



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Lanier Worldwide, Inc.

File: B-249338

Date: November 12, 1992

Charles V. Sorrels for the protester.
Arthur Holmes, Jr. for Automated Sciences Group, Inc., and
John J. Scarcella for Kurzweil Applied Intelligence, Inc.,
interested parties.
Robert A. Tepfer, Esq., Department of the Air Force, for the
agency.
Scott H. Riback, Esq., and John M. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Agency's refusal to extend closing date for receipt of proposals after issuing amendment was reasonable where 65 total days were allowed for proposal submission, the amendment in question actually relaxed solicitation requirements so that proposal preparation should have been easier, and there is no evidence or allegation that the agency failed to follow applicable requirements regarding the dissemination of solicitation materials.

DECISION

Lanier Worldwide, Inc. protests the Department of the Air Force's refusal to extend the deadline for the submission of proposals under request for proposals (RFP) No. F41691-91-R-0230, issued to acquire voice recognition systems for a number of military installations. Lanier argues that the Air Force should have allowed additional time for the preparation of offers after issuing an amendment to the RFP.

We deny the protest.

The solicitation was issued on April 10, 1992, and called for the submission of initial offers no later than May 6. On April 24, the Air Force issued amendment No. 0001 to the solicitation, which extended the closing date to May 20, made corrections to some of the RFP's standard clauses and responded to initial technical questions posed by the offerors. On May 11, the Air Force issued amendment

No. 0002, which extended the closing date indefinitely. This amendment was necessary because the agency had received additional technical questions from prospective offerors which required the expertise of an agency official who was on temporary duty assignment and therefore unavailable to assist the Air Force in its response. On June 2, the Air Force issued amendment No. 0003 which established a closing date of June 15, responded to the additional technical questions, and relaxed certain of the original solicitation provisions pertaining to a computer interface requirement and the RFP's warranty requirement.

Lanier filed an agency-level protest on June 15, alleging that the Air Force improperly had allowed insufficient time to respond to amendment No. 0003. Lanier requested that the Air Force provide a minimum of 30 days to respond to the amendment, as well as a minimum of 2 weeks to allow offerors an opportunity to submit questions to the agency arising from the terms of the amendment. The Air Force denied Lanier's protest, concluding that adequate time had been provided. This protest to our Office followed.

Noting that it did not actually receive amendment No. 0003 until June 10, (thus affording the firm just 5 calendar days to prepare its cost and technical proposals), Lanier maintains that the amount of time provided to respond to the amendment was insufficient. The protester asserts that additional time for proposal preparation was necessary because it had ceased working on its proposal after receiving amendment No. 0002 (which postponed closing indefinitely). Lanier argues that an additional 30 days should have been provided.

The Air Force believes the 65 total days (from the date the RFP was issued) allowed to prepare proposals was sufficient, notwithstanding the limited time allowed to respond to amendment No. 0003. The Air Force points out that, in reaching its decision not to extend the deadline, it considered the fact that the amendment relaxed some of the

Lanier also specifically argues that Federal Acquisition Regulation (FAR) § 5.203(b) required the agency to allow a minimum of 30 days to respond to amendment No. 0003. The protester's reliance on this FAR section is misplaced. FAR § 5.203(b) implements the statutory requirement that agencies allow a minimum of 30 days between the issuance of a solicitation and the deadline set for the receipt of bids or proposals. See 15 U.S.C. § 637(d)(3)(B)(iii) (1988). The Air Force met this statutory requirement since the deadline for the submission of proposals was 65 days after the solicitation was issued. See Trilectron Indus., Inc., B-248475, Aug. 27, 1992, 92-2 CPD ¶ 130.

solicitation's requirements and made it easier for firms to respond.

Agencies are required to afford offerors an adequate amount of time to prepare proposals, FAR § 15.410. The determination of what constitutes a sufficient amount of time for proposal preparation is a matter committed to the discretion of the contracting officer, and we will object to that determination only if it is shown to be unreasonable. U.S. Pollution Control, Inc., B-248910, Oct. 8, 1992, 92-2 CPD ¶ ____; Massa Prods. Corp., B-276892, Jan. 9, 1990, 90-1 CPD ¶ 38.

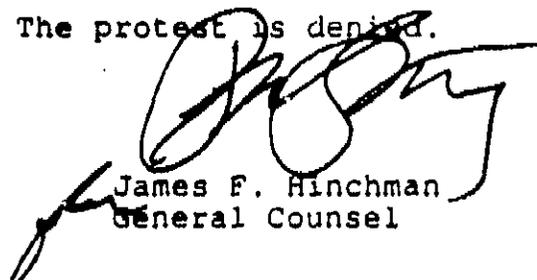
We have no basis to object to the Air Force's refusal to extend the closing date for this solicitation. The 65 total days allowed appears to have been a sufficient amount of time, on its face, for proposal preparation; Lanier does not argue otherwise. Our conclusion is not changed by Lanier's argument that it was induced to stop work on its proposal. In this regard, the indefinite extension under amendment No. 0002 did not occur until 1 month after the RFP was issued, and only 9 days before the existing May 20 closing date. Thus, although some technical questions had been raised which the agency determined needed to be addressed (thereby necessitating the indefinite closing date extension), offerors already should have been well on their way toward completing their proposals at the time amendment No. 0002 was issued. Lanier ignores this fact, and its request for 30 additional days to respond to amendment No. 0003 suggests that the firm actually had not used the time already allowed for proposal preparation.

Lanier seems to argue that the fact that technical questions necessitated the indefinite extension shows that more time was needed to respond to the amendment No. 0003 responses to those questions. However, Lanier does not attempt to explain why the questions raised were such that substantially more time was needed to respond to amendment No. 0003. Lanier does not assert, for instance, that the approach it initially chose became impracticable based on the information in amendment No. 0003, and required it to spend substantial time developing a new approach. Moreover, Lanier does not rebut (indeed, Lanier does not even address) the agency's position that amendment No. 0003 resulted in a relaxation of the technical requirements that should have made proposal preparation easier, and we find nothing in the record that would lead us to disagree with the agency.

We conclude that Lanier's decision not to continue preparing its proposal after receiving amendment No. 0002 was a matter of the firm's business judgment, and that the Air Force's refusal to delay the procurement to accommodate Lanier was reasonable.

In addition, although Lanier allegedly did not receive its copy of amendment No. 0003 until 5 days before proposals were due, we will not disturb an acquisition on the basis of one offeror's late receipt of an amendment unless there is evidence that the agency failed to comply with the regulations governing the distribution of amendments, U.S. Pollution Control, Inc., supra. Where there is no allegation or evidence that the agency failed to follow the applicable FAR requirements regarding the dissemination of solicitation materials, the protester must bear the risk of late receipt or nonreceipt of a solicitation or amendment. Electromagnetic Corp., B-249623, Oct. 29, 1992, 92-2 CPD ¶ ____. Here, there is no evidence or allegation that the agency failed to follow applicable requirements regarding the dissemination of solicitation materials; rather, it appears that the mails delayed Lanier's receipt of amendment No. 0003. Under these circumstances, and in view of the fact that Lanier actually received the amendment 5 days before the closing date, we cannot say that the agency acted improperly.

The protest is denied.



James F. Hinchman
General Counsel