



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pacific Satellite Communications

File: B-241596

Date: January 9, 1991

Christopher P. Augustin for the protester.
Dario D'Angelo, United States Forest Service, Department of Agriculture, for the agency.
Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency improperly awarded contract for satellite system to offeror whose system did not contain an integrated receiver/decoder and motor drive controls in a single unit is denied where the specifications did not require such a system.
2. Protest that agency improperly awarded a contract for satellite system to offeror that was not offering a receiver/decoder that was in current stock as required by solicitation because the receiver/decoder was not in the manufacturer's current price book is denied because the specifications did not require the latest model receiver/decoder and there is no evidence that the offeror was not offering its current stock.

DECISION

Pacific Satellite Communications protests the award of a contract to Fast TV under request for quotations (RFQ) No. R5-27-90-75, issued by the United States Forest Service, Department of Agriculture, for satellite dishes.

We deny the protest.

The RFQ was issued on July 10, 1990, for the delivery and installation of five satellite dishes for the Cleveland National Forest. Among other things, the RFQ required a satellite system with an "[i]ntegrated receiver/decoder of current stock with motor drive controls, outputs for connection to VCR, remote control, on screen graphics and pre-stored satellite positions." On July 30, the date quotations were due, Fast TV submitted the low offer and Pacific

Satellite submitted the second low offer. Fast TV offered to provide a system with a Drake Model ESR 1224 receiver/decoder. Pacific Satellite contends that the Drake Model ESR 1224 does not meet the requirement for an "integrated" receiver/decoder because the receiver/decoder and the motor drive controls are contained in separate units.

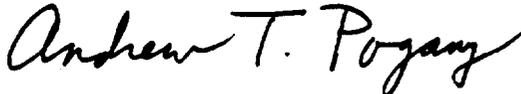
The Forest Service responds that it did not require that the receiver/decoder and motor drive controls be in one unit. The Forest Service also notes that it contacted two satellite distributors for their interpretation of the item description in the RFQ. The distributors stated that for the past 2 to 5 years manufacturers typically have produced the items with the integrated receiver/decoder and the motor drive controls in one unit. The distributors explained, however, that prior to this the integrated receiver/decoder and motor drive controls were manufactured in two separate units, and thus that the requirement contained in the solicitation would include a system where the receiver/decoder and the motor drive controls were in two units. In reply Pacific Satellite argues that by reporting that it was informed that the language in the solicitation generally means the integrated receiver/decoder and motor drive controls are in one unit, the Forest Service supports Pacific Satellite's position that Fast TV does not meet the specification because it is not offering a system with built-in motor drive controls.

The Forest Service properly determined that the model offered by Fast TV meets the specifications. Contrary to the protester's position, it is not reasonable to interpret the item description--"integrated receiver/decoder of current stock with motor drive controls"--as requiring that the receiver/decoder and motor drive controls be in one unit. Rather, the key term "integrated" modifies only the term "receiver/decoder," and there is nothing else in the description to suggest that the items had to be in one unit. In addition, the distributors contacted by the agency did not say the receiver/decoder and motor drive controls were required to be in one unit to comply with the specification; rather, the distributors reported that the language in the solicitation generally would be interpreted to refer to a receiver/decoder and motor drive controls in one unit because that is how they currently are manufactured. The distributor stated, however, that in the past the receiver/decoder and the motor drive controls were comprised of two units and as such would meet the solicitation requirement. Thus, we have no basis to conclude that the Forest Service improperly determined that Fast TV's system met the requirements of the solicitation for an integrated receiver/decoder with motor drive controls.

During the course of the protest the Forest Service also stated that it was informed by the distributors that the Drake Model ESR 1224 is no longer in the manufacturer's price book and could only be supplied by a distributor with some remaining in stock. The current Drake model is the ESR 1240 which does contain the receiver/decoder and the motor drive controls in one unit. Pacific Satellite argues that if the Drake Model ESR 1224 offered by Fast TV is no longer in the manufacturer's price book, Fast TV also fails to meet the requirement for an item that is current stock.

The solicitation did not specify that the receiver/decoder had to be the current stock of the manufacturer. Thus, even if Fast TV is supplying receiver/decoders it purchased in the past, Fast TV would be supplying its current stock to the Forest Service. Further, there is a difference between a product which is in current stock and a product which is the manufacturer's latest model; while the latest model might be included in the manufacturer's current price book, an item of current stock would not necessarily be included in that book. Given these factors, we find that the Forest Service properly determined that Fast TV is offering to supply a receiver/decoder that is current stock as required by the solicitation.

The protest is denied.


for James F. Hinchman
General Counsel