



Decision

Matter of: Datum Filing Systems, Inc.

File: B-230886.2

Date: July 28, 1988

DIGEST

1. Protest against award to an allegedly higher priced vendor under a mandatory, multiple-award Federal Supply Schedule (FSS) contract is denied where apparently higher priced vendor's equipment includes required installation, and inclusion of the protester's FSS installation charges makes its price higher than awardee's.
2. Justification for placing order under Federal Supply Schedule (FSS) may be based on considerations not identified in the request for quotations (RFQ), since RFQ is intended merely to identify suitable equipment listed in FSS.

DECISION

Datum Filing Systems, Inc., protests the award of a delivery order to Center Core Concepts, Inc., in connection with request for quotations (RFQ) No. DAAC67-88-Q-0007, issued by the Army Materiel Command. The order is for ADP workstations for use at the Letterkenny Army Depot, Chambersburg and was placed under Center Core's General Services Administration mandatory, multiple-award Federal Supply Schedule (FSS) contract. Datum contends that it quoted equipment which meets the Army's needs, but the delivery order was awarded to Center Core at a higher price than Datum's FSS contract price.

We deny the protest.

On March 2, 1988, the contracting officer issued a delivery order to Center Core as having offered the lowest price under that firm's FSS contract. Datum protested that the Army improperly issued the delivery order to Center Core on an "f.o.b. other" basis, since the Army requested quotes that included shipping, f.o.b. destination, and the protester's quote was on an f.o.b. destination basis. In its report, the Army pointed out that Center Core's quote had specifically included freight charges for shipping to the

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required Army destination, but the Army had inadvertently omitted these charges from the purchase order, and indicated "f.o.b. other," rather than f.o.b. destination. The Army issued a modified purchase order on May 28, to include the delivery charges and make the award reflect Center Core's price for delivery to the Army destination. Since the Army addressed and rebutted this protest issue in its report, and Datum did not respond to the rebuttal, this issue is deemed abandoned and will not be addressed. See A&C Building and Industrial Maintenance Corp., B-230270, May 12, 1988, 88-1 CPD ¶ 451.

Instead, in its comments on the agency report, Datum alleges that in calculating Center Core's quote (including delivery charges) as \$121,103.86, the Army failed to include the cost of certain optional equipment (power posts) which were actually ordered, and misapplied Center Core's quantity discount. Correcting for these miscalculations increases Center Core's quote to \$122,515.71, which Datum points out is higher than its quote of \$121,621.38.

Purchases from the FSS are governed by the Federal Property Management Regulations, which provide that purchases of more than \$500 per line item made from a multiple-award schedule shall be made at the lowest delivered price available under the schedule unless the agency fully justifies the purchase of a higher priced item. 41 C.F.R. § 101-26.408-2 (1988); see also Federal Acquisition Regulation § 8.405-1(a) (FAC 84-32). However, vendors responding to an RFQ for equipment on an FSS do not submit offers that define exactly what the vendor would supply at what price; that already is defined by their FSS contracts. White Office Systems, Inc., B-227845, Sept. 8, 1987, 87-2 CPD ¶ 227. Since the RFQ is merely intended to identify suitable equipment already listed on the FSS, evaluation of the equipment is not limited to consideration of the requirements included in the RFQ. Lanier Business Products, Inc., B-223675, Nov. 12, 1986, 86-2 CPD ¶ 551.

Here, our review of Center Core's quote and of the Army's calculations shows that Datum is correct with respect to both the omitted optional equipment and the application of the appropriate discount. When properly calculated, Center Core's quoted price for the equipment delivered and installed is \$122,515.71. However, while Datum's quote of \$121,621.38 appears to be lower, Datum's quote does not include installation of the equipment. The Army states that while the RFQ did not explicitly require installation of the equipment, installation is an agency requirement. Center Core's quote specifically included installation of the equipment, while Datum's quote did not. Datum's FSS contract provides for a 12 percent factory installation

charge. In particular, Datum's FSS contract states, under terms and conditions of installation, that: "Adequate and easy to follow instructions are included with all orders. Factory installation can be arranged at a cost of 12 percent per location and is subject to a \$500.00 minimum charge."

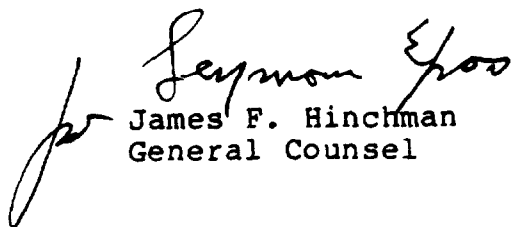
When this 12 percent installation charge is applied to Datum's quote, the total is in excess of \$135,000, which is significantly higher than Center Core's quote for comparable equipment, delivered and installed. Datum argues that this 12 percent charge applies only to factory installation, and that its local dealer had planned to install the equipment and bear the cost of this installation. However, this is controverted by the language in Datum's FSS schedule. The plain meaning of Datum's FSS provision concerning installation is that the prices are without installation. The reference to easy to follow installation instructions emphasizes that the buyer will perform the installation. Further, the FSS contract provides only for a 12 percent factory installation charge, without delineating any other reduced charge or no-charge option, such as using local dealer installation.

Installation costs properly may be calculated by an agency in comparing FSS quotes. See White Machine Co., B-224219, Jan. 23, 1987, 87-1 CPD ¶ 85; Kavouras, Inc., B-220058, Dec. 23, 1985, 85-2 CPD ¶ 703. Further, the FSS vendor may provide a price reduction in its quote, as Center Core apparently did here for installation, and which Datum also could have done. See Crown Furniture Manufacturing, Inc., B-225575, May 1, 1987, 87-1 CPD ¶ 456. However, Datum did not do so in its quote, and there is no evidence that it intended to do so.

Datum's assertion that its local dealer had "planned to install all the furniture and bear the cost," raised in its comments on the agency report, does not reasonably establish that Datum had intended to offer such a reduction from its FSS price schedule. Rather, the contrary is indicated by the fact that its quote makes no reference to installation or to installation costs.

Under these circumstances, we find that the Army properly determined to award to Center Core on the basis that it offered the lowest FSS price for the delivered and installed equipment.

The protest is denied.

James F. Hinchman
General Counsel