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M. Bowman
Proc II

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-190115 DATE: June 7, 1978

**MATTER OF: Leo Kanner Associates--Request
for Reconsideration**

DIGEST:

1. In absence of evidence that earlier decision was in error, mere fact that other interpretation of solicitation may be reasonable does not require overruling of earlier decision based on GAO determination of most reasonable interpretation.
2. Inclusion in solicitation of estimated use percentages of subline items does not bring instant case within rule of cases where GAO has approved or required multiple awards of subline items since, in those cases, the solicitations specified definite, and not estimated, quantities of the subline items.

Leo Kanner Associates (Kanner) requests reconsideration of our decision in Leo Kanner Associates, B-190115, March 14, 1978, 78-1 CPD 200, which involved Request for Proposals (RFP) No. DAAG39-77-R-9102, issued by the Army's Harry Diamond Laboratories, for translation of between 2 and 12 million words contained in foreign language technical documents.

Both in its initial protest and here, Kanner has contended that the Army erred in making a single award based on the awardee's prices for each of six items, since multiple awards were authorized by the solicitation and, if made on the basis of subline item prices, multiple awards would have yielded the lowest total cost to the Government. In our earlier decision, we recognized that the lowest price would be achieved by making multiple awards on the basis of subline item prices. However, we concluded that the solicitation required the Army to consider multiple awards with regard to the average evaluated prices of line items and not of subline items. For the reasons which follow, Kanner takes exception to our conclusions.

The solicitation in question included six items, numbered 0001 through 0006. Item 0001 called for translation of 2 million words and each succeeding item represented an increase of 2 million words, so that Item 0006 was for translation of 12 million words. Under each item, offerors were to submit unit prices for eight different categories of translation (subline items 0001AA through 0006AH), identified by type of language, security classification, and delivery time. A unit was defined as a single English word. The solicitation stated:

"D.1 EVALUATION FACTORS

"a. The following is an estimate of percentages for languages to be translated under any resultant contract.

<u>Language</u>	<u>Unclassified</u>		<u>Classified</u>	
	<u>Rush</u>	<u>Routine</u>	<u>Rush</u>	<u>Routine</u>
Prime (Russian German, French)	13%	62%	2%	18%
All other languages		4.5%		.5%

"The estimated percentages listed above will be used for evaluating prices proposed under this RFP. An average evaluated unit price will be established by applying proposed rates to the estimated percentages above. (Emphasis added.)

"D.2 MULTIPLE AWARDS

"a. Because of the large volume of translation work, the Government may make award to more than one offeror.

"b. In addition to other factors, offers will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of \$100 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combination of items which result in the lowest aggregate price to the Government, including such administrative cost."

Over Kanner's contention that the solicitation required multiple awards of subline items if this would yield the lowest total price, we held in our initial decision:

"Properly construed, however, we believe this solicitation requires the Army to determine the possible advantages of multiple awards on the basis of average evaluated unit prices of line items. If the evaluation factors of Section D.1 and the multiple awards provision of Section D.2 are read together, the average evaluated unit price for each 2 million word increment should be calculated before the determination regarding multiple awards is made. This construction gives a reasonable meaning to all parts of the RFP and at the same time applies the preferred rule that the provisions of an instrument should be construed as being in conflict with each other only if no other reasonable interpretation is possible. See Lite Industries, Inc.--Reconsideration, B-184403, July 29, 1976, 76-2 CPD 91, and cases cited therein."

In requesting reconsideration, Kanner reiterates its contention that the reason for requiring computation of line item prices in Section D.1 was to facilitate the determination whether multiple awards on a

subline item basis would be less costly than award on the basis of line item prices. Kanner contends that, like the interpretation adopted in our earlier decision, this interpretation permits Sections D.1 and D.2 of the solicitation to be read together. It may be that the award of up to 48 separate contracts (one for each subline item) would have been technically consistent with the language of Sections D.1 and D.2. Other interpretations of those provisions may also be possible. However, our earlier decision was based on our view of the most reasonable construction of the applicable solicitation provisions and on reconsideration, Kanner has not endeavored to show that this construction was unreasonable. Absent evidence of error, the mere fact that other interpretations are possible, even reasonable, does not require the overturning of the earlier decision. CDI Marine Company--Request for Reconsideration, B-188905, January 5, 1978, 78-1 CPD 5.

In our initial decision we held that, since no definite quantities were specified for subline items, this solicitation was distinguishable from those in which our Office has approved or required multiple or split awards of subline items. See, for example, 48 Comp. Gen. 267 (1968); Beta Systems, Inc. et al., B-184413, February 18, 1976, 76-1 CPD 109. On reconsideration, Kanner takes issue with this distinction, arguing that the quantities may be ascertained by multiplying the estimated subline item percentages by the number of words in the category. In this regard, we think it is sufficient to point out that the use of estimated percentages will yield estimated, and not definite, quantities. Consequently, we think that the distinction drawn in our earlier decision remains valid.

Other points raised by Kanner on reconsideration relate to the approximately \$3,900.00 which the Government would have saved by award on a subline item basis and to the Army's explanation for the solicitation's multiple award provision. To the

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extent that these constitute a basis for protest at all, we believe they were adequately dealt with in our earlier decision, which is affirmed.


Acting Comptroller General
of the United States