



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** T&S Products

**File:** B-244986

**Date:** October 29, 1991

Tom Stewart for the protester,  
Gene Whitaker for Hibco Plastics, Inc., Alan Castle for  
Polyair Corporation, F.P. Woll, II for F.P. Woll & Company,  
William J. Burden for Astro-Valcour, Inc., and Edsel Safron  
for Diversified Foam Products, the interested parties,  
Margaret A. Dillenburg, Esq., General Services Administra-  
tion, for the agency,  
John Brosnan, Esq., Office of the General Counsel, GAO,  
participated in the preparation of the decision.

### DIGEST

Solicitation is not deficient for failure to include detailed ordering data from prior contracts where information included was all that was reasonably available and the solicitation contained provisions for award on an item-by-item basis and a price premium for small orders which limited the price risk for offerors.

### DECISION

T&S Products protests the terms of request for proposals (RFP) No. 2FYS-AU-91-0001-N, issued by the General Services Administration (GSA) for a single award of a Federal Supply Schedule contract for cushioning material to be used in packing and packaging. The protester argues that the RFP does not contain sufficient information so as to permit equal competition.

We deny the protest.

The solicitation was issued on June 28, 1991, and called for offers for 51 national stock numbers (NSN) representing different types of material to be delivered to locations within five different geographical zones. The solicitation contained estimated requirements for each NSN and called for prices on an F.O.B. destination basis (freight cost to be born by the contractor) for delivery to various locations

within the zones. The RFP allowed the competitors to offer on an item-by-item basis; they could offer on the requirements for any particular NSN to be shipped to one or all five of the designated zones.

T&S argues that the RFP unduly favors incumbents because it does not include information concerning the value of orders for a particular NSN for each of the zones under prior contracts or the percentage of those orders that went to a particular destination within the zone. The protester also says that the RFP should set forth the percentage of the prior orders which were of less than a truckload in volume. According to the protester, without this information it must assume that most of the orders will go to the farthest points within the zone and therefore its prices will not be competitive with the incumbents which have access to the information.

GSA states that it simply does not have the data requested by T&S. The agency explains that under the Supply Schedule contract contemplated by the RFP orders are placed directly with the contractors by federal agencies needing the supplies and therefore the agency does not have direct information concerning the ordering patterns under the prior contracts. The agency has in the past obtained data on total sales per NSN from the incumbent contractors and has used that data for the estimates in the current RFP. GSA further explains that it is now collecting sales information for particular NSNs by zone and states that when that data is available it too will be incorporated into future RFPs. In the agency's view, it is impractical for it to require its contractors to assume the burden of collecting the data in the detail desired by T&S. In addition, according to GSA, this would add significantly to the contractor's recordkeeping expense which in turn would be passed on to the government in higher prices.

While, as a general rule, a procuring agency must give sufficiently detailed information to enable offerors to compete intelligently and on a relatively equal basis, RCA Corp., B-236260, Nov. 27, 1989, 89-2 CPD ¶ 498, there is no requirement that the solicitation be so detailed as to eliminate all performance uncertainties and risks. Id.

Here, the RFP permits firms to offer on a single NSN in a single zone and provides for a 25 percent premium for orders between \$100 and \$499. Along with the information that is actually available to GSA and included in the solicitation, we think that these provisions reasonably limit the risks inherent in an F.O.B. destination requirements-type contract such as this. While it is true that the more historical data that is available the easier and less risky it is to submit an offer, the agency simply does not have the data

which the protester wishes to be included in the RFP. Under these circumstances, we think that the RFP was adequate to permit intelligent competition.

While it may be as the protester argues that such a situation benefits incumbents because they have more information regarding past ordering patterns, there is no legal requirement that an agency equalize competition with respect to advantages that an incumbent may have unless that advantage results from preferential treatment on the part of the government. See ADT Facilities Mgmt., Inc., B-236122.2, Dec. 12, 1989, 89-2 CPD ¶ 841. We think that the agency has reasonably explained the reasons behind the lack of detailed ordering data in the RFP and we are satisfied that to the extent the lack of data benefits incumbents, it is not the result of unfair action on the part of the agency.

The protest is denied.

  
for James F. Hinchman  
General Counsel