17305 Mr. Pogany

DECISION

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

[Protest of VA Issuance of Purchase Orders]

FILE: B-200695; B-200696 DATE: March 10, 1981

CNG01045

MATTER OF: Lanier Business Products, Inc.

DIGEST:

RFQs for dictation equipment available under multiple-award Federal Supply Schedule contract, one of which did not inform quoters of life cycle evaluation factors and another which did not indicate that life cycle cost would be evaluated at all, are defective and, under circumstances, did not permit fair and equal competition.

Lanier Business Products, Inc. protests the issuance of two purchase orders to Dictaphone Corporation for dictating equipment by the Veterans Administration Regional Office, Winston-Salem, North Carolina, and by the Veterans Administration Medical Center, Montgomery, Alabama.

CNGO AGC

Lanier, a dictation equipment contractor listed on the General Services Administration multiple-award Federal Supply Schedule (FSS), asserts that it submitted the lowest quotes and therefore the purchase orders should have been issued to it.

Since the VA is a mandatory user of the FSS for dictating equipment, the agency, before issuing the orders, requested quotations from available FSS contractors for dictating equipment. The request for quotations (RFQ) issued by the Regional Office was silent as to the method to be employed in evaluating the lowest priced system. The RFQ issued by the Medical Center contained only the following statement:

> "Life cycle costing analysis will be used by the VA to determine the lowest acceptable offer."

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Both VA offices, after receipt of quotations, then proceeded to perform an extensive, albeit inconsistent, life cycle costing analysis. For example, the Regional Office evaluated such factors as paper index strips, power consumption, telephone lines and maintenance while the Medical Center evaluated paper index strips, maintenance and cassette tapes. In both instances, Dictaphone was evaluated as the contractor offering the lowest priced system.

The basis of Lanier's protest is that "the [VA] performed a life cycle costing comparison without prior notice in the RFQ [and that] in order to insure a fair basis for evaluation, [the VA] should have notified all possible offerors that a life cycle costing * * * would be the basis for award." We agree.

In our view, the real issue in this case is whether the VA's RFQs adequately advised offerors of the basis and procedures for cost evaluation. We do not believe that they did.

In one case, the RFQ completely failed to inform quoters that life cycle costing would be employed. In the other case, the RFQ merely stated that life cycle costing would be used without adequately informing quoters of the basic evaluation factors to be used. We fail to see how a quoter could intelligently submit an offer under the circumstances.

We have often pointed out the need for agencies to provide in their solicitations a clear statement of the evaluation factors to be used so that fair and intelligent competition can be achieved. See, e.g., Signatron, Inc., 54 Comp. Gen. 530 (1974), 74-2 CPD 368; Frontier Broadcasting Co. d/b/a/ Cable Colorvision, 53 Comp. Gen. 676 (1974), 74-1 CPD 138. Therefore, when life cycle costs are to be evaluated, the solicitation must indicate that fact. Eastman Kodak Company, B-194584, August 9, 1979, 79-2 CPD 105. In addition, we believe that in most cases the particular elements of the life cycle cost evaluation should be disclosed since they may vary from procurement to procurement and from agency to agency. See, e.g., Hasko-Air, Inc., B-192488, March 19, 1979, 79-1 CPD 190 (special inspection and repair costs were considered); Eastman Kodak Company, supra (maintenance and operating costs were considered); Philips Business Systems, Inc., B-194477, April 9, 1980, 80-1 CPD 264 (telephone company rental charges were considered). The need for such disclosure is readily evident from the present case, where even the procurement of identical items by the same agency did not result in use of identical life cycle cost evaluation factors. That disclosure of precise evaluation elements may be important to quoters under an FSS contract is also apparent: while equipment prices are generally fixed by the FSS, individual vendors, to be more cost competitive under the general rules established for a particular purchase, can vary both the equipment offered (provided that it meets the agency's needs) and trade-in allowances offered. See Philips Business Systems, Inc., supra.

The VA argues that a letter it sent to potential offerors prior to the instant procurements in which a policy of implementing life cycle costing was set forth provided sufficient notice for the quoters. We disagree. We fail to see how a general policy letter can sufficiently alert quoters as to whether or not any particular procurement is to be subject to life cycle costing. Moreover, the letter is devoid of potential evaluation factors to be used in any procurement.

Under these circumstances, we must conclude that the RFQ did not permit fair and equal competition. We find that no award could have properly resulted from these RFQs because all quoters were not aware of how they would be evaluated. Consequently, we sustain the protest and recommend that the requirements be resolicited.

We are bringing this matter to the attention of the Administrator of Veterans Affairs.

Milton J. Socolar

Acting Comptroller General
of the United States