

Cunningham - PL



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Automecha, Ltd.--Reconsideration
File: B-227252.2
Date: January 20, 1988

DIGEST

Even if user's manual for tabletop label affixing machines furnished by the eventual awardee in an intermediate stage of the procurement prior to a successful live test demonstration of the equipment did not cover all the topics literally required by the solicitation, that would not provide basis for sustaining another offeror's protest because agency appears to have used reasonable judgment in assessing the adequacy of the manual in view of the relative lack of complexity of the equipment and because protester would not be prejudiced since a portion of its own manual was in a form (videotape) not readily accessible to the user. Request for reconsideration is denied.

DECISION

Automecha, Ltd., has requested reconsideration of our decision of August 31, 1987,^{1/} in which we denied the company's protest under request for proposals (RFP) No. ASCS-R-105-87DC, issued by the United States Department of Agriculture (USDA) for an indefinite quantity of "label affixer machines" to be supplied for a fixed price to county offices of the Agricultural Stabilization & Conservation Service around the country.

The protester questions that portion of our decision in which we rejected its argument that a user installation and training manual provided by the eventual awardee, Scriptomatic, Inc., was so deficient that the company should have been eliminated from the competition.

^{1/} Cheshire/Xerox; Miller-Bevco; Automecha, Ltd., B-226939; B-226939.2; B-226939.3; B-227252, Aug. 31, 1987, 87-2 CPD ¶ 208.

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As we related in our initial decision, USDA solicited technical and price proposals for the supply of these machines, including contractor-furnished installation and training. That item offered in the lowest-priced technical proposal which met all mandatory specifications was to be subjected to a live test demonstration which, if passed, would result in award.

Several offerors submitted "alternate" proposals in which they suggested that USDA could save money if it, not the contractor, provided the installation and training. USDA concluded that the cost savings of this alternate approach justified further consideration. Therefore, it issued amendment A04, which allowed for alternate proposals based upon USDA installation and training. The amendment stated that the offeror selected for participation in the live test demonstration would be that offeror who proposed the lowest-priced, technically acceptable, responsive offer and that in order for a user installation and training proposal to be considered, the offeror must provide a detailed user installation and training manual which would be the subject of a technical evaluation.

All revisions to technical proposals received in response to amendment A04 were evaluated and found to be technically acceptable. After the proposal of the low offeror was rejected for reasons not relevant to the matter now before us, the equipment offered by Scriptomatic, the second low offeror, was subjected to a live test demonstration, which it passed, resulting in the award of the contract to Scriptomatic.

Automecha alleged that in its response to amendment A04 Scriptomatic failed to submit an installation and training manual as detailed as that required by the RFP. We denied Automecha's allegation as we concluded that what constituted a sufficiently "detailed" manual was for USDA to decide. Specifically, USDA's technical team concluded that Scriptomatic had furnished a manual in its proposal that was acceptable even though it was lacking in detailed information and was hard to follow without formal training. Nevertheless, USDA argued that it would have been able to run the live test demonstration with the manual Scriptomatic supplied in response to the amendment, instead of a revised, more detailed, manual which was actually employed at the time of the demonstration, since the label-affixer machine is considered to be an "extremely simple machine to assemble requiring no mechanical knowledge and little mechanical aptitude."

USDA noted that its technical opinion of the complexity of the machine was supported by the lack of detailed assembly

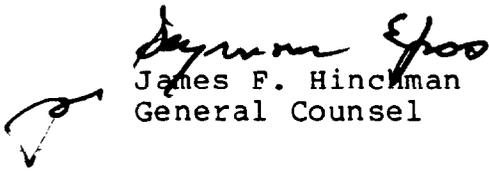
instructions provided by the offerors. Consequently, since USDA's technical evaluation team did not deny the possibility that the test could have been run on the basis of Scriptomatic's initial manual with employees who lacked formal training, we denied the protest.

In its request for reconsideration, Automecha argues that our decision was in error because the RFP contained very straightforward, unambiguous requirements as to the contents of the user's manual and it is clear from reading what Scriptomatic provided that it fell short. Automecha reasons that the amendment required offers based on user training and installation to include a user installation and training manual which would be technically evaluated pursuant to section "M" of the RFP. Section "M" requires proposals to meet all the mandatory requirements contained in the RFP's specifications, section "C." Section "C.5" requires that the contractor-provided manual "must contain instructions for the set-up, operation, routine operator [preventive maintenance], and operator trouble-shooting." Automecha argues that because the operating instructions Scriptomatic provided with its response to amendment A04 lacked decorating, unpacking or assembly instructions, had no trouble-shooting section and were deficient as to maintenance, Scriptomatic should have been eliminated from the competition at that point and never allowed to progress to the live test demonstration. Automecha also takes issue with our acceptance of USDA's characterization of the label affixer as "extremely simple" to operate.

We remain of the opinion that the circumstances relied on by Automecha do not provide a basis for sustaining its protest. First, although Automecha would have a competitor disqualified from the competition based on a quite literal reading of the solicitation's requirements, we do not think it was unreasonable of USDA, in its evaluation of the responses received, to exercise some judgment as to the materiality of the manual information which was missing or sketchy. For example, as we pointed out in our discussion of this issue in our initial decision, Automecha faults Scriptomatic's failure to provide assembly information with its operating instructions, yet the only information the protester itself provided in this regard was that one should "assemble the unit [and] install the components from the accessory box." Second, as we also noted in our previous decision, Automecha's strategy for satisfying the requirement for a user's manual within the 2 weeks allowed by the amendment was to prepare a videotape to supplement its existing literature. As a practical matter, however, the videotape would be inaccessible to the user since the county offices in question are not equipped with the video cassette recorders and television sets necessary to view the tape.

In view of this deficiency in Automecha's own submission we do not think it was prejudiced by the agency's acceptance of Scriptomatic's proposal.

In denying Automecha's protest, we were persuaded by USDA's argument that these machines do not require complex assembly prior to being put into operation. Automecha asserts that USDA's "assumption that a Scriptomatic unit is easy to assemble because other competing machines seem easy to assemble" is "totally erroneous" since the competing machines were not assembled to verify the assumption. We consider this assertion to be an attempt to dictate to USDA how it can arrive at its own technical judgments. In its discretion USDA could evaluate submitted manuals and other literature and make judgments about the complexity of machines and their ease, or difficulty, of assembly without actually assembling the machines. In USDA's technical judgment, the Scriptomatic machine was capable of user installation based on the initial technical manual. We see no basis to question USDA's position. Thus, we deny the request for reconsideration.



James F. Hinchman
General Counsel