



Comptroller General
of the United States

Washington, D.C. 20548

Mr. Spiegel

Decision

Matter of: East West Research, Inc.--Request for
Reconsideration

File: B-237727.2

Date: May 31, 1990

Richard Snyder, for the protester.
Robert Spiegel, Esq., and James Spangenberg, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

A protester who offers the same part as the awardee on a small purchase procurement, but at a higher price, is not prejudiced where its protest is that the awardee misidentified the part in its quote and the awardee's quote appeared acceptable on its face and offered a product that met the government's requirements.

DECISION

East West Research, Inc., requests reconsideration of our decision in East West Research, Inc., B-237727, Mar. 7, 1990, 90-1 CPD ¶ , where we denied its protest of request for quotations (RFQ) No. DLA400-89-T-G032, for welding pads, issued under small purchase procedures by the Defense General Supply Center (DGSC), Defense Logistics Agency. In requesting reconsideration, the protester restates its claims that the awardee, L&M Welding Supply, Inc., was nonresponsive and that East West's quote was improperly evaluated by the DGSC.

We affirm our prior decision.

The RFQ solicited quotes on sheepskin welding pads of John Tillman and Co. (FSCM 34173-P/N 560). Alternate products were permitted, and both L&M and East West proposed alternates. L&M submitted the lowest priced quote.

East West's second low alternate quote of a "Stanco SB-999" was rejected because it did not contain sufficient descriptive data. On the other hand, L&M's descriptive literature

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was found sufficient and the part offered by L&M (Nasco, Inc., Anchor P/N SB-888) appeared acceptable on its face. Therefore, award was made to L&M on the basis of its low-priced quote.

In the agency report on the protest, DGSC states that the part delivered by L&M, although completely acceptable, was actually manufactured by Stanco as P/N SB-99, and that DGSC has therefore listed the Stanco P/N SB-99 as an acceptable alternative product. In this regard, the RFQ stated that the part number of the "actual manufacturer" of the product offered is required to be provided in the quote. The agency reported that both L&M and East West have apparently offered the same product manufactured by Stanco, although each offeror failed to use the proper manufacturer's description and L&M's offered price was lower. In this regard, East West identified its offered part as a "Stanco P/N 999" rather than "Stanco P/N 99."

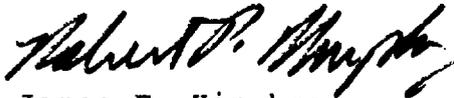
On reconsideration, the protester accuses the DGSC of prejudice in conducting inconsistent evaluations of the L&M and East West proposals. However, East West does not dispute that it misidentified its offered part or that the alternate part being offered by L&M was actually the same as that offered by East West, but at a lower price. Instead, East West argues that the agency was arbitrary in rejecting its quote for lack of adequate data, while accepting L&M's quote, even though L&M did not identify the manufacturer of its offered alternate product.

It is true that L&M's quote did not identify the actual manufacturer of its offered product as required by the RFQ. It is also true that L&M's descriptive literature lacked some of the same details that East West literature lacked.^{1/} Nonetheless, L&M's offer was lower than East West's offer. The fact that L&M did not identify the actual manufacturer is not a basis for objecting to the award to L&M since its quote appeared acceptable on its face and its alternate product met the government's requirements. Even if the discrepancy in L&M's identification of the alternate quote had been noticed prior to award, the agency had the discretion under the relatively informal small purchase procedures to allow L&M to provide, after the due date for quotes, the proper manufacturer's designation, particularly since it

^{1/} From our review, L&M's literature, although slightly more complete than East West's, did not show some characteristics which DGSC found East West should have included in its literature.

was satisfied, from its review of the descriptive literature, that the offered part would meet its needs. See Access for the Handicapped, 68 Comp. Gen. 432 (1989), 89-1 CPD ¶ 458; Oregon Innovative Prods., B-231767, Aug. 2, 1988, 88-2 CPD ¶ 110. Therefore, since East West's quote, which also misidentified the same alternate product, was higher priced, it was not prejudiced by the award to L&M. See O.V. Campbell & Sons Indus., Inc., B-2366799 et al., Jan. 4, 1990, 90-1 CPD ¶ 13; Emulex Corp., B-236732, Dec. 27, 1989, 89-2 CPD ¶ 600.

Since East West has failed to identify any error of law or fact warranting reversal or modification, we affirm our prior decision denying the protest. 4 C.F.R. § 21.2(a) (1989).


for James F. Hinchman
General Counsel