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# Decision

**Matter of:** Chase Defense Partners

**File:** B-421411

**Date:** April 14, 2023

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## DIGEST

Protest of solicitation for power cable assemblies from a single approved source is denied where the record shows that the agency is procuring an approved source item and the agency's determination to use the single approved source was reasonable.

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## DECISION

Chase Supply, Inc. d/b/a Chase Defense Partners, of Hampton, Virginia, protests the terms of a solicitation under request for quotations (RFQ) No. SPE4A6-23-Q-0403, issued by the Defense Logistics Agency (DLA) for power cable assemblies. The protester contends that the agency's procurement of the power cable assemblies from a single approved source is unduly restrictive of competition.

We deny the protest.

## BACKGROUND

The agency issued the current RFQ on January 3, 2023, under the simplified acquisition procedures of Federal Acquisition Regulation (FAR) part 13.<sup>1</sup> AR, Exh. 1, RFQ at 1-2.

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<sup>1</sup> The agency has issued several solicitations related to the procurement of this item. See, e.g., Agency Report (AR), Exh. 11, May 2022 RFQ. Chase has protested two of the previous solicitations, and in each instance, DLA took corrective action and canceled the solicitation. *Chase Supply, Inc., d/b/a Chase Defense Partners*, B-420819, July 1, 2022 (unpublished decision); *Chase Supply, Inc., d/b/a Chase Defense Partners*, B-421253, Dec. 8, 2022 (unpublished decision).

The agency seeks to purchase 31 replacement power cable assemblies, identified by National Stock Number (NSN) 6150-01-468-3561. *Id.* at 3. These cable assemblies are used to supply ground power to various aircraft in the United States Air Force fleet. Specifically, the cable assemblies connect “flightline” generator sets to aircraft in order to provide external ground power for launch, recovery, and maintenance operations. AR, Exh. 4, Aircraft Generation Engineering Branch Chief Declaration at 1. Essex Electro Engineers, Inc. is the original equipment manufacturer (OEM) of the generator sets. AR, Exh. 6, Essex Letter at 1.

As a combat support agency, DLA is responsible for the procurement of items for use by the military services. Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 1. The agency explains that while DLA is tasked with procuring this NSN item for the Department of Defense (DOD), the Air Force Engineering Support Activity (ESA) is the agency charged with approving and maintaining the list of approved sources for NSN 6150-01-468-3561. *Id.* at 3; AR, Exh. 3, DOD Instruction (DODI) 4140.69 § 2.3(j). Any requirement for cable assemblies, identified by NSN 6150-01-468-3561, must be procured from the approved source list.<sup>2</sup> Supp. COS/MOL at 3; see AR, Exh. 3, DODI 4140.69 § 2.2(i). Only the Air Force ESA can approve new sources for this NSN item; DLA does not have the authority to approve sources for critical application items. Supp. COS/MOL at 2-3; see AR, Exh. 3, DODI 4140.69 § 1.2(a).

Relevant here, the Air Force ESA conducted market research in April and May of 2022, and the agency found that only one responsible source could satisfy the requirements for replacement power cable assemblies that are compatible with the flightline generator sets. COS/MOL at 4. The Air Force ESA identified ITW GSE, Inc. as the approved source because its part number (PN) JB8817-60NJ was the only product that met the specifications for NSN 6150-01-468-3561. *Id.* at 4; AR, Exh. 8, Approved Source List at 1. Consequently, the solicitation specifically identifies the cable assemblies as a critical application item, and notifies vendors of the following approved source of supply for the NSN: ITW GSE Inc., [commercial and government entity (CAGE)] code 0SMN2 and PN JB8817-60NJ. RFQ at 3.

Chase submitted a quotation in response to the RFQ. Although Chase indicated that it did not take any exceptions, the quotation did not offer the product sought in the RFQ (*i.e.*, ITW GSE PN JB8817-60NJ). AR, Exh. 2, Quotations at 1-2. Rather, the item

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<sup>2</sup> The Air Force ESA has designated these power cable assemblies to be a critical application item. COS/MOL at 3; AR, Exh. 7, Integrated Data Sheet at 5. As such, DLA must use the Air Force approved source of supply list for the procurement of the item. See AR, Exh. 3, DODI 4140.69 § 2.2(i). The DODI defines a critical application item as “[a]n item that is essential to weapon system performance or operation, or the preservation of life or safety of operating personnel, as determined by the cognizant engineering activity(s).” *Id.* at § G.2.

quoted by Chase in response to the RFQ was PN 72HN-1517-0060, a product manufactured by Skyko International LLC.<sup>3</sup> COS/MOL at 2.

At the same time, Chase also filed an agency-level protest with DLA on January 6, before the due date set for quotations, arguing that the solicitation term restricting the procurement to a single approved source was unduly restrictive of competition. Supp. COS/MOL, Attach. 3, Agency-Level Protest at 1. After the closing date for receipt of quotations passed, the protester filed this pre-award protest with our Office.

## DISCUSSION

Throughout the course of the protest, Chase advances several challenges to the agency's decision to limit this procurement to one approved source.<sup>4</sup> The protester primarily contends that limiting the procurement of the power cable assemblies to a single approved source is unduly restrictive of competition. Protest at 1. We have considered all arguments and find no basis to sustain the protest.

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<sup>3</sup> The record reflects that Chase, a distributor, has attempted to have the cable assemblies manufactured by Skyko accepted as an approved source for NSN 6150-01-468-3561. In February 2021, DLA inadvertently added Skyko PN 72HN-1517-0060 as an approved source for NSN 6150-01-468-3561, before receiving approval from the Air Force ESA. COS/MOL at 3. The Air Force ESA responded to DLA in December 2021, stating that "PN 72HN-1517-0060 cannot [] be considered a form, fit, and functional replacement suitable for listing under NSN 6150-01-468-3561," and that "ESA cannot approve the offered part [as] an alternative source for the subject NSN." AR, Exh. 7, Integrated Data Sheet at 6. Subsequently, in March 2022, DLA notified Chase of the Air Force ESA's decision, and that the Air Force would "not utilize P/N 72HN-1516-0060 and P/N 72HN-1518-0060 as a suitable substitutes for [ITW GSE] PN JB8817-60NJ." AR, Exh 9, DLA Letter to Skyko at 1.

<sup>4</sup> In its comments, Chase makes several arguments that were not raised in its initial protest but asserts that they are not supplemental protest allegations. See Resp. to GAO Clarification Notice at 1 ("[T]here are no supplemental protest grounds in Chase's comments."). For example, the protester alleges that the solicitation failed to follow the requirements of FAR subpart 9.2 in establishing a qualification requirement. Comments at 12. Our regulations do not contemplate the piecemeal presentation or development of protest issues through later submissions citing examples or providing alternate or more specific legal arguments missing from earlier general allegations of impropriety. *Star Food Serv., Inc.*, B-408535, Nov. 1, 2013, 2013 CPD ¶ 246 at 4. We will dismiss a protester's piecemeal presentation of arguments that could have been raised earlier in the protest process. *Alfa Consult S.A.*, B-298164.2, B-298288, Aug. 3, 2006, 2006 CPD ¶ 127 at 3 n.2. To the extent that Chase raises additional challenges to the terms of the solicitation in its comments to the agency report, there is no evidence that the arguments could not have been timely asserted in the initial protest. Accordingly, any such allegation is untimely and will not be considered. *Id.*; 4 C.F.R. § 21.2(a)(2).

## Timeliness

As an initial matter, the agency contends that Chase's protest to our Office is untimely because it was filed on January 18, eight days after the due date set for quotation submissions. Supp. COS/MOL at 6. According to DLA, because the protest challenged the terms of the solicitation, Chase's protest was required to be filed by the January 10 submission due date. We disagree. Where, as here, a protest is filed first with a contracting activity, any subsequent protest to our Office, to be considered timely, must be filed within 10 calendar days of "actual or constructive knowledge of initial adverse agency action." 4 C.F.R. § 21.2(a)(3). The term "adverse agency action" means any action or inaction on the part of a contracting agency that is prejudicial to the position taken in a protest filed with the agency, including the "opening of bids or receipt of proposals." 4 C.F.R. § 21.0(e). *MLS-Multinational Logistic Servs., Ltd.*, B-415782, B-415708.2, Mar. 7, 2018, 2018 CPD ¶ 105 at 4. Here, the agency acknowledges that Chase filed a timely agency-level protest prior to the due date for receipt of quotations. Supp. COS/MOL at 6. For the purposes of our timeliness rules, initial adverse action occurred when the agency allowed quotation receipt to close on January 10 without granting the relief requested in the protester's agency-level protest. See *MLS-Multinational Logistic Servs., Ltd.*, *supra* at 5. Chase filed its protest with our Office on January 18, within 10 days of the quotation closing date. Thus, the protest with our Office is timely. 4 C.F.R. § 21.2(a)(3).

## Approved Source

The gravamen of Chase's protest essentially is that it is unreasonable for the solicitation to restrict the purchase of these power cable assemblies, identified as NSN 6150-01-468-3561, to a single approved source. Protest at 1. The agency responds that the solicitation's identification of ITW GSE as the sole source of supply is reasonable and consistent with the Air Force's sourcing designation for this NSN item. COS/MOL at 7.

In reviewing DLA's obligations here, we look to part 13 of the FAR, which establishes the procedures for simplified acquisitions. These simplified procedures are designed to promote efficiency and economy in contracting, and to avoid unnecessary burdens for agencies and contractors, where, in cases like these, the value of the acquisition is less than \$250,000. See FAR 2.101. In a simplified acquisition, agencies are only required to obtain competition to the "maximum extent practicable." 10 U.S.C. § 3205(c); FAR 13.104; *Critical Process Filtration, Inc.*, B-400746 *et al.*, Jan. 22, 2009, 2009 CPD ¶ 25 at 5. Additionally, when using the FAR's simplified acquisition procedures, an agency can limit a solicitation to a brand-name item where the "contracting officer determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, brand-name or industrial mobilization)." FAR 13.106-1(b)(1). In such cases, we review protests of sole-source determinations and, as here, the decision to limit the procurement to a brand-name product for reasonableness. *Acme Prods. & Eng'g, Inc.*, B-419495, Apr. 5, 2021, 2021 CPD ¶ 210 at 6.

Here, DLA has established a reasonable basis for limiting the procurement to a brand-name item for the power cable assemblies. The agency limited the solicitation to the use of ITW GSE's power cable assemblies because the item (NSN 6150-01-468-3561) has been designated by the Air Force ESA to be a critical application item.<sup>5</sup> COS/MOL at 1-3. Because it is a critical application item, NSN 6150-01-468-3561 is a restricted source item, which can only be obtained from an approved source. *Id.*; AR, Exh. 3, DODI 4140.69 § 2.2(i). According to the agency, the power cable assemblies need to interact properly and function reliably with the established equipment, *i.e.*, the OEM generators and the military aircraft; a failure in the cable's interaction with any equipment could cause injury to personnel or jeopardize a vital agency mission. See COS/MOL at 3. As such, approved sources were required to provide an identical match to the cable assemblies that are currently in use. Supp. COS/MOL at 5. At the time the RFQ was issued, no cable assemblies other than the ITW GSE cable assemblies were found to be an identical match. *Id.* at 1.

In sum, DLA was required to procure the item using a source from the Air Force ESA's approved source list because the power cable assemblies are considered a critical application item. See AR, Exh. 3, DODI 4140.69 § 2.2(i). As discussed above, ITW GSE is currently the only source approved by the Air Force ESA to provide NSN 6150-01-468-3561. Additionally, although DLA is the procuring agency, DLA does not have the authority to purchase this NSN item outside of the approved source list. Supp. COS/MOL at 3; see AR, Exh. 3, DODI 4140.69 § 1.2(a). Moreover, only the Air Force ESA has the authority to approve new sources for this NSN. Supp. COS/MOL at 2-3. Because ITW GSE was the only approved source for NSN 6150-01-468-3561, there was nothing objectionable with DLA identifying, in the solicitation, ITW GSE as the source for the power cable assemblies.

Under these circumstances, especially given that the procurement is valued at less than \$250,000 and the FAR permits a streamlined acquisition approach, we find that the protester has not established a basis to question the agency's determination here. FAR 13.106-1(b)(1). We conclude that DLA has demonstrated a reasonable basis for limiting this solicitation to the approved source for the critical application item identified as NSN 6150-01-468-3561. See *Acme*, *supra* at 6-7.

Finally, Chase contends that "if a qualification requirement were deemed necessary, that qualification requirement has been applied in an unduly restrictive manner, because Chase has not been given a fair opportunity to qualify a product that would, in fact, meet the agency's needs." Protest at 1. It appears from the relief requested, that what Chase actually seeks from this protest is for Skyko to be considered an approved source for NSN 6150-01-468-3561. *Id.* at 4 ("Skyko requests being listed as an

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<sup>5</sup> The U.S. military services are "responsible for engineering authority and configuration management for U.S. military aircraft." COS/MOL at 2; see AR, Exh. 3, DODI 4140.69 § 1.2(a). This authority includes maintaining an approved source list for critical items. *Id.* § 2.3(j). In procuring critical items, DLA must defer to this approved source list. AR, Exh. 3, DODI 4140.69, § 2.2(i).

approved source equal to [ITW GSE].”). In this regard, Chase misunderstands GAO’s role in the bid protest process. As our Office has explained, we review alleged violations of procurement laws and regulations to ensure that the statutory requirements for full and open competition are met. 31 U.S.C. § 3552(a); *Trailboss Enterprises, Inc.*, B-415970 *et al.*, May 7, 2018, 2018 CPD ¶ 171 at 5. As discussed above, within the DOD, only the Air Force ESA is charged with approving and maintaining the list of approved sources for NSN 6150-01-468-3561.<sup>6</sup>

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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<sup>6</sup> Moreover, the record shows that DLA and the Air Force ESA have provided Chase with a fair opportunity to qualify the Skyko cable assemblies. The Air Force has made clear that for the Skyko cable assemblies to be placed on the approved source list for NSN 6150-01-468-3561, they must submit an official source approval request (SAR) package with the required technical data included. AR, Exh. 14, Contracting Officer Letter to Protester at 1; see AR, Exh. 7, Integrated Data Sheet at 6. The agency informed Chase that the SAR package submission “is the only action that will trigger the source approval process.” AR, Exh. 14, Contracting Officer Letter to Protester at 1. According to DLA, neither Chase, nor Skyko, have submitted an official SAR package for the Air Force ESA to consider whether Skyko should be an approved source for NSN 6150-01-468-3561. Supp. COS/MOL at 4-5. The agency notes that Skyko and Chase will not be denied an opportunity to demonstrate the ability of their cable to meet the government’s needs, but that “the onus is on [Skyko/Chase] to follow the prescribed procedure for submission of a SAR to establish the acceptability of its offered product.” COS/MOL at 7 n.6 (*citing* FAR 9.202).