



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: East West Research, Inc.
File: B-238316
Date: April 18, 1990

Richard Snyder, for the protester.
Barry M. Sax, Esq., Defense Logistics Agency, for the agency.
John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly failed to include a federal specification in item description is denied, since regulation, which provides that federal specifications are to be used when applicable, does not apply to small purchases; in any case, federal specification cited by protester does not apply to required item.

DECISION

East West Research, Inc., protests small purchase request for quotations (RFQ) No. DLA400-90-T-4490, issued by the Defense Logistics Agency (DLA) for abrasive wheels. East West claims that the RFQ included the wrong item description and instead should include a certain federal specification.

We deny the protest.

The solicitation, issued on December 27, 1989, under small purchase procedures, requested quotations on 15,000 abrasive wheels. The item description included American National Standards Institute (ANSI) specifications B7.1, B74.13, and B74.2. On January 16, 1 day before the solicitation was closed, East West protested the item description to our Office. East West alleges that, under Federal Acquisition Regulation (FAR) § 10.006(a)(1) and Department of Defense (DOD) Directive 4120.3, the agency was required to describe the item in terms of federal specification GGG-W-290, which applies to certain abrasive wheels, instead of in terms of the ANSI specifications. East West also contends that DLA's deviation from this requirement was inconsistent with the procedures set forth for deviations in FAR § 10.007.

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East West is correct that under FAR § 10.006(a)(1), agencies are required to use specifications listed in the General Services Administration (GSA) Index of Federal Specifications, Standards and Commercial Item Descriptions, when procuring items covered by those specifications. However, FAR § 10.006(a)(1)(ii) provides that the use of federal specifications is not required when the items are purchased under small purchase procedures. As this procurement was conducted under small purchase procedures, it is exempt from the requirement that federal specifications from the GSA Index be used. For the same reason, the deviation procedures in FAR § 10.007 do not apply. Notwithstanding this exemption, the agency informs us, and the record indicates, that the required abrasive wheels are not covered by federal specification GGG-W-290; DLA explains it requires an abrasive wheel with a grit size of 60, while this specification only applies to abrasive wheels with grit sizes ranging from 14 to 30. Thus, since the specification does not cover the item DLA requires, the agency would not be required to include it in the item description.

East West also alleges that the agency's failure to include the federal specification in the item description violated DOD Directive 4120.3. This Directive simply provides that agency requirements shall be satisfied to the maximum practicable extent through the use of existing commercial and military standards. The agency's use of ANSI commercial standards complied with this directive. (We note that an agency's internal instructions do not have the force and effect of law, so that the alleged failure to comply with them in a particular instance involves a matter for consideration within the agency itself, rather than through the bid protest process. Spectron Caribe, Inc., B-224251, Nov. 25, 1986, 86-2 CPD ¶ 609).


East West alleges that the agency used small purchase procedures solely to avoid the requirements of FAR § 10.006. The record shows that the agency properly used small purchase procedures because the amount of the procurement was less than \$25,000. 48 C.F.R. Part 13 (1989). Moreover, since the specification does not apply to the required abrasive wheel, there was no reason for the agency to circumvent the FAR requirement.

To the extent East West is challenging DLA's need for abrasive wheels with a grit size of 60 (rather than a coarser grit size within the 14 to 30 range covered by the federal specification), we note that the determination of the government's minimum needs and the best method of accommodating them is primarily the responsibility of the

contracting agency; agency officials are most familiar with the conditions under which the supplies or services will be used. Thus, we will not question an agency's determination of its minimum needs unless there is a clear showing that the determination had no reasonable basis. IBI Sec. Serv., Inc., B-233726.2, Apr. 6, 1989, 89-1 CPD ¶ 359.

East West has made no such showing. The abrasive wheels covered by the federal specification are coarse, "snagging" wheels, capable of removing relatively large amounts of material without regard to the resulting surface finish or tolerance. The agency's requirement, on the other hand, is for abrasive wheels with a grit of 60, which is twice as fine as the finest grit wheels covered by the federal specification (30). Given these facts, there simply is no basis for questioning DLA's determination of its needs.

The protest is denied.



James F. Hinchman
General Counsel