



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DBA Systems, Inc.
File: B-228509
Date: January 26, 1988

DIGEST

Agency's decision to exclude protester's initial proposal from the competitive range was unobjectionable where protester failed to offer required approach to processing acoustic signals and its proposal would require major revisions in order to be made technically acceptable; if protester viewed specifications as unduly restrictive, precluding allegedly equivalent or superior approaches to performing required functions, it was required to protest any such alleged deficiencies prior to the closing date for receipt of initial proposals.

DECISION

DBA Systems, Inc., protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. N60921-87-R-A350, issued by the Department of the Navy, Naval Surface Weapons Center, for acoustic processors. DBA contends that the deficiencies the Navy found in its proposal were no more than informational deficiencies that could have been easily corrected during discussions.

We deny the protest.

The solicitation requested proposals to supply acoustic processing systems capable of processing, displaying on a monitor, and analyzing, up to four separate and independent previously recorded acoustic signal inputs, determining the speed, depth and range of the sources of the signals. The solicitation provided for award to be made to the responsible offeror whose proposal was evaluated as meeting all of the technical requirements of the specifications at the lowest price.

Three of the five proposals received in response to the solicitation were found to be either technically acceptable or capable of being made acceptable. Two other proposals, including that submitted by DBA, were found to be

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technically unacceptable and were excluded from the competitive range. After negotiations with the remaining three firms, the Navy made award to Scientific Atlanta. Upon being notified of the award, DBA filed this protest with our Office.

DBA asserts that the competitive range determination was based on perceived deficiencies in its proposal that either were no more than easily correctable informational deficiencies; resulted from the agency's failure to recognize and accept functionally equivalent or superior approaches; or resulted from the agency's ignoring information responsive to the specifications.

The Competition in Contracting Act of 1984 requires that, if an agency conducts discussions, it must do so with all responsible offerors within the competitive range. 10 U.S.C. § 2305(b)(4)(B) (Supp. III 1985). The Federal Acquisition Regulation (FAR) provides that the competitive range must include all proposals that have a "reasonable chance of being selected for award," and that any doubt as to whether a proposal is in the competitive range should be resolved by inclusion. FAR § 15.609(a) (FAC 84-16). Contracting agencies, however, are not required to permit an offeror to revise a technically unacceptable initial proposal where the deficiencies are so material that major revisions would be required to make the proposal acceptable. The Associated Corp., B-225562, Apr. 24, 1987, 87-1 CPD ¶ 436.

As asserted by DBA, it appears that some of the perceived deficiencies in its proposal in fact resulted from the agency's overlooking information in the proposal. It further appears, however, that DBA itself contributed to the overlooking of such information by failing to comply with the solicitation requirement that proposals use the same organization and numbering as was used in the specifications. In any case, this aspect of the protest is not determinative, since we think it is clear that other deficiencies in DBA's proposed system represented significant departures from material specifications.

The specifications required that the acoustic processing system be capable of accepting analog signal inputs, and detecting and removing unwanted background noise from the input (the DEMON function) prior to signal processing. The Navy viewed as a major deficiency DBA's proposal to apply the DEMON function after signal processing, to the processed data stream. Although DBA acknowledges that the Navy traditionally has applied the DEMON function to the signal input, it contends that its alternate approach is functionally equivalent to that required by the

specifications. We are not persuaded by DBA's argument. The agency maintains, and our review indicates, that applying the DEMON function to the signal input is likely to be more effective than separating the unwanted noise from the wanted signal after signal processing. In any case, if DBA viewed the expressly stated specifications as unduly restrictive, precluding the offer of a possibly equivalent or superior approach to providing the required functions, DBA was required to protest any such deficiencies in the specifications prior to the closing date for receipt of initial proposals so that they could be resolved at an early stage in the procurement. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1987); Imperial Schrade Corp., B-223527.2, Mar. 6, 1987, 87-1 CPD ¶ 254. Both the agency and DBA agree that it would require significant cost and effort to modify DBA's system to satisfy this solicitation requirement.

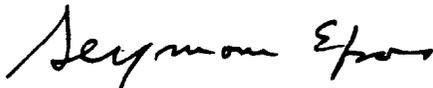
The specifications also required that the acoustic processing system be a hardware-controlled system, in which the basic system controls were to be located on front panels and data entered by thumbwheel switches (i.e., switches with 10 selected positions that can be set to input one number of a multi-digit number). The Navy viewed as a significant deficiency DBA's proposal of a software-controlled system in which commands and data would be entered via a keyboard. DBA argues that its software-controlled approach permits enhancements and additional functions to be more easily incorporated into the system by means of modifications to the software.

The Navy states that, based on prior experience with a software-controlled processor, it determined that hardware control would result in enhanced speed, attributable to increased ease of use, and is essential to satisfying the agency's need to process large volumes of data in the field. According to the agency, control by means of switches mounted on the front panel: (1) enables the operator quickly to set up the system for a data run and to make changes and adjustments to the system as required by the observed data; (2) permits operators and supervisors readily to determine the system parameters or settings then in effect by observing the switch settings, thus avoiding many mistakes; and (3) avoids any disturbance to the system settings and the need to reload the system in the event of a power failure, a not uncommon occurrence in the field. By contrast, the Navy explains, the need in a software-controlled system to call up on a monitor the menu of

options and to enter data by keyboard has proved in the past to be both time consuming and prone to operator error.1/

The Navy maintains that the deficiencies in DBA's proposal rendered it technically unacceptable and not subject to being made acceptable without major revisions to the proposal. We find the Navy's position to be reasonable. The specifications required a particular approach to applying the DEMON function and to controlling the acoustic processing system; DBA proposed significantly different approaches to performing these material functions. Although the extent of the changes to DBA's proposal that would be necessary to meet the requirement for a hardware-controlled system is not clear from the record before us, there appears to be no dispute that major changes would be required in order to meet the requirement for application of the DEMON function to the analog input. Accordingly, the Navy was not required to include DBA's proposal in the competitive range.

The protest is denied.



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James F. Hinchman
General Counsel

1/ The Navy has concluded that Scientific Atlanta's proposed system, on the other hand, complied with the solicitation requirements for application of the DEMON function to the analog input chain (prior to signal processing) and for the capability to control the system by switches on the front panel.