



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: DBA Systems, Inc.

File: B-260324

Date: June 2, 1995

DECISION

DBA Systems, Inc. protests the proposed sole-source award of a contract to GEC-Marconi Systems under request for proposals (RFP) No. DAAB07-95-R-B254, issued by the Department of the Army, for 1700 AN/ASN-128B Doppler/Global Positioning System (GPS) navigation sets to be installed in Army helicopters. DBA contends that the sole-source award was unjustified and that the agency failed to draft adequate specifications to allow for full and open competition and that the lack of available technical information prevented DBA from submitting a proposal.

We dismiss the protest as untimely.

On May 5, 1994, the Army published a market survey in the Commerce Business Daily (CBD) to locate additional sources besides GEC-Marconi for the integration of GPS receivers into existing AN/ASN-128 Doppler navigation sets.¹ The notice stated that offerors capable of modifying an existing AN/ASN-128 with an embedded GPS receiver should submit a description and performance specification, test data verifying performance, production lead times and schedules, and type and extent of warranty coverage. The notice advised that "[d]etailed technical data describing the modification of the AN/ASN-128 is not available from the Army." A second notice was published in the CBD on June 1, 1994. Five firms other than GEC-Marconi responded. All responses were found unqualified or technically unacceptable. DBA did not respond to either of the market survey notices.

On November 28, 1994 the Army published a notice in the CBD of its intent to negotiate the sole-source contract with GEC-Marconi for the 1700 navigation sets. According to the Army's justification and approval, only GEC-Marconi had successfully integrated a GPS receiver into the AN/ASN-128 such that GEC-Marconi was the only source capable of

¹GEC-Marconi had previously produced prototypes of the AN/ASN-128 Doppler navigation system embedded with a GPS receiver under contract with the Army.

performing the work on the number of units required within the necessary time frame. See 10 U.S.C. § 2304(c)(1) (1994), implemented by FAR § 6.302-1, which authorizes other than full and open competitive procedures when the needed supplies or services are available from only one responsible source. The CBD synopsis included standard note 22, which advised that the government intends to negotiate with only one source, but provided parties with a 45-day period in which to identify their interest and capability to respond to the requirement or to submit proposals.

The RFP was issued on the agency's electronic bulletin board on December 23, 1994, which agency records show DBA accessed on January 4, 1995. On January 13, the agency received a letter from DBA stating that DBA wished to participate in the procurement and requesting a 3 week extension of the RFP's January 23 closing date. The agency extended the RFP's closing date to January 31, 1995. On January 27, DBA again requested an extension of the closing date, which on January 30, the agency declined. Neither of DBA's letters described in any way DBA's capability to integrate a GPS receiver with the AN/ASN-128, and DBA did not submit a proposal by the January 31 closing date.² On February 4, DBA protested to our Office that the Army had not provided adequate specifications to allow DBA to compete and was making an improper sole-source award to GEC-Marconi.

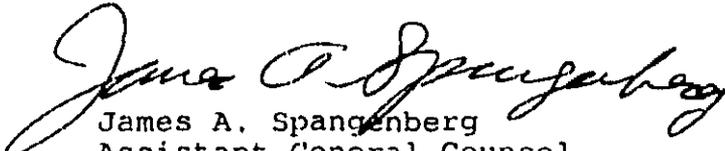
Our Bid Protest Regulations require that protests based upon alleged solicitation improprieties which are apparent before the closing date for receipt of proposals must be filed prior to that date. 4 C.F.R. § 21.2(a)(1) (1995). We view a protest of the sole-source nature of a procurement to be a complaint against the solicitation. Julie Research Labs., Inc., B-219364, Aug. 23, 1985, 85-2 CPD ¶ 222; see Norden Sys., Inc., B-245684, Jan. 7, 1992, 92-1 CPD ¶ 32.

DBA did not protest the solicitation prior to the extended closing date. DBA's correspondence with the agency prior to the closing date failed to object that the specifications were inadequate or that the procurement improperly bundled

²In its correspondence prior to January 31, DBA also requested certain documents which the agency declined to supply on the basis that the information was proprietary to GEC-Marconi.

the requirements, as it argues in its protest correspondence to our Office.³ Thus, DBA's protest of the solicitation filed after the closing date is untimely. Id.; Navigation Servs. Corp., B-255241, Feb. 10, 1994, 94-1 CPD ¶ 99.

The protest is dismissed.


James A. Spangenberg
Assistant General Counsel

³DBA was also aware of the lack of technical information from the CBD announcements and the negative responses it received to its information requests from the Army.