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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Hydro Fitting Manufacturing Corporation

File: B-311452

Date: July 8, 2008

Susan J. Buchanan, Hydro Fitting Manufacturing Corporation, for the protester.
Edward C. Hintz, Esq., and Michael L. Walters, Esq., Defense Logistics Agency, for
the agency.

Glenn G. Wolcott, Esq., and Ralph O. White, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Agency properly determined that protester is not a qualified source to provide valve stem assemblies, a critical safety item, where protester has been provided an opportunity to comply with qualification requirements but has declined to do so.

DECISION

Hydro Fitting Manufacturing Corporation (HFMC) protests the Defense Logistics Agency's (DLA) failure to list HFMC as a qualified source with regard to request for quotations (RFQ) No. T-2016 to purchase a quantity of valve stem assemblies, national stock number (NSN) 2640-01-419-6205 (hereinafter referred to as "NSN-6205").

We deny the protest.

In March 2008, the Defense Supply Center Columbus (DSCC), a field activity of DLA, issued RFQ-T-2016, seeking quotations to provide 3,000 valve stem assemblies, NSN-6205. The assemblies are used on the high mobility multipurpose wheeled vehicle (HMMWV) and are considered critical safety items because failure could lead to underinflation of the HMMWV's tires, resulting in vehicle instability and potentially causing death or serious bodily injury. Agency Report (AR), Contracting Officer's Statement, at 1. Accordingly, only sources that have obtained source approval are considered eligible to provide the valve stem assemblies.

HFMC asserts that it should be listed as a qualified source for this procurement based on testing it completed in 2006 with regard to one component of the

assemblies.¹ HFMC maintains that, in connection with a previous procurement conducted in 2004, unidentified representatives of the U.S. Army Tank and Automotive Command (TACOM)² advised HFMC that the component part, NSN-1063, was the only portion of the valve stem assemblies for which source approval was required. Accordingly, HFMC maintains that it must now be listed as an approved source for the entire assembly.

The agency responds that there are, and have been since 2003, qualification requirements for both the component part, NSN-1063, and the overall assembly, NSN-6205. Specifically, the agency explains that following numerous product quality deficiency reports (PQDR) concerning leaking assemblies, the agency began requiring qualification testing for the overall assemblies in November 2003. AR, Tab 3, ¶ 3.

Further, the record shows that HFMC was provided written notice in March 2008 regarding the qualification requirements for the overall assemblies.³ In response to this notification, HFMC complained that HFMC had previously been “o.k.’d by TACOM” as a qualified source for the assemblies, characterized the requirement for

¹ The record shows that HFMC completed qualification testing for NSN4730-01-346-1063 (hereinafter referred to as “NSN-1063”)—one component of the valve stem assemblies—in November 2006. AR, Tab 1, Letter from TACOM to HFMC (Nov. 20, 2006).

² The Tank Automotive Research Development Engineering Center (TARDEC), a component of TACOM, is the engineering support activity for the tires and tire accessories for the HMMWV.

³ Specifically, in March 2008, the contracting officer advised HFMC, among other things, of the following:

[HFMC] must provide a Bill of Materials for the six items in the subject kit. Please provide your drawing (if your company makes the part) or your supplier’s drawing if your company does not make the part for each item in the kit. The Govt. needs to verify that the parts for the proposed assembly kit conforms with the drawings (both dimensional, material, and testing identified on subject dwgs [drawings].) For example, the O-ring has dwg 12342794 listed. Your company must provide a dwg for subject O-ring and the test data as indicated in item 2 of dwg 12342793 (provide your drwg of approved part along with reqts [requirements] listed if that is what you will submit with the kit). Similarly, dwgs are needed for the tank valve 1234634, Nut MS21245-8, valve core TR-C1, and valve cap TR-VC8.

AR, Tab 3, Email from Contracting Officer to HFMC (Mar. 4, 2008).

submission of additional data as “clerical work,” and declined to provide the necessary information. AR, Tab 1, Email from HFMC to DLA (Mar. 19, 2008).

A procuring agency may limit competition for the supply of parts if doing so is necessary to ensure the safe, dependable and effective operation of military equipment, *see, e.g., Tura Mach. Co.*, B-241426, Feb. 4, 1991, 91-1 CPD ¶ 114 at 3, and the contracting agency is primarily responsible for determining its minimum needs and for determining whether a potential offeror will satisfy those needs, since it must bear the burden of difficulties resulting from defective determinations in this regard. *Chromalloy Gas Turbine Corp.*, B-234272, May 17, 1989, 89-1 CPD ¶ 474 at 2. When a contracting agency restricts a contract award to only approved sources and imposes qualification requirements, unapproved sources should be given a reasonable opportunity to qualify. 10 U.S.C. § 2319 (2000). However, an agency is not required to delay a procurement solely to provide a potential offeror an opportunity to demonstrate its ability to become approved. 10 U.S.C. § 2319 (c)(5); *The Purdy Corp.*, B-259066, Mar. 1, 1995, 95-1 CPD ¶ 120 at 3. This is particularly true where the offeror contributes to its failure to obtain timely source approval. *Id.*

Here, HFMC has not meaningfully challenged either the substance of the DLA’s determination regarding the critical nature of the valve assemblies, nor the authority of DLA to establish source approval qualification requirements. Rather, its entire protest rests on the assertion that unidentified TACOM personnel previously advised HFMC that it “need only qualify the assembly component [NSN-1063] in order to qualify the entire [NSN-]6205 tank valve assembly.”⁴ HFMC Comments, May 14, 2008. In short, HFMC argues that, because unidentified TACOM representatives allegedly misled HFMC several years ago regarding the qualification requirements—or alternatively, that HFMC misunderstood the scope of the qualification requirements—DLA is now obligated to list HFMC as an approved source for this procurement.

Based on the record here, we reject HFMC’s protest that the agency improperly failed to include HFMC as an approved source for acquisition of the valve assemblies at issue. Indeed, it is clear that HFMC has been given an opportunity to meet the requirements to become a qualified source for the valve stem assemblies, but has

⁴ Although HFMC’s protest refers to various email and telefax communications with government personnel in connection with its qualification testing of the component part, NSN-1063, none of these communications indicates that this component was the only part for which qualification testing was required. Further, HFMC has expressly declined to identify the source of the alleged representations, stating: “[we] do not choose to make declarations part and parcel of GAO’s time and review.” HFMC Comments, May 14, 2008.

declined to do so. Accordingly, there is no basis to question the agency's determination not to identify HFMC as an approved source in this solicitation.

The protest is denied.

Gary L. Kepplinger
General Counsel