



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: W.A. Whitney Corporation
File: B-227082
Date: July 7, 1987

DIGEST

1. Protest that maximum size limitation unduly restricts competition is denied where agency explains that the limitation is based on available space and protester presents no evidence to dispute the agency position.
2. Protester who cannot comply with a proper equipment size limitation is not an interested party to challenge other solicitation provisions.

DECISION

W.A. Whitney Corporation protests the specifications in request for proposals (RFP) No. N00600-87-R-1570, issued by the Department of the Navy for two computer numerical control (CNC) punch presses with plasma arcs.^{1/} Whitney complains that the RFP favors Wiedemann equipment, that it otherwise fails to provide sufficient information for offerors to prepare a proposal, that it does not contain proper evaluation factors, and that the Navy failed to issue written amendments to confirm oral changes to the solicitation.

We deny the protest in part and we dismiss it in part.

The RFP was issued on February 17, 1987, and, as amended, required that proposals be submitted by May 1. On March 11, Whitney wrote to the contracting officer and questioned whether the Navy would relax a specification requiring that

^{1/} A CNC punch press hydraulically or mechanically punches parts out of sheet or plate steel. The position of the steel is controlled by a computer. A plasma arc uses an electric arc and a jet of compressed air to cut through the steel from which parts are being fabricated.

the offered punch press be no larger than 20 feet by 20 feet. At the preproposal conference on March 19, the Navy responded that the 20 feet by 20 feet maximum size limitation was mandatory. Whitney then filed a protest with the Navy alleging, among other things, that the RFP specifications favored a Wiedemann Magnum 5000 CNC Punch Press. Whitney specifically complained that the agency required that the punch press be no larger than 20 feet by 20 feet, a requirement with which Whitney's punch press cannot comply; the Wiedemann punch press is 16 feet by 20 feet. Whitney argued that it reviewed the shop drawings of the rooms where the punch presses will be installed and, according to a floor plan it developed, its larger machine can be accommodated by the available space without causing any inconvenience to the personnel stationed in the rooms or otherwise interfering with use of the floor space. The Navy denied Whitney's protest, and on April 30 Whitney protested to our Office.

When a protester challenges specifications as unduly restrictive of competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. CAD/CAM On-Line, Inc., B-226103, Mar. 31, 1987, 87-1 C.P.D. ¶ 366. The determination of the agency's minimum needs and the best method of accommodating those needs are primarily matters within the contracting agency's discretion and, thus, once the agency establishes support for the challenged specifications, the burden shifts to the protester to show that the specifications are clearly unreasonable. Id.

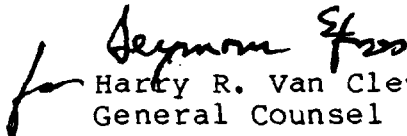
In response to Whitney's agency-level protest, the Navy explained that the size requirement is based on the space available for the installation of the punch press considering existing work envelopes and already existing equipment. The Navy also stated that the floor plans submitted by Whitney do not reflect the actual space available because they do not show the existing equipment installed adjacent to the proposed installation site of the punch press. This response clearly establishes the Navy's prima facie support that the maximum size limitation is necessary to meet its minimum needs.

In its protest to our Office, Whitney again asserts that the Navy developed its specifications around a Wiedemann punch press. Whitney, however, does not dispute the agency's position on the space requirement or submit evidence to demonstrate that the agency's assertion that 20 feet by 20 feet is the maximum space available is unreasonable. Consequently, we have no basis to determine that the requirement is improper, and we deny this basis of Whitney's protest.

In this regard, we note that an agency's determination of its minimum needs is not shown to be unreasonable because the protester disagrees with that determination, Mainmark Associates, Ltd., B-222454, July 3, 1986, 86-2 C.P.D. ¶ 31, or because the protester cannot comply with a particular specification. General Electric Co., Mobile Communications Business, B-225381, Feb. 6, 1987, 87-1 C.P.D. ¶ 133.

Since we have determined that the Navy's requirement that the punch press be no larger than 20 feet by 20 feet is reasonable, and since, by its own admission, Whitney cannot meet this requirement, Whitney is no longer an "interested party" to object to the other alleged solicitation defects. Accordingly, we dismiss the remainder of Whitney's protest. See Pacific Sky Supply, Inc., B-221375, Apr. 3, 1986, 86-1 C.P.D. ¶ 320.

The protest is denied in part and dismissed in part.


Hartly R. Van Cleve
General Counsel