



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Brennan Associates, Inc.

File: B-231554

Date: September 1, 1988

DIGEST

Protester is not prejudiced by agency's failure to inform firms solicited under oral request for quotations of the specific experience the agency considered necessary to meet its training needs where protester does not assert that it has the specific experience required by the agency.

DECISION

Brennan Associates, Inc., protests the award of purchase orders by the Consumer Product Safety Commission (CPSC) to any other firm under oral request for quotations Nos. 88-4329 and 88-4326. The purchase orders, issued under the small purchase procedures set forth in Federal Acquisition Regulation Part 13, were for software training services. Brennan contends that the agency incorrectly evaluated its quotations and improperly awarded the purchase orders based on undisclosed evaluation factors.

We deny the protest.

CPSC conducted an initial screening of firms to provide training in the two types of software, Q-One and 20/20, which CPSC required. Five companies were contacted by telephone, including the protester. The record indicates that while CPSC discussed its training needs and the type and volume of training it required with the firms, it did not expressly identify any evaluation criteria. According to CPSC, Brennan did indicate an understanding of the training required, however, the references it submitted did not show that it had conducted training of government employees for the specific courses CPSC required. Based on that information, and the fact that Brennan's staff consisted primarily of consultants, the agency determined that training supplied by Brennan was unlikely to best meet the agency's needs. One other firm was also excluded from

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consideration based on CPSC's past experience with the company.

CPSC states that through an error on its part, all five companies then were orally requested to submit quotations instead of only the three the agency had determined best qualified. Brennan submitted the lowest quotation. According to the contracting officer, even though Brennan should not have been solicited, its quotation was considered. The contracting officer determined, however, that award to Brennan would not meet the agency's needs based on the concerns previously expressed by the agency regarding Brennan's lack of experience with training government employees in the specific courses required and its reliance on consultants. As a result, CPSC issued both purchase orders to Digital Analysis Corporation, which submitted the next lowest quotations.

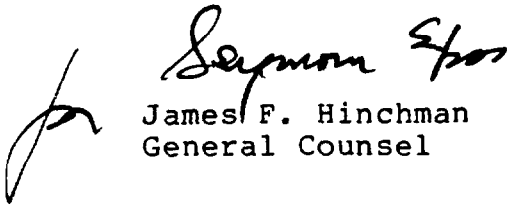
Brennan asserts that CPSC never disclosed to it the existence of any criteria that would be used to evaluate the quotations. Brennan states that it would have included more government references in its quotation had it known that experience in training government personnel would be used to judge its submission. Additionally, Brennan disputes CPSC's determination that the use of employees is preferable to independent contractors.

We generally limit our consideration of protests against the contracting agency's approach to defining the field of competition for small purchases since small purchase procedures permit purchases without the need to maximize competition. Spacesaver, B-228098, Nov. 6, 1987, 87-2 CPD ¶ 457. However, once the field of competition is established for a small purchase, the procurement must be conducted in a manner consistent with the principles of fair and open competition inherent in any procurement. Discount Machinery and Equipment, Inc., B-220949, Feb. 25, 1986, 86-1 CPD ¶ 193. Here, by requesting the protester's quotation, and then considering it, the agency in effect included the firm in the field of competition and we will therefore review the agency's actions under the latter standard.

Upon review of the record, we cannot conclude that issuance of the purchase orders to Digital was improper. Although the protester alleges that it has significant experience training government employees generally, it does not respond to the agency's assertion that it lacked specific experience in Q-One and 20/20 software training. In fact, although Brennan submitted with its comments on the agency report a list of courses it had previously taught, the list did not include either of the two types of software called for by

CPSC. As a result, while we believe the agency should have indicated to the firms solicited the factors it considered necessary to meet its needs, we find that Brennan was not prejudiced by the agency's failure to do so since there is no indication that it in fact has experience training government employees in Q-One and 20/20. Because we find that Brennan would therefore not be eligible for award based on its lack of experience in Q-One and 20/20 training, we need not address the firm's argument concerning the use of independent contractors.

The protest is denied.



James F. Hinchman
General Counsel