



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Schoellhorn-Albrecht  
File: B-223989  
Date: December 11, 1986

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### DIGEST

protest against exclusion of proposal from competitive range is denied where proposal defects involving maximum height of item to be furnished could only be cured through major revisions to protester's proposal.

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### DECISION

Schoellhorn-Albrecht (SA), Division of St. Louis Ship, St. Louis, Missouri, protests the decision of the Military Sealift Command, Department of the Navy, to exclude the company's proposal from the competitive range under request for proposals (RFP) No. N00033-86-R-3056 for "power capstans" used for mooring ships.

The RFP contained technical requirements, performance ratings, and design construction requirements for the capstans. The RFP specifically stated that: 1) the capstan heads be 12 inches in diameter; 2) each capstan's "running pull" rating be at not less than 5,000 lbs. at a minimum pull of 48 feet per minute (FPM) and that each capstan's "static pull" rating be a minimum of 50,000 lbs.; and 3) the overall height of the capstans be "no greater than 27-1/4 inches." The RFP also provided that award would be made to the lowest-priced, technically acceptable offeror. Further, the RFP provided that any proposal which did not offer, as a minimum, "that which was requested" under the RFP might be determined to be "substantially incomplete and not warrant further evaluation and negotiations." Finally, the RFP said that offerors were to furnish technical information/documentation that showed conformity to the specifications and that the information should be "precise, factual, and complete."

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Seven proposals were submitted to the Navy. SA's offer consisted of a signed proposal, a sales brochure altered with red markings, an "extension" page on which pricing and technical data were set forth, and another drawing which contained no explanation of the parts shown or any identification of the 39 separate features numbered on the drawing.

The brochure contained printed specifications which conflicted with the RFP specifications. Specifically, the pre-printed brochure listed a "running pull" of 7500 pounds at a "nominal line speed" of 40 FPM, a "static pull" of 35,000 pounds, a height of 29.08 inches, and a capstan head diameter of 10 inches. SA revised the brochure, by writing "5000" under the 7500 pound pre-printed running pull listing and "48" under the 40 FPM pre-printed nominal line speed listing. SA also left intact the original pre-printed figures of 7500 and 40 in those listings. SA also crossed out the 35,000 lbs. static load figure and the 10 inch capstan diameter figure and wrote "50,000" and "12 inches," respectively; however, SA did not initial any of these changes on its brochure. On its extension page, SA quoted lesser prices, among other things, for capstans with its standard specifications printed on its brochure.

Initially, the Navy states that it was legally precluded from considering the statements which SA wrote in its brochure under paragraph L-7(b), Preparation of Offers, of the RFP which provides that, offerors are to initial "erasures or other changes." The Navy also says that it subsequently found that SA's proposal was technically unacceptable because the printed statements in SA's brochure conflicted with the Navy's stated requirements in several respects.

The Navy further states that precise conformity with the specifications was required since any deviation from the specifications would render the capstans incapable of effectively mooring the ships. Further, the Navy concluded that SA's proposal should be excluded from the competitive range because major additions to the proposal would be needed to make it technically acceptable. Following the exclusion of SA's proposal from the competitive range, the Navy conducted discussions with the six offerors in the competitive range and, thereafter, received best and final offers from those offerors.

SA's main argument is that the Navy should have discussed, rather than ignored, the specification changes which SA wrote in its standard brochure and that, had the Navy done so, SA would have easily clarified these changes. The Navy argues that it properly ignored the changes since they were not initialled and even if the changes had been initialled and considered, SA's proposal would still not have been

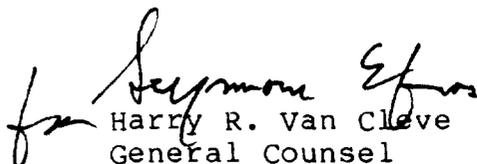
acceptable since SA's proposed capstan height of 29.08 inches, which was not modified in its proposal, exceeded the maximum height limitation of 27-1/4 inches. In reply, SA, while acknowledging that its proposal clearly showed excessive capstan height, contends that it was its intent to offer the Navy a modification of its capstan to bring the overall capstan height within the stated height limitation.

The competitive range consists of all proposals that have a reasonable chance of being selected for award, including deficient proposals that are reasonably susceptible of being made acceptable through discussions. Federal Acquisition Regulation, 48 C.F.R. § 15.609(a) (1985); Fairchild Weston Systems, Inc., B-218470, July 11, 1985, 85-2 C.P.D. ¶ 39. Proposals that are technically unacceptable as submitted and are not susceptible to being made acceptable without major revisions are not for inclusion in the competitive range. Price Waterhouse, B-222562, Aug. 18, 1986, 86-2 C.P.D. ¶ 190.

Initialling the changes on SA's brochure and curing the patent ambiguities caused by SA's failure to delete the numbers "40" and "7500" would not have involved major revisions. Nevertheless, it is clear that SA's proposed capstans exceeded the maximum height limitation and that SA's now-revealed plan to modify its capstan to come within this limitation would constitute a major revision to its proposal. As described to us, SA's planned modification would involve shortening the capstan while, at the same time increasing its diameter to 12 inches to conform to the required diameter. These changes would constitute major revisions to the size of the entire capstan.

Given that major revisions to the proposal would be needed to make it acceptable, we think that the Navy properly excluded SA's proposal from the competitive range. Although SA notes that its proposal contained a statement offering to supply conforming capstans, this general statement must be read as being modified by SA's express representation in its proposal to furnish capstans with excessive height. See LNR Associates, B-222328, June 2, 1986, 65 Comp. Gen. \_\_\_\_, 86-2 C.P.D. ¶ 507.

The protest is denied.

  
Harry R. Van Cleve  
General Counsel