



## Decision

**Matter of:** Girton Manufacturing Company, Inc.

**File:** B-416691

**Date:** November 13, 2018

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William Bruce Michael for the protester.  
Melissa D. McClellan, Esq., Department of Agriculture, for the agency.  
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### DIGEST

Issuance of sole-source purchase order is unobjectionable where the agency reasonably concluded that the protester's alternative equipment failed to meet the agency's needs.

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### DECISION

Girton Manufacturing Company, Inc., of Millville, Pennsylvania, protests the issuance of a purchase order for two animal care washers to Lynx Product Group, of Wilson, New York, pursuant to Notice No. 918923, which announced the Department of Agriculture's (USDA) intent to issue the order to Lynx on a sole-source basis. The protester argues that the agency unreasonably concluded that Girton's offered equipment failed to satisfy the agency's requirements.

We deny the protest.

### BACKGROUND

On June 15, 2018, the agency published on the Federal Business Opportunities website a notice announcing that it intended to issue a sole-source purchase order to Lynx Product Group for two pieces of equipment: a Lynx Model 410LX cage and rack washer; and a Lynx Model 340LX cage and bottle washer.<sup>1</sup> Agency Report (AR), Tab

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<sup>1</sup> The notice indicated that pursuant to the authority of 41 U.S.C. § 253(c)(1) and Federal Acquisition Regulation § 6.302-1, the agency had determined that the

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C, Notice of Intent, June 15, 2018. As relevant to this protest, one of the salient features of the cage and rack washer was a secondary header system that utilizes direct feed hot water for low intensity rinsing. See Agency Letter to GAO, Oct. 19, 2018; Protester's Response, Oct. 22, 2018. The notice of intent advised that interested parties could identify their interest and capability to respond to the requirement.

Lynx, Girton, and two other firms responded to the agency's notice of intent. Girton took exception to the agency's determination that the requirement was available from only one source and requested permission to submit a quotation. Protest, exh. B, Email from Girton to Contracting Officer, June 20, 2018. The contracting officer replied that Girton could provide a quotation and information on its equipment. Protest, exh. C, Email from Contracting Officer to Girton, June 20, 2018. Girton's response included technical specification sheets for its two offered machines, neither of which included a secondary header system as a standard or optional feature. See Protest, exh. E, Email from Girton to Contracting Officer, June 20, 2018, with attachments; AR, Tab E. The agency and the protester exchanged email and conferred by telephone; as a result of these communications, the equipment end user, who was also a technical evaluator, was able to resolve certain issues with respect to the conformance of Girton's equipment with the agency's specifications. See AR, Tab K, Technical Evaluator's Contemporaneous Notes, undated. Regarding the secondary header system, the evaluator noted as follows: "Option not listed in Girton literature. [Girton's President] told me that's not a usual option in his cage washers but is in his commercial dish washers. He said it could easily be added to our washers." Id. at 1.

Based on the information submitted by Girton and his conversation with Girton's president, the technical evaluator advised the contracting officer that the agency should not consider the Girton washers. AR, Tab M, Email from Technical Evaluator to Contracting Officer, June 27, 2018. The technical evaluator reasoned that, while both of the "Lynx models we selected (410LX & 340LX) come with OPT-wash header systems," the "Girton cage washers don't have this type of feature as an option." Id. The technical evaluator further explained that, while some Girton washers contain this feature, it would have to be adapted for use in the cage washers offered, which meant that the purchased equipment would use an untested configuration. See id.

The contracting officer determined that Lynx's quotation was technically acceptable and that Girton's lower-priced quotation was technically unacceptable. AR, Tab P, Contracting Officer Memo to File, July 23, 2018<sup>2</sup>, at 2. Because the two other firms

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equipment required was available from only one responsible source and no other suppliers would satisfy the agency's requirements.

<sup>2</sup> The contracting officer explained that he had intended to sign this memo to file at contract award. When he failed to do so, the electronic date automatically updated when the file was opened. The contracting officer asserts that the comments in the

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offered higher prices than Lynx, the agency did not evaluate the technical acceptability of their quotations. See id. The purchase order was issued to Lynx at a total price of \$299,252, and the agency provided Girton notice of the award on July 12, 2018. AR, Tab Q, Notice of Award, July 12, 2018.

The protester filed an agency-level protest of the issuance of the purchase order on July 17, 2018, asserting that Girton has substantial experience manufacturing equipment that meets the agency's requirement. Protest, exh. L, Agency Level Protest, July 17, 2018. The agency dismissed that protest, finding that the protester's equipment would need to undergo modification in order to meet the agency's requirements and would require reprogramming, and thus Girton's alternative equipment was not considered a technically acceptable solution. Protest, exh. I, Agency Protest Dismissal, Aug. 9, 2018. This protest followed.

## DISCUSSION

The protester challenges the agency's determination that its proposed equipment does not meet the agency's requirements. Protest at 1-2; Comments at 1. The agency asserts that it reasonably determined that the products offered by the protester did not meet USDA's requirements, because the protester's proposed equipment failed to include the required header system.

It is a vendor's responsibility to affirmatively demonstrate that its offered product meets all of a solicitation's material requirements. Envirodyne Sys., Inc., B-279551, B-279551.2, June 29, 1998, 98-1 CPD ¶ 174 at 4. The contracting agency is responsible for evaluating the information supplied to determine the acceptability of the vendor's product. Id. In reviewing an agency's technical evaluation, we consider only whether the agency's evaluation was reasonable and consistent with the announced criteria. Id.

The protester makes a number of assertions in its protest, many of which it reasserts in its comments on the agency report. Girton states that it provided "the same equipment to the USDA" in 1995. Protest at 1; Comments at 1. The protester challenges as inaccurate the agency's statement "that 'Girton cage washers don't have a separate set of nozzles which spray house hot water for a quick rinse.'" Protest at 1, quoting Unsuccessful Offeror Letter (emphasis in Protest). The protester claims that it has manufactured "no less than 90" washers that meet this requirement. Protest at 2; Comments at 1-2.

Even assuming the accuracy of each of these statements, the record in this protest does not provide a basis on which to find unreasonable the agency's rejection of

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memorandum are contemporaneous with the conduct of the procurement. AR, Tab T, Contracting Officer's Statement at 2.

Girton's quotation as unacceptable. The protester bore the burden of submitting sufficient information to enable the agency to determine whether its proposed alternative equipment met all of the agency's requirements. Here, the specification sheets that Girton submitted to establish that its alternative met the agency's requirements did not include the required secondary header system as standard equipment or as an option. See Protest, exh. E with attachments. Moreover, the information asserting Girton's long history of manufacturing equipment that conforms to the agency's requirements was not available to the agency evaluator. Given Girton's failure to include that feature on its proposed machines, we conclude that the agency reasonably determined that Girton's alternative quotation did not meet its requirements and was technically unacceptable.

The protest is denied.

Thomas H. Armstrong  
General Counsel