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**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** JEOL USA, Inc.

**File:** B-277160

**Date:** July 2, 1997

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Janice D. Sogard for the protester.

Vincent A. Salgado, Esq., and Jerald J. Kennemuth, Esq., National Aeronautics and Space Administration, for the agency.

Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Agency reasonably rejected as technically unacceptable a proposal for an electron microscope where the solicitation required the submission of descriptive literature to demonstrate compliance with the stated requirements, and the information provided by the protester prior to award did not show that its proposed microscope satisfied the working distance requirement stated in the solicitation.

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## DECISION

JEOL USA, Inc. protests an award to Hitachi Scientific Instruments under request for offers (RFO) No. RFO3-072251, issued by the National Aeronautics and Space Administration (NASA), Lewis Research Center, for a field emission scanning electron microscope. JEOL protests that the rejection of its offer as technically unacceptable was unreasonable.

We deny the protest.<sup>1</sup>

The solicitation, issued on May 5, 1997, contemplated the award of a fixed-price contract.<sup>2</sup> The solicitation required offerors to provide:

"a description (including manufacturer, brand, and model no.) in sufficient detail to show that the product or service offered meets the Government's requirement included in the attached model contract."

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<sup>1</sup>This protest was developed, and this decision is being issued, pursuant to an accelerated schedule. 4 C.F.R. § 21.10(e) (1997).

<sup>2</sup>Award was to be based on a best value evaluation plan with technical and past performance factors combined being substantially equal to price.

The model contract stated detailed minimum requirements for the microscope, including:

"The resolution must be at least 2.5 [nanometers (nm)] for an accelerating voltage of 1 [kilovolt (kV)] and 1.5 nm for an accelerating voltage of 15 kV at a working distance of 12 [millimeters (mm)]."<sup>3</sup>

NASA received four offers by the May 15 due date, including those of JEOL for \$368,368 and Hitachi for \$451,319.

JEOL's proposal stated that its "[o]ffer meets all of the specifications of the request document." The descriptive literature provided with the proposals stated the following resolution specifications:

"1.2 nm guaranteed (at 15 kV)  
2.5 nm guaranteed (at 1 kV)"

JEOL's proposal did not state the working distances for these resolution specifications.

On May 22, NASA conducted a telephone conference with JEOL. During this call, NASA asked about the resolution capability of the proposed microscope. JEOL's product manager stated that the specified resolution of JEOL's microscope was for much shorter working distances than required under NASA's specification. He stated that the resolution was 2.5 nm at 1 kV for a working distance of 3 mm, and 1.5 nm at 15 kV for a working distance of 6 mm.

NASA determined that JEOL's proposal was unacceptable, as were the proposals of two other offerors. These three proposals were rejected and award was made to Hitachi on May 23. This protest followed.

JEOL now alleges that its microscope satisfies the resolution requirement at a working distance of 12 mm. It contends that its proposal was technically acceptable because it stated that it would meet all of the stated solicitation requirements.

When a solicitation in a negotiated procurement requires the submission of descriptive literature showing technical adequacy, an offeror must demonstrate technical sufficiency in its proposal. Power Dynatec Corp., B-251501.3, Aug. 3, 1993, 93-2 CPD ¶ 73 at 3. A blanket offer of compliance with the specification is not

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<sup>3</sup>The 12 mm working distance is a critical requirement because the material to be examined, irregular surfaces of fractured ceramic composite samples, typically has protruding fibers which preclude a closer working distance.

sufficient to comply with a solicitation requirement for detailed technical information necessary for evaluation purposes. Id.; AEG Aktiengesellschaft, 65 Comp. Gen. 418, 421 (1986), 86-1 CPD ¶ 267 at 4. The contracting agency is responsible for evaluating the data supplied by an offeror and ascertaining if it provides sufficient information to determine the acceptability of the offeror's item; we will not disturb this technical determination unless it is shown to be unreasonable. Inframetrics, Inc., B-257400, Sept. 30, 1994, 94-2 CPD ¶ 138 at 3.

The solicitation established the working distance requirement, and JEOL's proposal did not supply information evidencing that its proposed microscope satisfied that. The only information available to the agency relating to the working distance of JEOL's microscope was the oral statement of JEOL's product manager, who did not indicate that JEOL's proposed microscope satisfied the working distance requirement, but stated that the microscope's resolution was designed for a shorter working distance and provided the resolution of JEOL's microscope for working distances of 3 mm and 6 mm (but not for working distances greater than 6 mm). We think that, based on this information, the agency reasonably concluded that JEOL's proposal did not offer the required resolution at the required working distance of 12 mm. Since the agency had no basis at the time of award to determine that JEOL's microscope could satisfy the greater working distance requirement, rejection of JEOL's proposal as technically unacceptable was reasonable. See AZTEK, Inc., B-228376, Feb. 5, 1988, 88-1 CPD ¶ 113 at 4-5.

To the extent JEOL alleges that the agency's inquiry about the working distance was inadequate because NASA did not specifically ask whether JEOL's microscope complied with the 12 mm working distance requirement, we think that the agency's inquiry about resolution and working distance, considered together with the working distance requirement clearly stated in the solicitation, was sufficient to alert JEOL to the apparent deficiency in its proposal. See Renaissance Dev. Corp., B-260947, Aug. 7, 1995, 95-2 CPD ¶ 58 at 5 (discussions need not be overly specific to be meaningful).

The protest is denied.

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