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DECISION



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

FILE: B-202286

DATE: July 31, 1981

MATTER OF: The Communications Network

DIGEST:

Procuring agency's letter to protester, listing training courses anticipated for next fiscal year, which did not advise protester of such essential Government requirements as proposal evaluation criteria and their importance or specify delivery or performance schedule does not constitute request for proposals.

The Communications Network (TCN) protests the action of the Department of the Navy, Navy Ships Parts Control Center (Navy), in acquiring communications training courses from the Office of Personnel Management (OPM).

The protest centers on a Navy letter to TCN dated April 18, 1980, which TCN insists is a request for proposals (RFP), while the Navy states that the letter is not a procurement solicitation.

TCN contends that the Navy acted improperly in soliciting an offer from it without stating in the RFP that proposals would be compared to a cost estimate in order to determine the economic feasibility of providing the training programs in-house. Further, it contends that the in-house cost estimate was not independently prepared, contrary to the requirements of Defense Acquisition Regulation (DAR) § 7-2003.79 (Defense Acquisition Circular (DAC) No. 76-17, September 1, 1978). TCN asserts that the Navy disclosed the firm's proposal pricing to OPM, in violation of DAR § 3-507-2 (1976 ed.), because the contracting officer allegedly failed to provide for the safeguarding of TCN's proposal. Finally, TCN concludes that the informality with which the procurement was conducted demonstrates the Navy's bad faith in dealing with TCN.

[Protest Alleging That Navy Acted Improperly in Soliciting Offer]

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The Navy asserts that the "solicitation" to which TCN refers is a letter from the Head of Civilian Training at the Center responding to a letter from TCN in which the protester requested a list of training courses on which the firm could bid. TCN, the Navy explains, had repeatedly sought such information since October 1979. The Navy further contends that it is clear from the record that there was no approved training plan at the time the letter was sent to TCN. The Navy states that personnel offices may not purchase training courses from non-Government sources absent a determination that training adequate to meet the agency's needs is not available within the Government. Federal Personnel Manual ch. 410-27 § 5-1(b)(1) and (3) (1969 ed., September 6, 1974). Because adequate training courses were available from OPM, the Navy had no basis upon which to contract outside the Government and never reached the point of preparing a formal solicitation for its requirements or formulating a Government estimate with which to compare prospective contractors' proposals. Finally, the Navy insists that TCN's proposed prices were at no time subject to review by anyone other than the Navy training personnel.

We agree with the Navy.

When viewed against the standards of DAR §§ 3-501(b)(2) and 16-102.1, we have held that an agency's letter which does not advise a protester of such essential Government requirements as proposal evaluation factors, the relative importance of evaluation criteria, specify a delivery or performance schedule or establish a common cutoff date for the submission of proposals does not constitute a solicitation for bids or proposals. Algonquin Parts, Inc., 60 Comp. Gen. _____ (B-198464, April 9, 1981), 81-1 CPD 270; Tymshare, Inc., 57 Comp. Gen. 434, 437 (1978), 78-1 CPD 322; Complete Irrigation, Inc., B-187423, November 21, 1977, 77-2 CPD 387. Although the Navy's letter did invite TCN to provide course descriptions and the cost, including course materials, for 25 students and advised the firm that if its course proposals were accepted, TCN would be contacted for dates of availability during August for classes to begin after October 1, 1980, the letter nevertheless fails to state evaluation criteria, an evaluation

scheme or a performance schedule requisite to an RFP. Moreover, the Navy's letter specifically informed TCN that due to budget constraints no new courses were planned and an invitation to bid on conducting this type of training was not warranted.

While DAR § 1-309 (1976 ed.) permits the issuance of solicitations for informational or planning purposes, only requests for quotations approved by an authority higher than the contracting officer are authorized for this purpose. See Olin Corporation, 57 Comp. Gen. 209, 213 (1978), 78-1 CPD 45. Where, as here, a protester objects to the terms of a presolicitation document, we have held that issues raised in connection with such a document are not for resolution under our Bid Protest Procedures. 4 C.F.R. § 21.1(a) (1981); Plaza de las Armas, Inc., B-188602, June 30, 1977, 77-1 CPD 468.

Although TCN contends that its proposal prices were disclosed, the protester simply has not presented any evidence to support its allegation and the Navy has denied this allegation. Absent probative evidence, we must assume that TCN's allegation is speculative and conclude that the protester has not met its burden of proof. Questar Data Corporation, B-199769, November 28, 1980, 80-2 CPD 403; Dynal Associates, Inc., B-197348, July 14, 1980, 80-2 CPD 29.

Because the alleged informality of the procurement procedure was apparent from the Navy's April 18 letter, any objections to the procurement method chosen should have been raised within a reasonable period after TCN's receipt of that letter. TCN did not object to the terms of the letter, but submitted a proposal to the Navy and did not take exception to the agency's acquisition procedures until after it was advised that the services in question would be acquired from OPM. Even a complaint against a formal solicitation raised under these circumstances would be untimely presented for our consideration. Bethesda Research Laboratories, Inc. - Request for Reconsideration, B-190870, May 17, 1978, 78-1 CPD 376; Hayes International Corporation, et al., B-179842, March 22, 1974, 74-1 CPD 141.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel