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DECISION



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

FILE: B-206091

DATE: September 23, 1982

MATTER OF: MASSTOR Systems Corporation

DIGEST:

Solicitation provision which has two reasonable interpretations is ambiguous. Since ambiguity is not so obvious as to have required offeror to seek clarification and protester's proposal complies with one reasonable interpretation, it is improper to reject proposal for failure to show compliance with other interpretation during live test demonstration. GAO recommends that solicitation be amended to state agency's needs explicitly and that protester be permitted to revise proposal and perform new live test demonstration to show compliance.

MASSTOR Systems Corporation (MASSTOR) protests the rejection of its technical proposal in the first step of a two-step formally advertised procurement, request for technical proposals No. FY7621-81-70087, issued by the Air Force Armament Division (Air Force), Eglin Air Force Base, Florida. The second-step solicitation has not yet been issued.

MASSTOR's proposal was rejected because MASSTOR was unable to demonstrate two mandatory requirements in either of two live test demonstrations (LTD). MASSTOR argues that the Air Force's interpretation of the requirements exceeds the plain language of the requirements and that its system meets the requirements. MASSTOR requests that its proposal be found technically acceptable, or, in the alternative, that the Air Force amend the solicitation to state explicitly its interpretation of the requirements and permit MASSTOR an opportunity to meet the requirements in a new LTD.

We sustain the protest.

MASSTOR proposed two systems, which were tested in an LTD, and both failed. The Air Force provided a general

explanation of the failures. MASSTOR felt that the Air Force misunderstood one of the proposals and asked for a second LTD, to which the Air Force agreed. After MASSTOR failed that LTD, the Air Force provided, for the first time, the specific details of MASSTOR's failure, which revealed the Air Force's interpretation of the requirement in question.

The requirement states that the contractor's system must:

"(9) Supply the facility to automatically backup to mass storage all new or changed disk, resident files within 24 hours of a disk files change or creation. This backup copy should not effect the usage of the disk file in any way. Only the latest mass storage copy of a disk resident file need be retained. The mass storage copy of a disk file should be purged whenever the disk file is purged.

It is undisputed that MASSTOR's system automatically backs up all new or changed disk resident files. However, MASSTOR's system also backs up all files accessed for any other reason during a 24-hour period, that is, it does not discriminate between new or changed files and files that are accessed for any other reason.

The Air Force contends that the quoted provision requires that only new or changed files be backed up. According to the Air Force, files are created or changed only 5 percent of the time that they are accessed. Creating a backup file every time a file is accessed is undesirable because it wastes central processor time, input/output time and mass storage space. The Air Force further asserts that "any offeror familiar with ADP systems" would interpret the requirement as the Air Force does and that selective backup capability is the industry norm.

MASSTOR contends that the provision does not require discrimination between new and changed files and all others, but only that new and changed files be backed up automatically within 24 hours, which its system does. Also, MASSTOR asserts that, since it proposed excess storage capacity, the waste of storage space claimed by the Air Force is illusory. Additionally, MASSTOR argues that the increase in central processor time and input/output time, if its system is used, is minimal.

The Air Force also found that MASSTOR's system did not meet the requirement that the mass storage copy of a disk

file be purged whenever the disk file is purged. According to the Air Force, MASSTOR's system retains the mass storage copy of a purged disk file for a week, at which time all files are copied for mass storage and all previous mass storage files are purged. According to the Air Force, this wastes mass storage space. The Air Force argues that the solicitation provision requires the system to purge automatically individual mass storage copies simultaneously with the purging of the corresponding active disk file.

MASSTOR argues that the solicitation provision does not require individual, automatic, simultaneous purging of mass storage copies. MASSTOR interprets the provision as requiring the purging of mass storage copies of all active files that are purged, but not at a particular time or in a particular manner. MASSTOR also disputes the Air Force's assertion that its system purges on a weekly basis. According to MASSTOR, its system purges on a cyclical basis with the timing set by the user. MASSTOR states that the normal purging cycle is 24 hours because 1 day's accumulation of unpurged information has little impact on storage capacity. Also, delayed purging is advantageous because the delay minimizes accidental purging.

We find that both MASSTOR's and the Air Force's interpretations of the requirements are reasonable. Neither requirement clearly states what the Air Force apparently intended or needs. Concerning the first requirement, the provision states only that all new or changed files be backed up. While one reasonable interpretation might be that only new or changed files are permitted to be backed up, it is also reasonable to conclude that, so long as new or changed files are backed up, the requirement has been met, regardless of whether other accessed files are backed up. Where there are two or more reasonable interpretations of a solicitation provision, the provision is ambiguous. JVAN, Inc., B-202357, August 28, 1981, 81-2 CPD 184. The ambiguity here is not so obvious as to require an offeror to seek clarification or risk rejection of its offer. See, e.g., CFE Equipment Corporation, B-203082, May 29, 1981, 81-1 CPD 426. In such circumstances, it is improper to reject a bid or offer which complies with one of the reasonable interpretations, but not others. See, e.g., Williams & Lane, Inc., B-203233, January 8, 1982, 82-1 CPD 21.

Similarly, we find that the second requirement has two reasonable interpretations, one of which is MASSTOR's, and that the ambiguity was not obvious. The sentence in question states that "[t]he mass storage copy of a disk file

should be purged whenever the disk file is purged." The ambiguity is caused by two common usages of the term "whenever." "Whenever" can mean "at whatever time," or it can mean "in any or every instance in which." Webster's New International Dictionary, 2nd edition (1952). The first meaning leads to the Air Force interpretation of the requirement--the purging must be simultaneous. However, the second meaning supports MASSTOR's interpretation--the mass storage copy should be purged in every instance in which the active file is purged, but not necessarily at the same time.

Since we find that both interpretations are reasonable, it is inappropriate to conclude that MASSTOR's proposal is technically acceptable, since it does not meet the Air Force's needs as expressed in its interpretation of the requirements. Additionally, it does not appear that the manner in which the Air Force wants the requirements to be fulfilled is unreasonable and MASSTOR did not so argue. Also, it does not appear that MASSTOR's present method of meeting the requirements is the functional equivalent of the method desired by the Air Force, since MASSTOR admits that there are some negative consequences for system performance if its present method is used, although it argues that they are minimal.

The alternate remedy requested by MASSTOR is appropriate in these circumstances. We recommend that the solicitation be amended to clearly state the Air Force's interpretation of the provisions. We also recommend that MASSTOR be permitted to revise its technical proposal in response to the amendment, and that it be permitted to demonstrate its ability to meet the amended requirements in a new LTD.

Protest sustained.

Jerry A. Linn
Comptroller General
of the United States