporation protests the rejection of its quotation and the issuance of a purchase order to Pave Technology Company under request for quotations (RFQ) No. SPO900-06-Q-0282, issued by the Defense Logistics Agency (DLA), Department of Defense (DOD), for external fuel tank disconnect receptacles for aircraft.

We deny the protest.

The RFQ sought quotations for 42 fuel tank receptacles. The solicitation stated that a purchase order for the items would be issued to the vendor submitting the quotation that conforms to the terms of the solicitation, is technically acceptable, and represents the best value to the agency based upon the evaluation factors of past performance, offered delivery, and price. RFQ at 11-12. Vendors were informed that the receptacles were "critical application item[s]," and identified Northrup Grumman Systems Corporation and Simmonds Precision Products, Inc. as the only approved sources for the receptacles. The solicitation also provided the commercial and government entity (CAGE) codes for Northrup Grumman and Simmonds, as well as each firm's part number for the receptacles. *Id.* at 2. The RFQ provided that the agency would consider quotations of former government surplus property, provided

the vendor supplied with its quotation detailed information relating to the manufacturer of the receptacles, and how the vendor obtained the parts. Id. at 6.

The agency received 11 quotations, including those of Pave and Camnetics, in response to the RFQ. Camnetics' quotation provided that it was offering surplus receptacles, and identified the receptacles by listing the CAGE code for Pave and the part number for Northrup Grumman receptacles. Agency Report (AR), Tab 4, Camnetics Quotation, at 2. The agency found based upon the CAGE code and part numbers provided in Camnetics' quotation that Camnetics was not offering an approved item, and "removed Camnetics from consideration." AR, Tab 5, Contract Specialist's Declaration.

The agency issued a purchase order to Pave, and Camnetics, which had quoted lower unit and total prices for the receptacles, filed a protest with the agency challenging the agency's decision. The agency found that Pave, which had quoted a receptacle it manufactured, had not offered an approved part. The agency then informed Pave and Camnetics that it had issued a stop-work order in connection with Pave's purchase order, and according to the agency, it then "began the process of getting" the Pave part approved. Contracting Officer's Statement at 2.

Final approval of Pave's receptacles was granted, and the agency modified the purchase order with Pave to provide that Pave was an approved source for the receptacles and list the Pave receptacles by part number. Shortly thereafter, Camnetics filed this protest with our Office, arguing that the purchase order should have been issued to it given that it "was offering the exact parts" as Pave at a lower price. Protest at 1. That is, Camnetics' quotation offered surplus receptacles that had been manufactured by Pave. The protester points out that it has provided the same receptacles as those offered here under a recent purchase order with DLA, as well as with regard to two recent contracts with another DOD entity. Protest at 2; Protester's Comments at 2.

By way of background, the agency explains that the receptacles perform two important functions, with the first being to "activate a light in the cockpit [of the aircraft] to let the pilot know if the external fuel tank is present, or if the tank has been jettisoned." AR, Tab 8, Declaration of DLA Quality Assurance Specialist, at 1. The receptacle also assists the pilot with information regarding the amount of fuel in the external tanks. Id. The agency explains that receptacles previously provided by Pave had certain problems, and that because of the serious nature of the problems (false readings as to the amount of fuel in the tanks and whether the tanks remained attached to the aircraft or had been jettisoned), and the fact that the provided receptacles could not be repaired, "disposition instructions to have the [Pave] receptacles" destroyed were issued. Id. at 2. The agency states that the "disposal was not carried out," but rather, it appeared that the "material was sold to a contractor in 1997" according to "the traceability documentation provided." Id. at 3. The agency adds that the problems with the receptacles manufactured by Pave were subsequently resolved, but that any receptacles manufactured by Pave "prior to 1997

are not acceptable.” Id. at 4. The agency states that from what it has determined, the Pave-manufactured receptacles offered by Camnetics here are the defective receptacles erroneously sold as surplus in 1997, and accordingly, are unacceptable for use. With regard to the purchase order recently issued by DLA to Camnetics for the same receptacles, the agency states that “[t]he surplus offer was incorrectly approved,” and that receptacles will not be issued for use. AR at 3. The agency adds that Camnetics has offered the receptacles in response to two other DLA solicitations, and that each time “the documents were correctly reviewed and the technician recommended the surplus offer be rejected.” Id.

In reviewing an agency’s technical evaluation of vendor submissions under an RFQ, we will not reevaluate the quotations; we will only consider whether the agency’s evaluation was reasonable and in accord with the evaluation criteria listed in the solicitation and applicable procurement statutes and regulations. American Recycling Sys., Inc., B-292500, Aug. 18, 2003, 2003 CPD ¶ 143 at 4.

Camnetics states only that “it purchased [the Pave-manufactured receptacles] in good faith,” and does not deny that the receptacles it is offering are the same defective Pave-manufactured receptacles previously provided to DLA. The protester contends, however, that it has supplied these Pave-manufactured receptacles to another DOD entity and received no complaints, and demands that DLA provide “conclusive evidence” that the Pave-manufactured receptacles offered by Camnetics “are defective.” Protester’s Comments at 2.

Although the protester clearly disagrees with the agency’s position, we believe that the agency has provided, as detailed above, a reasonable explanation as to why the surplus receptacles offered by Camnetics are unacceptable. In this regard, the agency has provided the declarations of agency employees with first-hand knowledge of the defective Pave-manufactured receptacles provided prior to 1997. These declarations describe in detail the precise nature of the defects, and we have no basis to question these declarations based upon this record. Given these declarations, and the flight safety critical nature of the receptacles, we believe that the agency has provided sufficient evidence as to the unacceptability of the particular surplus receptacles offered by Camnetics, especially given the absence of evidence from Camnetics that would show that the offered surplus items were not those regarded as defective by the agency.¹ With regard to the contracts under which Camnetics has allegedly provided the surplus receptacles to another DOD entity, we note that each procurement stands on its own, and to the extent that the receptacles were accepted and put into use by another DOD entity, that does not

¹ As indicated above, vendors offering surplus items were required to provide detailed information relating to the manufacturer of the receptacles, and how the vendor obtained the parts.

render unreasonable the agency's well-explained determination that the surplus receptacles offered here were unacceptable.

The protest is denied.

Gary H. Kepplinger
General Counsel