



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Omega World Travel, Inc.

File: B-280456.2

Date: September 17, 1998

Barry Roberts, Esq., and Brian J. Hundertmark, Esq., Roberts & Hundertmark, for the protester.

Philip T. McCaffrey, Esq., U.S. General Accounting Office, for the agency.

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DIGEST

Where there is no requirement that an agency define its needs for commercial-off-the-shelf software by commercial brand name, the agency appropriately defined its needs for commercially available travel management software by using a broad commercial item description stated in terms of functional requirements.

DECISION

Omega World Travel, Inc. protests the terms of request for proposals (RFP) No. OAM-98-N-0005, issued by the U.S. General Accounting Office (GAO) for travel management services and a client/server-based travel subsystem software package.

We deny the protest.

The RFP was issued on June 1, 1998. As relevant to this protest, the RFP stated that the agency required:

a commercially available software package which supports travel processing under federal regulations. The software would be used by travelers or administrative staff supporting the travel function to create travel orders and travel vouchers compliant with the appropriate travel rules. The software must have the capability to directly export the related accounting transactions into GAO's Financial Management System.

RFP, Attachment B, section II, at 1.

The RFP listed technical and functional requirements in order for the software to be able to run on the GAO network. As relevant here, the functional requirements were divided into the following four categories: (1) pre-travel processes; (2) post-

travel processes; (3) reports; and (4) special features. RFP, Attachment B, sections I-IV, at 2-8. For each category, specific and detailed software capabilities or features to be provided were listed. For example, among other things, in the reports category, the software was required to "[r]eport outstanding travel advances," RFP, Attachment B, section III, at 7, and in the special features category, the software was required to "identify charges made to employees' personal government charge cards and the agency's central Government Transportation charge account." RFP, Attachment B, section IV, at 8. Offerors were advised, however, that the "RFP does not require that . . . the awardee have access to the government's charge card database." RFP, Executive Summary, at 2.

The amended closing date for receipt of proposals was July 20. RFP, amendment No. 1, June 24, 1998. Omega did not submit a proposal by the stated closing time.

Omega objects to the agency's description of its software needs by listing in the RFP functional requirements for the software. Omega believes that the agency should have described its needs by naming the commercially available software which the agency learned as part of its market research efforts would satisfy the RFP requirements. We disagree.

Market research is conducted to determine if commercial items are available to meet the government's needs. Federal Acquisition Regulation (FAR) § 10.002(b); see also FAR § 10.001(a)(3)(ii)(A). Here, the agency, through its market research efforts, identified PerDiemAzing and Gelco Travel Manager as commercially available software which would satisfy its needs. However, there is no requirement that the agency, in defining its needs for commercial items, do so by listing commercial brand names. Rather, FAR § 11.002(a)(2)(i)(A)-(C) authorizes an agency to describe its needs for commercial supplies or services in terms of functions to be performed, performance required, or essential physical characteristics. See also FAR § 12.202(b); Adventure Tech, Inc., B-253520, Sept. 29, 1993, 93-2 CPD ¶ 202 at 3-4.

Here, to acquire commercial travel management software, the agency appropriately used a broad commercial item description stated in terms of functional requirements. More specifically, the agency divided the software's functional requirements into four categories and provided detailed descriptions of the software capabilities or features to be provided. Contrary to Omega's objection, while the agency was aware of at least two commercial-off-the-shelf software products that would satisfy its needs, the agency was not obligated to specify these products in the RFP as the agency was not restricting its needs to a particular brand name product. Instead, for this procurement for commercial-off-the-shelf software, it was incumbent upon the offerors to propose a commercial product to satisfy the government's functional requirements.

Omega also contends that the RFP requirements to "[r]eport outstanding travel advances," and to "identify charges made to employees' personal government charge cards" are restrictive of competition because only a travel agency that also owns the government charge card database--in this case, the incumbent contractor, American Express--can meet these requirements. However, Omega's argument is based on a factually inaccurate premise.

The record shows that prior to the amended closing time, Omega was told that American Express was no longer the agency's travel charge card provider, and therefore would not have access to charge card information. Moreover, the RFP's executive summary stated that the RFP did not require the awardee to have access to the government's charge card database. Obviously, if the awardee did not have access to the government's charge card database, in order for the awardee to comply with the referenced reporting requirements, either the traveler or the government would have to furnish the necessary information to the awardee. It is clear from this record that all potential offerors could compete on an equal basis and that Omega's concern that American Express essentially had an unfair competitive advantage because it owned the government charge card database was unfounded.

Finally, in its comments on the agency report, Omega challenges, for the first time, the functional requirement in the RFP that the commercially available software interface electronically with the agency's federal financial system software. RFP, Attachment B, section IV, at 8. Omega maintains that the interface process requires customization of the software, thereby rendering the software other than commercial-off-the-shelf.

This allegation, involving an alleged solicitation impropriety apparent prior to the July 20 amended closing time for receipt of proposals, is untimely as it was not raised prior to that closing time. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1998); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324 at 7. In any event, the agency explains that an interface is a separate program that allows two software programs, *i.e.*, the travel management software and the financial systems software, to communicate with each other. Omega has failed to show how the creation of an interface involves the customization of commercially available software.

The protest is denied.

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