



## Decision

**Matter of:** Altair Equipment Company, Inc.

**File:** B-418303

**Date:** January 29, 2020

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Donald R. Keer, for the protester.

Alexis J. Bernstein, Esq., and Isabelle P. Cutting, Esq., Department of the Air Force, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that agency misevaluated protester's quotation as unacceptable is denied where the solicitation specified that the equipment be mobile and the protester's quotation expressly offered its existing stationary unit that it labeled an alternative solution.

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### DECISION

Altair Equipment Company, Inc., of Warminster, Pennsylvania, a small business, protests the award of a contract to The Maclean Group LLC, of Albany, California, also a small business, under request for quotations (RFQ) No. FA4484-19-QA-018, issued by the Department of the Air Force for a commercial mobile water demineralization unit for a power plant steam generating system at Joint Base McGuire-Dix-Lakehurst, in New Jersey. Altair argues that the Air Force unreasonably rejected its quotation as technically unacceptable and improperly awarded the contract to Maclean at its higher price.

We deny the protest.

### BACKGROUND

The RFQ, issued on August 29, 2019, was set aside for small businesses, and provided for a commercial item simplified acquisition. The RFQ sought quotations to provide a mobile demineralization unit and service (including labor, equipment, supplies, management, etc.) to operate and regenerate the unit for an 11-month base period and 4 option years. RFQ at 1; RFQ amend. 1 at 2. Altair has been the incumbent contractor under a contract awarded in 2014.

The RFQ was set aside for small businesses and requested that the technical quotations address how the vendor proposed to perform the requirements. For each performance period, the RFQ requested fixed prices for servicing the demineralizer and performing maintenance/regeneration service. RFQ at 3-5. Prices would be evaluated by adding the extended line prices for each performance period, and the RFQ specified that award would be made to the firm that submitted the lowest-priced technically acceptable quotation. Id. at 8.

The accompanying performance work statement (PWS) explained that the purpose of the RFQ was to obtain a mobile demineralization unit that would avoid the need to store and use hazardous materials on site, in particular by eliminating the need to have on hand sulfuric acid and, significantly reducing the amount of sodium hydroxide at the site. RFQ at 22 (PWS ¶ 1). The PWS set forth the agency's requirements, among which were a mobile demineralizer unit that meets specific demineralization standards, and has the capability to process at least 600,000 gallons before requiring regeneration. The PWS also required the contractor to perform regeneration of the unit off site and provide a freshly regenerated unit within 12 hours of removal of each outgoing unit. RFQ at 22 (PWS ¶ 1.2), 27 (PWS appx. B).

The Air Force received timely quotations from Altair and Maclean. Altair quoted the lower evaluated price of \$347,000, but the agency's evaluation determined that the technical approach was unacceptable. Specifically, Altair's quotation stated that under its incumbent contract, it had been providing "an alternative to the specified mobile unit," and that it proposed to continue with the existing system. Agency Report (AR) Tab 5, Altair Quotation, at 2. The quotation contended that Altair's proposed approach would provide water without interruption, and would provide the advantage of getting the system back on line faster. Id.

The engineering technician, who evaluated the quotations, concluded that Altair's proposed solution was a stationary system and thus, not a mobile demineralizer unit. The technician determined that Altair's quotation did not meet the RFQ requirement for a mobile unit, so the quotation was unacceptable. AR Tab 8, Technical Review Memorandum for Altair, at 1.

Maclean's quotation offered an evaluated price of \$595,000. The engineering technician reviewed the quotation and determined that Maclean had offered an acceptable mobile demineralization unit with the required capacity. Next, the contracting officer reviewed the evaluation, compared Maclean's price to the government estimate to ascertain that it was fair and reasonable, and selected Maclean's quotation for award as the lowest-priced technically acceptable response.

On November 21, the agency notified Altair of the rejection of its quotation and the award to Maclean. This protest followed.<sup>1</sup>

## DISCUSSION

Altair raises two issues: that the Air Force improperly rejected the protester's quotation and awarded the contract to Maclean at a higher price, contrary to the RFQ criteria, and that Maclean's quotation was unacceptable because it will not comply with the limitation on subcontracting clause.

First, with respect to Altair's claim that the Air Force improperly rejected its quotation and awarded the contract to Maclean at its higher price, Altair contends that its stationary system is superior to the mobile unit specified in the RFQ, and that its alternative system was accepted in 2014 and has been performing satisfactorily.<sup>2</sup>

The Air Force responds that the RFQ clearly specified a mobile unit, and Altair expressly noted that it was not proposing one. The agency acknowledges that in 2014 it accepted Altair's alternative, stationary system, but the agency argues that it properly rejected the firm's quotation under the RFQ here because it took exception to the requirement to provide a mobile unit.

We agree with the Air Force that the rejection of Altair's quotation was reasonable and consistent with the terms of the RFQ because Altair's stationary unit is not mobile. Even though the Air Force accepted Altair's stationary system in the previous procurement, the agency is under no requirement to do so now. See Business Equip. Ctr., Ltd., B-214814, May 23, 1984, 84-1 CPD ¶ 561 at 1-2 (dismissing protest because each procurement is a separate transaction; an agency's actions in one procurement do not govern its conduct in a subsequent procurement, so an agency's earlier waiver of a solicitation requirement does not require a waiver in the current solicitation); accord. JLS Rentals, B-219662, Nov. 20, 1985, 85-2 CPD ¶ 570 at 4 (denying protester's argument that waiver in previous contract should have been applied in pending procurement).

Second, Altair challenges the acceptability of Maclean's quotation, arguing that the firm will not comply with the limitations on subcontracting clause, which requires the contractor itself to perform at least 50 percent of the work. RFQ at 7 (incorporating

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<sup>1</sup> Altair requested a debriefing and the contracting officer notes that one was being prepared until the protest was filed. Contracting Officer's Statement at 5. The procurement was a simplified acquisition, however, so only a brief explanation was legally required (and neither party has argued otherwise). See Federal Acquisition Regulation (FAR) § 13.106-3(d). We did not dismiss the protest based on its being filed before the debriefing, since none was legally required. Cf. 4 C.F.R. § 21.2(a)(2).

<sup>2</sup> Altair attempts to characterize its approach as mobile, but its quotation plainly states that it proposed a stationary unit as an alternative to the mobile unit sought in the RFQ.

FAR clause 52.219-14). The Air Force explains that Maclean's quotation provides no indication that the firm does not intend to comply with that requirement.

An agency's judgment as to whether a small business offeror can comply with a limitation on subcontracting provision is generally a matter of responsibility. The issue becomes a matter of acceptability only where the quotation, on its face, should lead the agency to conclude that the offeror has not agreed to comply with the subcontracting limitation. Dorado Servs., Inc., B-411691.4, Nov. 18, 2016, 2016 CPD ¶ 337 at 2-3. In general, however, an offeror need not affirmatively demonstrate compliance with subcontracting limitations in its quotation to be acceptable. Dorado Servs., Inc., B-408075, B-408075.2, June 14, 2013, 2013 CPD ¶ 161 at 12.

During the protest, Altair provided no other support for the allegation beyond the fact that the awardee has an address in California and "has no local operations." Altair has not provided material factual support for its claim that Maclean's quotation should have been rejected as unacceptable, so there is no basis for our Office to sustain the protest.<sup>3</sup>

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>3</sup> Monitoring Maclean's performance of the contract--including the firm's compliance with the limitations on subcontracting clause--is the responsibility of the contracting officer, not our Office. Issues of contract administration are outside our Office's bid protest jurisdiction. 4 C.F.R. § 21.5(a).