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**DECISION**



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

**FILE:** B-219609

**DATE:** November 21, 1985

**MATTER OF:** Solartron Instruments

**DIGEST:**

Protest asserting that the agency misinterpreted the solicitation, and thus evaluated pricing incorrectly, is denied where the solicitation read as a whole and in a manner that gives effect to all its provisions supports the agency's position.

Solartron Instruments protests the award of an indefinite-quantity, fixed-price contract for precision digital multimeters to John Fluke Manufacturing Company under request for proposals (RFP) No. N00123-85-R-0054 issued by the Naval Regional Contracting Center, Long Beach, California. Solartron asserts that the Navy incorrectly evaluated its proposal and that it was entitled to the award as low offeror. We deny the protest.

The RFP contained the following price schedule:

<u>ITEM</u>	<u>Description</u>	<u>QTY</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
0001	Precision Digital Multimeter in accordance with Section C and other terms and conditions herein, as follows:				
0001AA	Initial Order				
	First Article	5	ea	\$ _____	\$ _____
	Remainder	16	ea	\$ _____	\$ _____
0001AB	Alternate Initial Order	21	ea	\$ _____	\$ _____

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<u>ITEM</u>	<u>Description</u>	<u>QTY</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
0001AC	Additional units subject to the indefinite quantity provisions				
[001AC-1] <sup>1/</sup>		1-10	ea	\$ _____	\$ _____
[001AC-2]		11-20	ea	\$ _____	\$ _____
[001AC-3]		21-40	ea	\$ _____	\$ _____
[001AC-4]		Over 40	ea	\$ _____	\$ _____

The RFP also stated that a minimum of 60 and a maximum of 300 units would be ordered.

At issue is the proper evaluation of the prices submitted by Fluke and Solartron under item 1AC. In this connection, the solicitation provided:

"Award will be made to the contractor whose acceptable proposal has the lowest price based on an initial quantity of twenty-one (21) and two hundred seventy-nine (279) follow-on orders, each requiring delivery of one (1) unit."

The contracting officer evaluated the prices by multiplying each offeror's item 1AC-1 price for one (1) unit times 279 and then adding the price quoted for the initial 21 unit order under item 1AA. (Item 1AB was not applicable because first article testing was not waived.) He concluded that Fluke's evaluated price was low.<sup>2/</sup>

Solartron recognizes that the Navy is bound to apply the evaluation criterion in the RFP. It contends, however, that the contracting officer confused "orders," the word used in the evaluation criterion, with "units," the term that forms the basis for pricing on item 1AC of the schedule. Solartron contends that it understood item 1AC as providing for discounted, cumulative pricing. It says, for example, that its price for more than 40

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<sup>1/</sup>Bracketed line numbers have been added by our Office for clarity.

<sup>2/</sup>The Navy's calculations are set out in the Appendix.

additional units under item 1AC-4 was meant to apply to all orders once a total of 61 units (21 plus 40) had been ordered. Its total price for 300 units, Solartron insists, was its total price for the initial order, plus its unit price for each additional increment (times the number of units per increment), through a total of 300 units. Evaluated on this basis, the protester's price would be low.<sup>3/</sup>

In response, the Navy maintains that line item 1AC establishes pricing based on the size of individual orders. It says, however, that the evaluation was to be based on 279 individual orders of one unit each. It supports its position by pointing to the clause set out earlier, which speaks of 279 follow-on orders, each requiring delivery of one unit. In the Navy's view, bidders were informed that item 1AC was to be evaluated by multiplying the item 1AC-1 unit price times 279 units.

Where, as here, there is a dispute between the protester and the agency as to the meaning of a particular solicitation provision, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all its provisions. System Development Corp., B-219400, Sept. 30, 1985, 85-2 CPD ¶ 356. While the protester asserts that the evaluation criterion is consistent with its interpretation of line item 1AC, it has not explained how its construction of that line item can be reconciled with the solicitation minimum ordering provision.

The government is required to order 60 units under the contract resulting from this solicitation. In complying with its obligation, it must place orders for a total of at least 39 units (60 minus 21) under item 1AC. Assuming item 1AC were interpreted as the protester urges, all but one of the units priced on the first three lines under that item would be acquired in merely filling the minimum requirement. As a practical matter, units ordered in excess of the minimum ordering quantity would be priced under the "over 40" line, item 1AC-4 <sup>4/</sup>. Since the

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<sup>3/</sup>Solartron's calculations are set out in the Appendix.

<sup>4/</sup>The 61st item delivered would be priced as unit 40 under item 1AC; all others, however, would be priced as orders in excess of 40 units.

incremented pricing would apply to units that the agency would be required to order, the incremented pricing scheme would serve no purpose. The contractor, knowing that at least 60 units would be ordered, could calculate a single unit price based on that ultimate minimum volume, and we fail to see why the government would be expected to ask for different unit prices for the minimum quantity it obligated itself to order.

In contrast, the Navy's interpretation of the solicitation language seems reasonable--it allows quantity discounts based on the number of units in any single order. The apparent purpose of the discount scheme was to permit the contractor to pass on to the agency any savings inherent in the agency's accumulating its needs into a few large orders. The Navy's view permits the language in the schedule to be harmonized with the evaluation criterion, which clearly anticipates that offeror may propose pricing based on the number of units included in a single order. Thus, we think it the more reasonable reading of the solicitation.

Finally, while we believe the schedule could have stated more clearly that pricing was to be based on the number of units included in each order, we do not believe the protester was prejudiced by the Navy's failure to do so. Solartron's unit price for its initial quantity of additional units was equal to its unit price for the five first articles under item 1AA, and was more than the price Solartron quoted for the remainder of units making up the initial item 1AA order. The fact that Solartron did not discount its price for any initial, additional quantity ordered under 1AC suggests that Solartron did not base its pricing on the construction of the RFP it now urges.

The protest is denied.

*Seymour E. Fox*  
for Harry R. Van Cleve  
General Counsel

Appendix

The Navy's calculations are as follows:

Fluke

Item 1AA	5 units @	10,831	54,155	
	16 units @	5,031	80,496	
				\$134,651
Item 1AC*				
[1AC-1A]	279 units @	4,555	1,270,845	
[1AC-1B]	0 @	4,555	- 0 -	
[1AC-2]	0 @	4,555	- 0 -	
[1AC-3]	0 @	4,555	- 0 -	
[1AC-4]	0 @	4,555	- 0 -	
				<u>\$1,270,845</u>
Total Evaluated Price				\$1,405,496

Solartron

Item 1AA	5 units @	5,535	27,675	
	16 units @	4,954	79,264	
				106,939
[1AC-1A]	279 units @	5,535	1,651,204	
[1AC-1B]	0 @	5,258	- 0 -	
[1AC-2]	0 @	4,954	- 0 -	
[1AC-3]	0 @	4,400	- 0 -	
[1AC-4]	0 @	4,290	- 0 -	
				<u>\$1,651,204</u>
Total Evaluated Price				\$1,758,143

By contrast, Solartron contends the following evaluation should have been used:

Fluke

Item 1AA	5 units @	10,831	54,155	
	16 units @	5,031	80,496	
				\$134,651

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\*/Item 1AC-1 is depicted as two items to facilitate comparison with data in footnote 3 because Solartron, as permitted by the RFP, priced item 1AC-1 in two parts--for 1 through 5 units (designated item 1AC-1A) and for 6 through 10 units (item 1AC-1B). All prices are rounded to the nearest dollar.

B-219609

Appendix

Item 1AC

[1AC-1A]	5	units @	4,555	22,775	
[1AC-1B]	5	@	4,555	22,775	
[1AC-2]	10	@	4,555	45,550	
[1AC-3]	20	@	4,555	91,100	
[1AC-4]	239	@	4,555	1,088,645	
					<u>1,270,845</u>

Total Evaluated Price \$1,405,496

Solartron

Item 1AA	5	units @	5,535	27,675	
	16	units @	4,954	79,264	
					106,939
[1AC-1A]	5	units @	5,535	27,675	
[1AC-1B]	5	@	5,258	26,290	
[1AC-2]	10	@	4,954	49,540	
[1AC-3]	20	@	4,400	88,000	
[1AC-4]	239	@	4,290	1,025,310	
					<u>1,216,815</u>

Total Evaluated Price \$1,223,754