



Ayer

The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sabreliner Corporation

File: B-231200

Date: August 31, 1988

DIGEST

1. General Accounting Office will not consider a protest that a lower-priced offer was mistaken and should not have been accepted without further inquiry, since it is solely the responsibility of the contracting parties to assert rights and bring forth the necessary evidence to resolve mistake questions.

2. Solicitation provision calling for agency evaluation of price reasonableness is not a definitive responsibility criterion, which is an objective standard stated in a solicitation to help measure an offeror's ability to perform.

DECISION

Sabreliner Corporation protests the award of a contract to Airwork Corporation under the Federal Aviation Administration (FAA), Department of Transportation, request for proposals (RFP) No. DTFA-02-87-R-00119 for JT12A aircraft engine overhaul services and supplies. Sabreliner contends that the award is improper because (1) Sabreliner gave the agency information that should have made the agency suspect an error in Airwork's proposal, (2) the agency failed to discuss the possibility of a mistake with Airwork before making the award, and (3) the agency failed to apply the solicitation's definitive responsibility criterion concerning reasonableness of price.

We dismiss the protest.

The RFP directed offerors to price overhaul services and supplies for the base year and two option years, stating that proposals would be evaluated on the basis of the total price for the basic requirement together with any options exercised at the time of award. The protest involves an RFP requirement that offerors price new replacement JT12A

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engine parts on the basis of Pratt & Whitney's current published list prices less "any discount specified in Item 7.(b)." For the contract's base year, item 7(b) reads:

"7. Replacement Parts:

(a) . . .

(b) 'New' unused (less discount)
\$313,000^{1/} less [discount]
= [\$evaluated price]."

Prior to the RFP's initial closing date, the protester advised FAA that the RFP required offerors to sell new parts to the FAA at a loss because Pratt & Whitney would not discount JT12A parts sold to any engine repair or overhaul facility.

Both Sabreliner and Airwork submitted proposals. Sabreliner quoted an 18 percent new parts discount from the prices in a basic ordering agreement the firm had with FAA, while Airwork quoted a 25 percent new parts discount. FAA evaluated the proposals against the announced technical criteria and determined that both proposals were technically acceptable and within the competitive range for purposes of discussions. FAA advised Sabreliner, however, that any offered discount had to involve the Pratt & Whitney list price. In its best and final offer (BAFO), Sabreliner changed its new parts discount to 5 percent of the Pratt & Whitney list prices, while Airwork's BAFO retained the 25 percent new parts discount. The evaluated BAFO prices for the base year and two option years were:

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|------------|-------------|
| Airwork | \$1,359,098 |
| Sabreliner | \$1,733,725 |

On April 22, 1988, FAA awarded Airwork the contract on the basis of its \$374,627 lower evaluated cost. Sabreliner protested the award on May 2. Arguing that because no discount was available from Pratt & Whitney, Airwork's 25 percent discount either resulted from Airwork improperly using its own catalog, or reflected a mistake by Airwork. In response to the protest, Airwork admits that it unintentionally offered a below cost price for new parts because of its mistaken belief that Pratt & Whitney would extend the

^{1/} The \$313,000 figure represents the estimated value of FAA's new parts requirement for the base year. The first and second option years' new parts estimates are \$262,000 and \$380,000, respectively.

40-percent discount granted on PT6A and JT15 engine parts to JT12A parts as well.^{2/} Because it is now clear that Airwork made a mistake we need not consider the catalog argument further.

The gist of Sabreliner's protest is that when an agency has knowledge before receipt of initial offers that should alert it to the possibility of a mistake in a subsequently received proposal, the agency must discuss the matter with the mistaken offeror before it can accept the offer. The protester further urges that the disparity between Sabreliner's final 5 percent discount and Airwork's 25 percent discount should have put the agency on notice of a possible mistake in the latter's proposal.

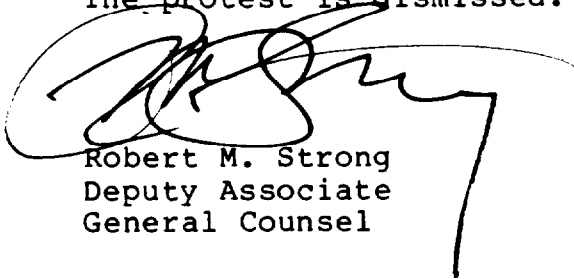
We have stated, however, that our Office will not consider one offeror's claim that a lower offer may be mistaken, since it is the responsibility of the contracting parties--the government and the low offeror--to assert rights and bring forth the necessary evidence to resolve mistake questions. See Window Systems Engineering, B-222600, June 2, 1986, 86-1 CPD ¶ 509. The fact that the protester may have furnished the agency with information that might have been used to discern an error in its competitor's proposal does not warrant changing our policy, since the underlying principle is the same in any event.

Finally, Sabreliner's argues that Airwork's new parts discount constitutes a below-cost offer that calls into question the awardee's ability to perform satisfactorily, i.e., the firm's responsibility. Sabreliner contends that the RFP's provision for agency evaluation of the reasonableness of each element of an offeror's pricing proposal comprises a definitive responsibility criterion, which the FAA did not apply properly. In this regard, our Office generally will not review an agency's affirmative determination of an offeror's responsibility absent a showing of possible fraud or bad faith by government officials or that definitive responsibility criteria have not been met. See Keyes Fibre Co., B-225509, Apr. 7, 1987, 87-1 CPD ¶ 383.

^{2/} It is not clear that the awardee is pursuing a claim of mistake; however, the awardee's post-award, May 9, 1988, letter to FAA states that it would "appreciate your re-evaluation of this contract to reflect new engine parts at zero discount." We note that even with a zero discount, instead of a 25-percent discount, the awardee remains the low offeror.

We find no merit in the protester's contention. Definitive responsibility criteria are objective standards established by a contracting agency to measure a bidder's or offeror's ability to perform the contract, as stated in certain specific qualitative and quantitative qualification requirements contained in a solicitation. See Cumberland Sound Pilots Association, B-229642, Mar. 29, 1988, 88-1 CPD ¶ 316. The RFP requirement noted obviously is not a definitive criterion. Consequently, we dismiss this aspect of the protest. 4 C.F.R. § 21.3(m)(5) (1988).

The protest is dismissed.



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