

12840

*Diamond
Protest*



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-195907

DATE: February 13, 1980

MATTER OF: *g* The BDM Corporation

DIGEST:

1. Ambiguity in RFQ exists only if two or more reasonable interpretations are possible.
2. Scope of work to be performed under existing contract and RFQ is not identical where contracting agency uses similar language to describe work and services to be performed and work statements clearly indicate that similar services are required but under different circumstances.

*DLG-032900
901*

[Protest Against]

The BDM Corporation (BDM) protests the June 11, 1979, issuance of request for quotations (RFQ) DAAK70-79-Q-0047 to perform Operations Research/Systems Analysis support for the United States Army Mobility Equipment Research & Development Command (MERADCOM), Procurement & Production Directorate, Fort Belvoir, Virginia. Specifically, BDM contends that MERADCOM has a contract with BDM for the same work as that described in the RFQ, and that the RFQ is deficient in that it is inconsistent and confusing in describing MERADCOM's requirements and evaluation methods.

DLG-032900

On October 17, 1978, MERADCOM issued an RFQ for Operations Research/Systems Analysis. This procurement resulted in the award of two contracts on March 28, 1979; one contract for Operations Research/Systems Analysis support in the area of Technology Application and Assessment was awarded to Arthur D. Little, Incorporated (ADL), and the other contract for Operation Research/Systems Analysis support in the area of Military Need and Hardware Effectiveness was awarded to BDM. The specifications sections (Section F) of these two contracts are virtually identical. That section stipulates in general terms how the work is to be performed.

*111560
~~008663~~*

*Contracting
procedures*

*Disinflation
procurement
practices
protests*

In April 1979, MERADCOM determined that there was an increasing requirement to provide systems analysis support for projects entering advanced and engineering development. The contracting officer, in MERADCOM's administrative report, states that the contracts with BDM and ADL, in the areas of combat operations and technology planning, respectively, left a void in the systems integration or system engineering area, i.e., the optimization of system performance within technological and operational constraints. Although MERADCOM recognized the need for additional systems integration efforts, this was beyond its in-house capability and a decision was made to contract portions of the effort. To accomplish that end, RFQ DAAK70-79-Q-0047 was issued in June 1979. The closing date for receipt of quotations was July 25, 1979.

Prior to the closing date, BDM protested the issuance of this RFQ to MERADCOM. BDM was notified by letter dated August 27, 1979, that its protest was denied. On August 29, 1979, BDM protested the same matters to our Office. For the following reasons, the protest is denied.

BDM contends that the RFQ is inconsistent and confusing. This is based in part on the fact that the RFQ title, "Systems Integration and Management Sciences," does not encompass all of the types of services MERADCOM seeks to acquire with this RFQ. Also, there is an implication that hardware integration is a subset of systems integration, a contradiction of the categorization into hardware integration/systems integration stated elsewhere in the RFQ. Further, the two major categories are identified as "2)" and "b)" suggesting that some information may have been omitted; Section "F," Description/Specification, does not distinguish hardware integration requirements separately from systems integration; and Section "J" is ambiguous and inconsistent in that it does not specify personnel qualifications in hardware integration, system integration, management sciences, or models and simulation, but it does specify qualifications in design, test and/or fabrication of equipment as well as operations analysis.

In our opinion, MERADCOM is correct in its assertion that the solicitation title was intended for informational purposes only and need not be all encompassing. RFQ Section "E," "Supplies/Services/Prices," specifically provides the types of services that are sought to be acquired.

There is no support for BDM's contention that the RFQ is contradictory because it implies that hardware integration is a subset of systems integration. BDM points out that subparagraph "F" of paragraph C.19 illustrates two tasks--one requiring hardware integration and one requiring systems integration. Section "E" clearly supports this division. It is divided into two items: "Item I: Hardware Integration and Management Science" and "Item II: System Integration and Management Science." These items are further divided into Hardware Integration, System Integration and Management Science categories. The typographical error in subparagraph "G" of paragraph C.19 identifying two major categories as "2)" and "b)," instead of "a)" and "b)," is apparent from the text which states that

"Systems integration efforts * * * fall into two major categories:

"2) system integration at the hardware developmental level and b) system integration of new equipment into the Army inventory." (Emphasis supplied.)

With regard to BDM's contention that the RFQ is confusing because Section "F" does not distinguish hardware integration requirements from systems integration, MERADCOM responds that BDM incorrectly assumes a one-for-one correspondence between Sections "E" and "F." MERADCOM states that "all of Section 'F' applies equally well to both Items I & II of Section 'E.'" In that connection, we note that Section "E" provides for the performance of Operations Research/Systems Analysis support "in Item I and Item II and within Section 'F.'"

We disagree with BDM's contention that Section "J" is ambiguous and inconsistent. An ambiguity in the legal sense exists if two or more reasonable interpretations are possible. Telectro-Mek, Inc., B-190653, April 13, 1979, 79-1 CPD 263. Section "J" presents the basic

labor categories required to perform the work and services. As MERADCOM states, the qualifications apply to all work intended and include the skills necessary to conduct both systems and hardware integration. Section "J" cannot reasonably be interpreted in two ways and therefore cannot be viewed as ambiguous. It is not inconsistent since the labor categories and corresponding qualifications are applicable to the work and services to be performed.

BDM's protest is also based on its contention that it presently has a requirements contract with MERADCOM for the same work as that described in the RFQ, specifically Section "F," Description/Specification. BDM states in its letter of protest:

"A careful review of Section F of (the RFQ) and Section F of (our contract with MERADCOM) reveals major areas in which the work to be performed is identical. A side-by-side analysis of the description and specifications of both the RFQ and the contract clearly indicates that the Government is attempting to award another contract for work which should be performed by BDM under the terms of the contract awarded to BDM based on a competitive procurement conducted by MERADCOM * * *."

In its administrative report, MERADCOM responds:

"Section F is a description/specification of the work and services to be performed under the proposed contract as listed in Section E of the RFQ. In this case, the RFQ lists (Section E) two types of services to be performed; i.e., Item I: Hardware Integration and Management Science, and Item II: Systems Integration and Management Science. The current BDM contract also lists (Section E) two types of services to be performed; i.e., Item I: Combat Operations and Item II: Hardware Operational Effectiveness. In as much as operations research and systems analysis is a common tool to both Hardware/Systems

Integration in the RFQ and Combat Operations/ Hardware Operational Effectiveness in the BDM contract, it naturally follows that the description/specifications (Section E) would logically parallel one another to a certain extent."

It is apparent from these two statements that BDM has considered Section "F" alone as defining the work to be performed under its contract and pursuant to the RFQ. MERADCOM explains that Section "E" identifies the area to be explored and Section "F" describes the nature of the work to be performed. In other words, Sections "E" and "F" are not mutually exclusive. One section cannot be read without the other in identifying MERADCOM's requirements. Thus, although Section "F" of the RFQ and Section "F" of the BDM contract describe the nature of the work as systems analysis, it is necessary to look at Section "E" to determine the area to which systems analysis is to be applied.

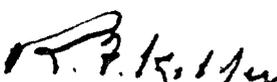
The RFQ supports MERADCOM's explanation. Section "D," paragraph D.2, explains that the four major program areas identified in Section "F" apply to either hardware integration or system integration (Section "E") and that separate awards may be made for each of the eight categories. Thus, awards could not be made exclusively on the description of work in Section "F." Section "F" is limited by the parameters of Section "E." Also, Section "J," Special Provisions, indicates that all work and services performed under the terms of this contract will be accomplished pursuant to individual task orders which "will be issued based on one or more of the Government requirements indicated in SECTION E AND F." Therefore, the requirements are not identified exclusively by Section "F," but must be read in light of both Sections "E" and "F."

We have examined the BDM contract and the RFQ and agree with MERADCOM that, although the description of the work in Sections "F," respectively, are similar, when read in light of the Sections "E" it is obvious that different circumstances are contemplated. Section "E" of the BDM contract calls for the performance of Operations Research/Systems Analysis support in the area of Military Need and Hardware Effectiveness,

specifically combat operations and hardware operational effectiveness. As MERADCOM explains, the materiel acquisition process involves three principal groups of people: the researcher/inventor, the producer, and the user. Systems analysis activities may be identified with each group. The BDM contract involves the application of systems analysis to user needs, i.e., combat operations. Section "E" of the RFQ calls for the performance of Operations Research/Systems Analysis support in the areas of Hardware Integration and System Integration. This involves the application of systems analysis to design, engineering development, and production, thus aimed at the producer in the materiel acquisition process.

We are unaware of any procurement laws or regulations which prohibit a contracting activity from using similar or even identical language in an existing contract and RFQ to describe the services required. It is unobjectionable in the present case because the work statements clearly indicate that similar services are required but under different circumstances. See, Technical Services Corporation; Artech Corporation, and Sachs/Freeman Associates, Inc., B-190945, B-190970, B-190992, August 25, 1978, 78-2 CPD 145. BDM's protest that MERADCOM presently has a contract with BDM for the same work as that described in the RFQ is denied.

In view of this conclusion, it is not necessary to determine whether the BDM contract is a requirements contract.


Deputy Comptroller General
of the United States