



Comptroller General
of the United States

Washington, D.C. 20548

MR. MORROW

Decision

Matter of: Pulse Electronics, Inc.--Reconsideration

File: B-243769.2

Date: December 12, 1991

Edward C. DeSaussure for the protester.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Decision, which found solicitation specification for circuit card assemblies that contained an erroneous reference to unneeded circuit connections was nevertheless unambiguous when the solicitation was read as a whole, is affirmed on reconsideration, where the reconsideration request only references an erroneous statement of fact in the decision that did not change the ultimate conclusion that the solicitation, when read as a whole, was unambiguous.

DECISION

Pulse Electronics, Inc. requests reconsideration of our decision in Pulse Elecs., Inc., B-243769, Aug. 2, 1991, 91-2 CPD ¶ 122, which denied its protest against allegedly defective specifications in request for proposals (RFP) No. N00104-91-R-XA39, issued by the Department of the Navy, Navy Ships Parts Control Center, for circuit card assemblies for the AN/UYK-7 shipboard computer. Pulse argues that certain facts upon which the decision is based are inaccurate and invalid.

We affirm our prior decision.

In the initial protest, Pulse contended, among other things, that the specifications contained a reference that called for various circuit connections, but the connections were neither indicated on the drawings nor accounted for in the parts list included in the RFP. Pulse argued that the discrepancy prevented it from properly estimating its labor costs and this prevented it from submitting an offer. In response to the protest, the Navy admitted that the specifications contained an erroneous reference to unneeded circuit connections, but explained that the reference in the specification sheet was for the first generation of the circuit

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board, while the drawings and parts list included in the solicitation were for the desired third generation, which did not require these circuit connections.

Our decision found that when the solicitation as a whole was considered, the parts list and drawings contained sufficient information to allow offerors to compete on an equal basis. Although the document reference sheet included in the RFP called for Revision "--" of the part, we found that the specification was marked with various revision letters up to and including "C"; the parts list was marked Revision "C" and the drawings were also marked Revision "C." Since neither the drawings nor the parts list showed the circuit connections in question, we found that, when all the documents in the solicitation were considered, the only reasonable interpretation of the RFP was that it called for Revision "C" of the part without the unneeded circuit connections.

In its request for reconsideration, Pulse argues that our decision was based on erroneous facts. Pulse asserts that the drawings, parts list, and specifications, which the Navy furnished to Pulse with the solicitation, referenced Revision "--," not Revision "C," and Pulse only first became aware of the Revision "C" drawings after receipt of the Navy's report on the protest. Thus, Pulse argues that our decision is factually incorrect, since the solicitation did not include Revision "C" documents. Pulse continues to maintain that the erroneous reference to the unneeded circuit connections in the specifications prevented it from submitting an offer.

The Navy now represents that it inadvertently submitted Revision "C" of the drawings and parts list with the agency's administrative report to our Office. Contrary to our understanding of the Navy submission, the Revision "--" drawings and parts list were those included in the solicitation, not the Revision "C" documents. Nevertheless, the Navy advises that the Revision "C" version of the drawings and parts list is equivalent in all material respects to the Revision "--" drawings and parts list.

Our review confirms that the Revision "--" drawings and parts list actually included in the solicitation do not show the unneeded circuit connections and appear to be identical to the Revision "C" drawings and parts list in all material respects relevant to this protest. We also note that while the specifications referencing the unneeded circuit connections are dated in 1976, the more up-to-date drawings and parts list provided with the RFP are dated in 1983. Thus, we still believe that the RFP, when read as a whole, should reasonably have been interpreted as soliciting for

the updated version of the circuit card without the unneeded circuit connections.

Although Pulse contends that there is no way that any offeror, other than an incumbent, could have known how to accurately estimate testing costs, given that the tests were required to be performed on the unneeded circuit connections, Pulse also notes that tests cannot be performed on connections that were not required. Since a reasonable reading of the solicitation shows the connections were not required, it is apparent that no tests on the unneeded connections were required.

In sum, notwithstanding the erroneous statements in our prior decision, we agree with the Navy that the RFP was unambiguous, when read as a whole, and that it contained sufficient information to permit offerors to compete on an equal basis.

Accordingly, the decision is affirmed.


for James F. Hinchman
General Counsel