



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

# Decision

**Matter of:** Aeroflex Laboratories, Inc., Comstrom Division  
**File:** B-250488  
**Date:** January 5, 1993

Kevin J. Finnegan for the protester.  
Harriet J. Halper, Esq., and Charles G. Steenbuck, Esq.,  
Department of the Navy, for the agency.  
Richard P. Burkard, Esq., and John Brosnan, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

## DIGEST

Where low offeror unequivocally offered to perform the contract and took no exception to the terms of the solicitation specifications, the firm's offer was acceptable.

## DECISION

Aeroflex Laboratories, Inc, Comstrom Division protests the award of a contract to Microphase Systems, Inc, under request for proposals (RFP) No. N00014-92-R-KR04, issued by the Department of the Navy for frequency synthesizers. The protester contends that Microphase cannot provide a synthesizer which meets all the specifications set forth in the RFP.

We deny the protest.

The RFP provided that award would be made to the low-priced technically acceptable offeror. The RFP set forth specifications at sections B and C and stated that:

"In order for a proposal to receive a rating of 'technically acceptable', all Sections B and C specifications must be met as well as the required delivery date(s) as set forth in Section F - Required Delivery Schedule."

The RFP specified that the proposals were to include a brief history of the firm, a description of the production facilities, a list of identical or similar contracts, and the firm's 1991 percentage of sales with the government and commercial sector, respectively. In addition, the RFP

requested offerors to "note concurrence of specifications and if any exceptions are taken describe fully."

The agency received five offers by the closing date. Three firms, including the protester and awardee, were included in the competitive range. Following discussions, the agency evaluators found that only Microphase and Comstrom submitted proposals which were technically acceptable. Since Microphase submitted the low offer, the agency awarded that firm the contract. This protest followed.

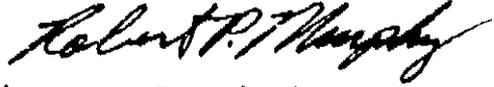
Comstrom argues that Microphase cannot, within the required delivery schedule, meet critical specification requirements concerning FM capability, spurious signals, and phase noise. Comstrom asserts that it developed the technology required to meet these requirements and that the technology cannot be duplicated by any other firm within the delivery schedule set forth in the RFP. It argues that the agency unreasonably concluded that Microphase could supply the synthesizers--the awardee does not currently produce compliant equipment--based upon a 1987 advertisement and the firm's representation that it is currently developing such equipment.

Microphase expressly agreed in its offer to supply the synthesizers in compliance with the specifications. While the awardee offered to adapt an existing product which Comstrom argues does not currently comply, there was no requirement in the solicitation that a current product be offered. By submitting the offer it did under a solicitation, such as this, which did not require descriptive literature or a technical proposal describing the offeror's method for meeting the RFP requirements, Microphase unequivocally obligated itself to supply a conforming product. Jarrett S. Blankenship Co., B-241704, Feb. 19, 1991, 91-1 CPD ¶ 187. Since the awardee's offer to meet the requirements is all the solicitation required, the offer properly was found technically acceptable. Lago Sys., Inc., B-243529, July 31, 1991, 91-2 CPD ¶ 107.

Whether Microphase will in fact be able to supply a conforming product is a matter of the firm's responsibility. We will not review an affirmative determination of responsibility absent a showing that such determination was made fraudulently or in bad faith or that definitive responsibility criteria in the solicitation were not met.

Bid Protest Regulations, 4 C.F.R. § 21.3(m)(5) (1992).  
No such showing has been made here.

The protest is denied.



*for* James F. Hinchman  
General Counsel