

G/1455



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Honeywell, Inc.

File: B-236357

Date: November 22, 1989

DIGEST

Where award only to low offeror is consistent with agency defense mobilization needs, protest complaining of lack of meaningful discussions and improper rejection of best and final offer (BAFO) is denied where the record shows that, had the protester been given the opportunity to cure uncertainties in its BAFO, it would not have resulted in a reduction in the protester's price sufficient to affect the decision to award to only one mobilization base producer.

DECISION

Honeywell, Inc., protests the award under request for proposals (RFP) No. DAAA21-89-R-0052, issued for cartridge ammunition by the United States Army Armament, Munitions, and Chemical Command. Honeywell objects to the rejection of its best and final offer (BAFO) and the alleged failure to hold discussions to cure uncertainties in its BAFO which the protester argues were the result of material specification changes made after initial offers were submitted.

We deny the protest because it is clear from the record that, even if we were to agree with Honeywell on the merits of its protest, the award decision would not have been affected.

The RFP was issued on March 7, 1989, with a closing date for the receipt of proposals of April 18, 1989, to Honeywell and Aerojet Ordinance Co., the mobilization base producers^{1/} for

^{1/} A mobilization base planned producer is an industrial firm that has indicated its willingness to produce specified items in a national emergency by completing a Department of Defense Industrial Preparedness Program Production Planning (continued...)

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this item. The RFP solicited a firm, fixed-price contract and required offerors to submit prices to provide varying percentages of the total requirement ranging from 20 percent to 100 percent. The RFP provided that the government would make either a single award or a combination of multiple awards that would satisfy the current production requirements and at the same time retain one or more suppliers in an active state with capability to accelerate production to a higher production rate at some future date, if required.

Honeywell and Aerojet responded to the RFP. The Army evaluated the initial proposals. On June 23, 1989, subsequent to the receipt and evaluation of initial proposals, the Army issued a revised version of the applicable military specification. A further revision was made on June 28, 1989. Discussions were held with both offerors on June 29, 1989. Discussions were confirmed in writing. Best and final offers (BAFOs) were requested and received from both offerors on July 14. Honeywell in its BAFO did not price certain requirements because it was "impossible to estimate the risk of failure and the costs associated therewith." Consequently, the Army determined that the Honeywell proposal did not meet the government's requirements and could not be considered for award. Aerojet's price was considered fair and reasonable based on the Army's analysis of certified cost and pricing data. The Army determined that award to Aerojet for 100 percent of the requirement was in the best interest of the government and consistent with the RFP's stated basis of award.

Honeywell alleges that its BAFO was improperly rejected and that the agency failed to conduct discussions with the firm to permit it to cure the uncertainties in its BAFO which resulted from the specification changes made after the submission of initial offers.

The agency advises that it considered awarding less than the 100 percent quantity to Aerojet and reopening discussions to maintain two mobilization producers, but concluded that it was consistent with the award scheme and in its best interest to award the entire procurement to Aerojet. First, the Army found that the areas Honeywell's BAFO did not address would not be easily resolved in discussions and

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Schedule (DD Form 1519). Orlite Eng'g Co., Ltd., B-228373, Jan. 26, 1988, 88-1 CPD ¶ 76. Military agencies have authority pursuant to 10 U.S.C. § 2304(c)(3) (1988) to limit competition to maintain the industrial mobilization base. Id.

concerned firm and essential requirements. Second, Honeywell's BAFO prices were already significantly higher than Aerojet's and splitting the award 80/20 percent, the most favorable combination for Honeywell, would result in the Army's paying \$6 million more than the cost of a single award to Aerojet for the basic quantity alone. Third, the Army noted that, if Honeywell corrected the uncertainties and submitted prices for these requirements, its price likely would increase. Fourth, the agency noted that a delay in awarding to Aerojet on the 20 percent portion would require exercise of an option, if negotiations with Honeywell were unsuccessful, at \$4 million higher than an award to Aerojet for the entire quantity now. Finally, regarding its mobilization needs, the Army specifically evaluated Aerojet's production capabilities and found that Aerojet could satisfy all current production requirements and had the capability to accelerate production to a higher production rate at some future date, if required.

Honeywell asserts that, had it been given an opportunity to clarify its offer and to discuss and cure the uncertainties in its BAFO, its proposed price could have been reduced \$1.3 million because resolution of these uncertainties would have lessened the risk to Honeywell. Even assuming Honeywell is correct that its proposal could have been made acceptable had the Army conducted further discussions, and as a result, its proposed price could have been reduced, it appears, in light of Honeywell's significantly higher prices, that Honeywell would not be low under any award scheme permitted by the RFP.

Under these circumstances, Honeywell could only receive an award if the agency, because of defense mobilization considerations, elected to pay the higher price premium which would result from an award to Honeywell. Decisions about how many producers must be kept in active production as mobilization base producers necessarily involve a great deal of discretion by the military agencies that have the expertise to make them. Absent a showing of abuse of discretion, we will not review that decision. Muschong Metal & Mfg. Co., B-221410, Apr. 4, 1986, 86-1 CPD ¶ 327. Here, the Army determined that reopening discussions for mobilization base reasons was not warranted. See generally Poloron Products of Pa., Inc., B-217543, June 20, 1985, 85-1 CPD ¶ 702. Honeywell has neither rebutted the agency's

explanation of why the award to Aerojet was in the government's best interest nor shown that the decision constituted an abuse of discretion.

We deny the protest.

for Seymour E. Hinchman
James F. Hinchman
General Counsel