

Melody



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: ACL-Filco Corporation--Request for
Reconsideration of Avitech, Inc.
File: B-223203.3
Date: May 6, 1987

DIGEST

Prior decision recommending that discussions be reopened only with the protester is clarified to specify that discussions should not include an opportunity for protester to increase its price.

DECISION

ACL-Filco Corporation requests clarification of our recommendation in Avitech, Inc., B-223203.2, Mar. 27, 1987, 87-1 CPD ¶ ___, in which we sustained Avitech's protest concerning the rejection of its proposal under request for proposals (RFP) No. N68836-86-R-0009, issued by the Navy on a brand name or equal basis for two hydraulic test stands.

The Navy found the proposal submitted by Avitech, the lowest priced offeror, to be technically unacceptable. In sustaining Avitech's protest, we found that the Navy failed to conduct meaningful discussions with Avitech since it did not advise Avitech of the central weakness in its proposal, the lack of detailed parts information for the equipment it proposed. We recommended that the Navy reopen discussions with Avitech to clarify the degree of detail required in the proposal and give Avitech an opportunity to submit a revised proposal. We also recommended that if, after reevaluating the revised proposal, the Navy determines that Avitech is in line for award, the contract already awarded to ACL-Filco should be terminated for convenience and award made to Avitech.

ACL-Filco now requests that we revise or clarify our recommendation to limit the discussions with Avitech to technical issues and not permit Avitech to revise its proposed price. In the alternative, ACL-Filco maintains that if Avitech is allowed to revise both its technical proposal and price, ACL-Filco should be given the same

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opportunity. ACL-Filco argues that allowing only Avitech to revise its price gives Avitech an unfair advantage since ACL-Filco's price and the "details of its equipment" have been revealed to Avitech.

ACL-Filco's price already is higher than Avitech's, the lowest priced offeror; as a result, any decrease in Avitech's price would not harm ACL-Filco's competitive position. Our recommendation to reopen discussions with Avitech was not intended to extend to price increases, however, since the only purpose of our recommendation was to allow Avitech an opportunity to provide detailed information on the equipment it had proposed. Consistent with this view, Avitech, in a letter to our Office commenting on ACL-Filco's request for reconsideration, confirmed its understanding that the reopened discussions would not include the opportunity to revise its price.

We see no basis to allow ACL-Filco to revise the technical aspects of its proposal since the defect which justifies reopening discussions with Avitech did not affect ACL-Filco, whose proposal was found technically acceptable by the Navy. While ACL-Filco also maintains that it was prejudiced because the details of its equipment have been revealed to Avitech, the record shows that its proposal was not included in the documents furnished by the Navy in connection with the protest. In any event, since ACL-Filco offered the brand name equipment specified in the RFP, Avitech would not have derived any competitive advantage from ACL-Filco's technical proposal.

The prior decision is clarified.



Acting
Comptroller General
of the United States