



Comptroller General
of the United States

Washington, D.C. 20548

323256

Decision

Matter of: The Knoll Group

File: B-252385

Date: June 23, 1993

Thomas J. Farrell for the protester.
Carolyn Carlson for Pink Supply Corporation, an interested party.
Lester Edelman, Esq., Department of the Army, for the agency.
Christine F. Bednarz, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly excluded protester's proposal from the competitive range in a procurement to purchase systems furniture workstations, where the RFP designated as a minimum requirement that the panels of the workstation contain internal vertical cables and the protester instead proposed an external cable management accessory, which was reasonably found not to be functionally equivalent to the specified feature.

DECISION

The Knoll Group protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DACW37-92-R-0016, issued by the Department of the Army, Corps of Engineers, for systems furniture workstations for the Corps's offices in St. Paul, Minnesota.

We deny the protest.

The agency issued the RFP on September 29, 1992, which contemplated the award of a fixed-price, indefinite quantity contract for systems furniture workstations and related support services.¹ The RFP, as amended, called for two typical workstation configurations, which were illustrated

¹The particular services were delivery, storage, layout, installation, post-installation training, and spare parts support.

by layout drawings and itemized parts lists in section J of the RFP. The RFP addressed the fabrication of the workstations in section J through a total of 80 performance and design specifications, which described the features of the panels, components, work surfaces, and electrical componentry comprising the workstations. Section J contained a questionnaire requiring offerors to identify whether or not their proposals offered each of the 80 specified features or some other substituted feature. Of relevance here, one of the specifications required the panels of the workstations to contain "internal vertical cableways so that concealed cables may run from the raceways to the cableways."² Section C of the RFP stated that offered components need not conform exactly to those in the typical workstation, but must provide "similar worksurface area, storage, convenience and function."

The RFP advised that award would be made to the offeror whose proposal was determined to be most advantageous to the government, considering price and other factors. The technical evaluation was accomplished by first determining whether the proposal complied with the specified requirements, and then evaluating the merit of any proposed feature that surpassed the specified minimums, based upon the feature's ability to enhance the workstation's (1) reliability, (2) utility and (3) aesthetics.

On October 9, 1992, prior to the date established for the receipt of initial proposals, Knoll petitioned the contracting officer to amend various RFP specifications, including a request to delete the internal vertical cableway requirement. Knoll claimed that this requirement unduly restricted competition because "nearly all vendors can satisfy your minimum . . . cable management requirements, but not necessarily in the manner stated in your specifications." Although the agency amended the RFP prior to the November 2 proposal receipt date to reflect some of the changes sought by Knoll, it did not delete the requirement for internal cableways.

Knoll submitted its proposal without further objection to the internal vertical cableway requirement and, in fact, asserted compliance with this requirement in the RFP specification questionnaire. In addition to Knoll, seven other offerors submitted initial proposals by the proposal receipt date.

²The raceways are metal channels at the base of the panels that contain power outlets.

After the Army had completed its evaluation of initial proposals and closed discussions, the contracting officer sought and obtained approval to reopen negotiations for the purpose of amending the RFP specifications. The resulting amendment No. 0004 to the RFP designated 11 of the 80 evaluated workstation features contained in the section J questionnaire as "minimum requirements for certain critical elements." (Emphasis in original.) The internal vertical cableway requirement was among this group of critical, minimum requirements.³ The amendment invited revised proposals by December 29, to which all offerors responded.

On January 13, 1993, the agency commenced discussions with the protester based upon its revised proposal. The contracting officer's negotiation notes reflect that Knoll was asked on January 22 how it proposed to comply with the RFP's internal vertical cableways requirement, and that Knoll suggested a cable manager in the form of an "external add-on."⁴ On January 25, the agency closed discussions with a written request for Knoll's best and final offer (BAFO), which also stated,

"Your attention is called to the minimum requirements set out in [a]mendment No. 0004, which specifies internal vertical cableways. As last submitted, your proposal failed to meet this requirement."

In response, Knoll proposed in its BAFO to furnish a "P/N NADVA" vertical cable manager, which its cover letter described as an "accessory" and a "versatile part" for routing voice and data cables from the top of the panel to the raceway outlets.

After the receipt of BAFOs from all offerors, the contracting officer requested and received approval to reopen discussions, based upon the fact that each of the proposals contained improper price qualifications. The contracting officer then elected to establish a competitive range for further discussions to be composed of all offers which met

³At that time, Knoll did not object to the agency's designation of the internal vertical cableway requirement as a critical element, notwithstanding its earlier efforts to secure the deletion of this requirement from the RFP.

⁴The product literature that Knoll submitted with its initial proposal reflected that it carried a line of external cable managers, but not a line of panels with internal cabling.

the minimum requirements for the 11 critical elements. This narrowed the competition to three technically compliant offers; the remaining five offers, including Knoll's, were eliminated from further consideration.

Knoll's exclusion resulted from the determination that its NADVA vertical cable manager did not satisfy the minimum requirement for internal vertical cableways. This conclusion, according to an affidavit submitted by the agency's lead technical evaluator, was primarily supported by a review of Knoll's product literature. For example, Knoll's catalog did not carry a line of panels with internal cableways, but offered "a family of parts that can be mounted to the . . . panels" for cable management, such as the NADVA part. The literature specifically described the NADVA part as external to the panels, routing the cables along the face of "an exposed post."⁵ The contracting officer notified Knoll on February 5 that its proposal had been eliminated from the competitive range for failing to satisfy the internal vertical cableway requirement. This protest followed.

The evaluation of proposals and the determination of whether an offer is within the competitive range are matters within the discretion of the contracting agency, since it is responsible for defining its needs and must bear the burden of any difficulties resulting from a defective evaluation. Kaiser Electronics, B-232175, Nov. 7, 1988, 68 Comp. Gen. 48, 88-2 CPD ¶ 448. In reviewing a competitive range determination, we do not reevaluate the technical proposals; rather, we examine the agency's evaluation to ensure that it was reasonable and consistent with the RFP's evaluation criteria. Cook Travel, B-238527, June 13, 1990, 90-1 CPD ¶ 571. We will not disturb a competitive range determination absent a clear showing that it was unreasonable, arbitrary, or violative of procurement laws or regulations. Id.

The protester concedes that its proposed panels do not employ internal vertical cableways and that its NADVA part is an external cable manager affixed to the panel joints. However, Knoll argues that the agency should not have disqualified its proposal on this basis because there is allegedly no functional difference between an external and an internal cable management system. According to Knoll, its NADVA part performs exactly like an internal cableway system, in that it completely encapsulates and conceals the

⁵The lead technical evaluator also observed that the NADVA part was priced separately from the panel, showing that it was an accessory, not an internal panel feature.

cables as they run along the panel joints to the base raceway outlets. Knoll argues that its NADVA part therefore complied with the internal vertical cableway requirement by virtue of the RFP provision which authorized substitute features providing "similar worksurface area, storage, convenience and function." Knoll asserts that the Army's insistence upon an internal cableway system is flawed because the protester's alternate NADVA part is functionally equivalent.

The agency persuasively explains that the NADVA external cable manager, while it conceals cables like an internal cableway system, lacks other performance features of an internal system that the agency views as critical to its minimum needs. For example, an external cableway system limits equipment hook-ups to the area around the panel joints where it is attached, whereas an internal cableway system permits equipment hook-ups virtually anywhere within the workspace since the cables are contained within the surrounding workstation panels. To increase the range of equipment hook-ups to an external cable manager, it would be necessary to resort to interconnecting wires and cables, with the effect of reducing the amount of available workspace. Reconfiguration of the workstation is also easier with an internal cableway system because the position of the panels does not affect the placement of equipment within the workstation, as is the case with an external system. Finally, an external cableway system breaks up the flat panel surfaces, which may restrict the wall-mounting of accessories, such as overhead cabinets or files. The agency views the greater flexibility of an internal cableway system as essential to its minimum needs, since the workstations are intended for employees who utilize a wide variety of power-dependent equipment, including engineers, audio/visual specialists, financial and accounting managers, contract professionals, emergency management personnel, and clerical support staff.

The protester has not responded to any of the agency's arguments regarding the more limited capacity of an external cableway system as opposed to an internal cableway system, but relies exclusively on the fact that both systems conceal the cables en route to the panel raceways. In this regard, Knoll references section J of the unamended RFP, which stated a functional purpose for the internal cableway requirement was "so that concealed cables may run from raceways to the cableways." Amendment No. 0004, however, eliminated this functional parameter from the internal cableway requirement and imposed it as a "minimum" requirement. Thus, even assuming that offerors could still propose functionally equivalent solutions to the amendment

No. 0004 requirements,⁶ the agency was not restricted to considering whether the protester's NADVA part concealed the cableways in determining functional equivalency. As set out above, the array of functional differences identified by the agency reasonably supports that the protester's external cable manager fell short of the Army's minimum requirements and justified the exclusion of Knoll's proposal from the competitive range.'

Knoll next contends that the RFP was misleading, because it did not give equal weight to each of the 80 specifications contained in section J. By its terms, amendment No. 0004 increased the importance of the 11 requirements gleaned from section J by distinguishing them as "minimum requirements for certain critical elements." This language reasonably notified offerors that proposals would be found technically unacceptable for failing to satisfy any one of the 11 critical, minimum elements. In contrast, the remaining section J specifications were not designated as minimum requirements and invited substitute features. In addition, the agency fairly alerted Knoll during discussions that a proposal deficient in one of the critical elements identified by amendment No. 0004 might be eliminated from the competition, stating in Knoll's BAFO request, "[y]our attention is called to the minimum requirements set out in amendment No. 0004, which specifies internal vertical cableways. As last submitted, your proposal failed to meet this requirement." Thus, it is apparent that Knoll should have been aware of the agency's interpretation of amendment No. 0004 and cannot reasonably claim that it was misled as

⁶To the extent that amendment No. 0004 changed the internal vertical cableway requirement to a design specification and made this feature one of the "minimum requirements for certain critical elements," it is unclear whether the RFP still authorized offerors to propose functionally equivalent features for this requirement. See IRT Corp., B-246991, Apr. 22, 1992, 92-1 CPD ¶ 378.

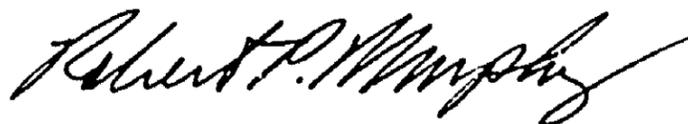
⁷It is also noteworthy that Knoll petitioned the contracting officer to delete the internal cableway requirement from the RFP as issued, claiming that "nearly all vendors can satisfy your minimum . . . cable management requirements, but not necessarily in the manner stated in your specifications." This suggests that the protester was aware that it could not satisfy the RFP's internal vertical cableway requirement through its product line, which undercuts Knoll's current claim that it "felt [its] solution satisfied this [internal cableway] requirement and did not challenge . . . this specification via a protest before the award."

to the effect of this amendment on the evaluation of its proposal.

Knoll also protests that the agency's evaluation of its proposal was biased and discriminatory. Knoll bases this assertion on the fact that the agency waited until after offerors had submitted initial proposals to issue amendment No. 0004, designating certain specifications as minimum requirements. Knoll believes that this was a subterfuge to eliminate from the competitive range all proposals that were priced lower than the eventual successful proposal.

Knoll has failed to produce any evidence to support its claim that the issuance of amendment No. 0004 was motivated by bias on the part of the agency particularly since award was not made to the low-priced, acceptable offeror, but to a higher priced, technically superior offeror. Indeed, the record, far from establishing Knoll's claim of bias, supports that the Army issued amendment No. 0004 to better reflect its minimum requirements, as refined during the evaluation process. See Rodriguez & Assocs., B-245882.2, Feb. 21, 1992, 92-1 CPD ¶ 209; Smith Bright Assocs., B-240317, Nov. 9, 1990, 90-2 CPD ¶ 382 (mere supposition insufficient to support a claim of bias).

The protest is denied.


for James F. Hinchman
General Counsel