



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Essex Electro Engineers, Inc.

File: B-229491

Date: February 29, 1988

DIGEST

Award of a contract was improper where descriptive literature submitted with awardee's proposal indicates that the specific model of motor-generator offered by awardee failed to conform to material solicitation requirement.

DECISION

Essex Electro Engineers, Inc., protests the award of a contract to Rosen Electrical Equipment Co. under request for proposals (RFP) No. N00146-87-R-0053, issued by the Marine Corps Air Station, Cherry Point, North Carolina, for motor-generator sets. Essex asserts that Rosen's proposal should not have been considered for award because it failed to comply with mandatory requirements of the solicitation.

We sustain the protest.

The solicitation requested proposals to supply motor-generator sets that were rated to generate an output of 100 kilowatts (kw) with an efficiency of at least 85 percent. The solicitation specified that award would be made to the responsible offeror whose offer conformed to the solicitation and was determined to be most advantageous to the government, cost and other factors considered, that is, to the responsible offeror submitting the low, technically acceptable proposal. See Kreonite, Inc., B-222439, July 11, 1986, 86-2 CPD ¶ 60. Five proposals were submitted in response to the solicitation, and the contracting officer determined that Rosen had submitted the low, technically acceptable proposal.

Essex alleges that the motor-generator set proposed by Rosen does not comply with the solicitation requirement that the generator operate with 85 percent efficiency when generating its rated output load. In this regard, Essex notes that Rosen's proposal incorporates several pages of descriptive literature on which Rosen indicated it was offering model

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SFC-3364-125 in response to this solicitation. The designated model has an output rating of 100 kw; according to the literature, this model operates at 180 horsepower (hp). Essex asserts that a simple calculation proves that using 180 hp to generate an output of 100 kw indicates that Rosen's offered motor-generator will operate with only approximately 74 percent efficiency, substantially less than the 85 percent required by the RFP.

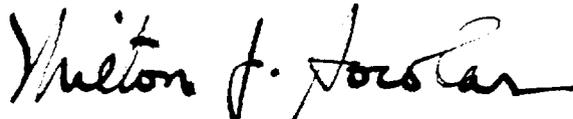
The Navy, on the other hand, maintains that the proposed motor-generator meets "the functional specifications required by the solicitation." With respect to the requirement for 85 percent efficiency, the Navy points out that in another, more general section of the descriptive literature submitted by Rosen the entire line of SFC motor-generators, including the SFC-3364-125 proposed by Rosen, is described as providing 85 percent efficiency at full load. The Navy concludes that it properly relied on this information in finding Rosen's offer compliant with the efficiency requirement. We disagree.

While Rosen's literature does set forth the efficiency ratings called for in the solicitation, this appears to be no more than a recital of the RFP specifications, and is not associated with the performance characteristics of the particular model designated by Rosen. We have examined the calculations presented by Essex, and reach the same conclusion: the specific performance characteristics of the model SFC-3364-125 motor-generator, as set forth in the literature, indicate that this model does not comply with the specification requirement for 85 percent efficiency. In negotiated procurements, a proposal that fails to conform to material terms and conditions of a solicitation is unacceptable and may not form the basis for an award. See Telenet Communications Corp., B-224561, Feb. 18, 1987, 87-1 CPD ¶ 181.

Accordingly, award to Rosen was improper. Nothing in the record indicates that the model proposed by Rosen could be modified to provide the required efficiency level at the required output rating. Since offering a different model of motor-generator, in our view, would require a major revision of Rosen's proposal, we do not believe that reopening the competition, conducting discussions, and evaluating additional proposals would be an appropriate remedy. See Telenet Communications Corp., supra. Consequently, by

letter to the Acting Secretary of the Navy, we are recommending that Rosen's contract be terminated for convenience, and that award be made to Essex, if otherwise appropriate.

The protest is sustained.

for 
Comptroller General
of the United States