

Cohen



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Chromatics, Inc.
 File: B-224515
 Date: February 17, 1987

DIGEST

When significant error in specifications is discovered prior to award of contract, specifications should be revised and offerors who were in the competitive range up to that point, including an offeror whose best and final offer was late, should be given an opportunity to respond to government's actual requirements.

DECISION

Chromatics, Inc., protests the rejection of its best and final offer as late under Department of the Army request for proposals (RFP) No. DAAD05-86-R-0221. Chromatics also contends that the offer submitted by Silicon Graphics, which the Army accepted, did not meet a mandatory requirement of the solicitation.

We sustain the protest.

The Army issued this RFP to acquire color graphics workstations for the Army Test and Evaluation Command at the Aberdeen Proving Ground. Workstations of this type are computer-based devices used to draw finely detailed pictures of engineering assemblies, such as vehicle suspension systems, on a computer screen with different parts of the assembly, such as the axle and shock absorber, depicted in different colors. These systems can also simulate and display the assembly in motion, much like an animated cartoon, so that an engineer can see on the computer screen, for instance, the effect on the suspension of a vehicle moving over an uneven surface.

For technical reasons, the ability of workstations to display multiple colors is dependent on the number of color planes.

038050-132191

Also for technical reasons, animation generally requires the use of a process called double-buffering, which allows the computer to draw the screen picture to one buffer, which holds the drawing's image in the computer's memory, while the second buffer is displayed, and then quickly swap so that the second buffer is displayed while the first is redrawn.^{1/} The specifications required that the basic system have 8 double-buffered color planes, or a total of 16 planes, with a mandatory option for an additional 16 double-buffered (32 single) planes. This requires a total of 48 single planes.

After conducting discussions, the contracting officer orally requested that best and final offers be submitted by 4:30 p.m. on September 24, 1986. Chromatics sent its offer by private courier. Upon arrival at the Baltimore-Washington International Airport, the courier's employee telephoned Aberdeen Proving Ground and, according to Chromatics, asked the contract specialist how long he would be there to receive the offer. According to the protester, the contract specialist stated that he would be available to receive the offer until 6:00 p.m. Chromatics' offer was not delivered until 5:30 p.m. and was rejected as late. Silicon Graphics was the only remaining offeror.

The Army accepted Silicon Graphics' offer which provides for 24 single color planes, or 12 double-buffered planes. The Army states that its functional requirement is to perform high speed double-buffered graphics most of the time with the capability of also producing high-resolution, 24 color plane still drawings, although it does not need these capabilities simultaneously. The Army states that at the time it wrote the specification it believed that it needed 48 planes to accomplish these functions because it was unaware of Silicon Graphics' solution, which provides a relatively simple method for the user to reconfigure the 24 single planes as 12 double-buffered planes. The Army says that if it had known of this solution, it would have described its functional requirements in the specifications. The Army asserts that Chromatics was not prejudiced by this omission, however, because Chromatics configures its buffers at the factory and would still have had to provide 48 planes to satisfy the requirement.

1/ See Davis, Dwight B., "Chip-Based Graphics," High Technology, February 1985, Vol. 5, No. 2, p. 46, ff.

Chromatics has not had the opportunity to respond to the Army's contention that it was not prejudiced because this argument was submitted after Chromatics' final comments on the protest. In an earlier submission, however, Chromatics asserted that had it known of the Army's actual requirements, it could have offered considerably less expensive equipment.

In our view, the Army's comments regarding its functional requirements and the offer it accepted from Silicon Graphics amount to a concession by the Army that the specifications in the RFP overstated its actual minimum needs. As we noted above, the ability of the workstations to support color planes and double-buffering is an important determinant of their performance; we therefore consider this error in the Army's specifications to be significant.

When an agency discovers, after receipt of proposals, that it has initiated a negotiated competition based on defective specifications, the agency either should conduct another round of discussions or a resolicitation, depending on the circumstances, based on corrected specifications. See Federal Acquisition Regulation, 48 C.F.R. § 15.606 (1986). It does not appear that the correction of the specifications here can be viewed as warranting a "complete revision" of the RFP such as to require cancellation and resolicitation. See 48 C.F.R. § 15.606(b)(4). Accordingly, under 48 C.F.R. § 15.606, the agency, prior to accepting any proposal, was required to issue an amendment, correcting the specifications, to the offers in the competition and allow them to submit revised proposals. In other words, while the Army could not properly have accepted either best and final offer--the Silicon Graphics proposal did not meet the specifications, and the Chromatics proposal was late--the proper course of action after receipt of best and finals in this case would have been the correction of the specifications and providing the vendors in the competitive range up to that point an opportunity to submit revised proposals in response to the amendment. Since both Chromatics and Silicon Graphics were in the competitive range up to that point, both should have been given the chance to submit an offer based on the agency's actual needs.

The protest is sustained. By separate letter to the Secretary of the Army, we are recommending that the Army reopen negotiations with both Chromatics and Silicon Graphics consistent with the above decision and reassess its award decision based on the outcome of these negotiations.

for 
Comptroller General
of the United States