



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gould Electronics

File: B-233947.2

Date: March 27, 1989

DIGEST

1. Termination of contract and resolicitation with amended specification was proper where contracting agency determined that, while the awardee's proposed logic analyzer did not comply with the mandatory specification requirements, it did satisfy the agency's minimum needs, and that, therefore, the specification had overstated the agency's needs.

2. Protester's interest as a beneficiary of more restrictive specifications is not protectable under the General Accounting Office's bid protest function, which is intended to ensure that the statutory requirement for full and open competition has been met.

DECISION

Gould Electronics protests the decision of the Department of the Air Force to amend request for proposals (RFP) No. F41608-87-R-1321, and reopen negotiations. We deny the protest.

The solicitation requested proposals to provide logic analyzers (devices for analyzing circuitry) and required offerors not previously qualified to supply the analyzers to furnish bid samples for evaluation. Samples submitted by Gould and Hewlett Packard were tested and found to meet the applicable commercial item description (CID) incorporated in the solicitation; award was then made to Hewlett Packard based on its low price. Gould thereupon protested to our Office, complaining that Hewlett Packard's logic analyzer did not comply with certain mandatory requirements set forth in the CID. Based upon a reevaluation of the proposed equipment, the Air Force ultimately agreed with Gould, but the agency also determined that Gould's item likewise did not conform to all of the material CID requirements. Since the agency further determined that both analyzers nevertheless satisfied its real minimum needs, it concluded that the CID overstated its needs and should be revised to reflect

the acceptability of both analyzers. Accordingly, the agency has advised our Office that it will terminate Hewlett Packard's contract for the convenience of the government, amend the solicitation to incorporate a revised CID, and then resolicit the firms originally solicited.

Gould denies that its proposed logic analyzer materially deviated from the original CID requirements, and thus contends that the Air Force should make award to Gould rather than reopen negotiations. Further, Gould argues that the lower-cost, lower performance Hewlett Packard analyzer will not satisfy the agency's minimum needs and that relaxing the specifications to permit its consideration will place Gould at a competitive disadvantage.

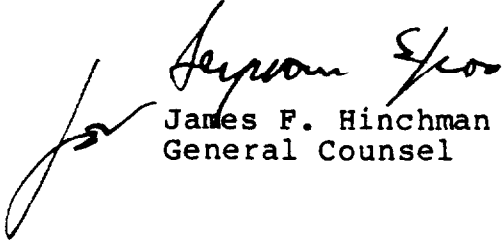
The Competition in Contracting Act of 1984 generally requires that solicitations permit full and open competition and that they contain restrictive provisions and conditions only to the extent necessary to satisfy the minimum needs of the agency. 10 U.S.C. § 2305(a)(1)(A) (Supp. IV 1986); see, e.g., Pacific Northwest Bell Telephone Co., et al., B-227850, Oct. 21, 1987, 87-2 CPD ¶ 379. Where it is determined that a solicitation overstates the minimum needs of the government, or the agency decides after receipt of offers that its needs may be satisfied by a less expensive alternative, the best interest of the government requires that no award be made under the restrictive solicitation. See Donco Industries, B-230159.2, June 2, 1988, 88-1 CPD ¶ 522; see generally CooperVision, Inc., B-229920.2, Mar. 23, 1988, 88-1 CPD ¶ 301.

Accordingly, the Air Force, having determined that the solicitation here overstated its minimum needs, was justified in amending the solicitation and seeking new proposals. Norden Systems, Inc., et al.--Request for Reconsideration, B-227106.3, et al., Oct. 16, 1987, 87-2 CPD ¶ 367.

With respect to Gould's argument that only a high performance logic analyzer will satisfy the agency's minimum needs, we have consistently refused to countenance such challenges to an agency's broadening of the competition. See APEC Technology Limited, 65 Comp. Gen. 230 (1986), 86-1 CPD ¶ 81. In this regard, our role in resolving bid protests is to ensure that the statutory requirements for full and open competition have been met; thus, a protester's presumable interest as a beneficiary of more restrictive

specifications is not protectable under our bid protest function. Ray Service Co., 64 Comp. Gen. 528 (1985), 85-1 CPD ¶ 582.

The protest is denied.

James F. Hinchman
General Counsel