



Comptroller General  
of the United States

Washington, D.C. 20548

Curcio 147114

## Decision

**Matter of:** Trimble Navigation, Ltd.

**File:** B-247913

**Date:** July 13, 1992

Daniel C. Minutillo, Esq., Minutillo & Gorman, for the protester.

Bruce S. Ramo, Esq., and Aaron C. Horowitz, Esq., for Motorola, Inc.; and Alfred J. Verdi, Esq., for Magnavox Electronics Systems Company, interested parties.

John Pettit, Esq., and Vanessa M. Summerfield, Esq., Department of the Air Force, 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. The General Accounting Office generally will not consider protest that procuring agency should use more restrictive specifications to meet its minimum needs.

2. Protest that agency did not permit sufficient time for offerors to submit bid samples is denied where the agency permitted more than the statutorily required 30 days, adequate competition was expected, and there is no indication that the agency deliberately attempted to exclude the protester from the procurement.

### DECISION

Trimble Navigation, Ltd. protests the terms of invitation for bids (IFB) No. F04701-91-B-0007, issued by the Department of the Air Force for a precision, lightweight global positioning system receiver (PLGR).<sup>1</sup>

We deny the protest.

<sup>1</sup>The PLGR is used to determine precise positioning and to navigate reliably worldwide during day and night, in all climatic conditions.

The PLGR is a lightweight global positioning system (GPS)<sup>2</sup> receiver which has anti-spoofing<sup>3</sup> and selective availability<sup>4</sup> capabilities. The PLGR combines technology currently available in the small lightweight GPS receiver (SLGR) with that of the user equipment manpack. The SLGR, which evolved from commercial GPS initiatives, provides the basic GPS capabilities, but does not comply with Department of Defense (DOD) directives relative to precise positioning service (PPS)<sup>5</sup> capable systems. The current user equipment manpack does have PPS capabilities.

In November 1990, the Air Force published a sources-sought synopsis in the Commerce Business Daily to alert the business community to the planned acquisition and subsequently forwarded market surveys and a draft specification to all firms that indicated an interest in the program. The purpose of the market survey was to define the range of needs in the field and the range of commercial development underway. In this regard, the transmittal letter, which accompanied the documents, stressed the importance of industry comments and noted that the government did not wish to procure a receiver which required extensive research and development. The survey results indicated that several potential offerors would have units that met the draft specifications available by January 1992. As a result, the

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<sup>2</sup>The GPS is a three dimensional position, time and velocity navigational system consisting of three segments: the space segment, a constellation of satellites that provide the navigational data; the control segment, a ground-based operational system for controlling the satellites; and a user equipment segment, consisting of a wide variety of equipment for collecting and interpreting the data in such a way that it provides latitude, longitude, altitude, time and velocity to users all over the globe.

<sup>3</sup>Anti-spoofing is a process of encrypting one of the codes broadcast by the satellites. This prevents an enemy from predicting the code sequence and using that prediction to generate a code that could be used to deceive a GPS set. The set would believe the deception code to be real and could falsely calculate its position.

<sup>4</sup>Selective availability is a method of intentionally degrading GPS satellite signals so that positioning accuracy is degraded unless the GPS set is authorized with cryptographic key access so that it can remove the intentionally introduced corruptive effects.

<sup>5</sup>Precise positioning service is the military positioning accuracy obtained by using GPS satellite signals with the corruptive effects of selective availability removed.

Air Force concluded that a nondevelopmental item PLGR would be available to meet the specifications, and that two-step sealed bidding with bid sample testing was the best acquisition strategy.

Throughout the ensuing months, the agency continued to meet with industry officials and to accept comments on the specifications. As a result, the agency issued a number of changes to the specifications. The specification at issue in this protest is paragraph 3.2.1.9.2, governing the requirement for time to subsequent fix.<sup>6</sup> In the April 5, 1991, draft specification, the required time to subsequent fix was stated to be 30 seconds after a standby period of 60 minutes. This requirement was later changed in an authenticated specification, issued on July 31, 1991, to 90 seconds after standby of no more than 60 minutes, and 30 seconds after a standby period of less than 20 minutes. The requirement was again relaxed by specification revision B, which was issued on January 28, 1992, and changed the required time to subsequent fix to 60 seconds and 180 seconds for 20-minute and 1-hour standby periods, respectively. Revision B also indicated that bid samples and proposals would be due by September 1, 1992, with an award anticipated in January 1993. These provisions are part of the solicitation that was issued on May 6, 1992.

Trimble protests that it made several important architectural changes to its existing design based upon the requirements for time to subsequent fix as stated in revision A to the specifications. Trimble complains that to now comply with the revision B specification it will be required to expend additional money, time, and effort to redesign its architecture, and thus that the Air Force has effectively precluded Trimble from competing for the contract. In this regard, Trimble complains that its inability to meet the September 1 bid sample due date was the result of the agency's unreasonable action in issuing numerous changes to the specification. Trimble asserts that it detrimentally relied on the earlier specification to begin designing its receiver. Trimble also argues that the revision B specification does not meet the agency's needs because it does not require the shortest technologically achievable time to subsequent fix, which will minimize potential harm to military personnel while using the PLGR. Finally, Trimble complains that the September 1 due date for bid samples does not provide the firm with sufficient time to submit a bid

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<sup>6</sup>Time to first fix is elapsed time, from user turn-on of the receiver, to locate satellites and enter data necessary to receive a display of current position and time. Time to subsequent fix is the elapsed time going from a standby mode until the redisplay of the position and time.

sample and requests that the Air Force be required to provide offerors 1 year from the date revision B was issued in which to submit bid samples.<sup>7</sup>

Trimble's protest that the Air Force should procure the PLGR in accordance with revision A insofar as the time to subsequent fix requirement is concerned is in effect a protest that the agency should use more restrictive specifications to meet its needs. While Trimble argues that it is not protesting that the agency should further restrict competition, but rather that the agency is restricting competition by excluding Trimble from the competition, the basis of Trimble's entire argument is that the Air Force should use a more restrictive specification. The purpose of our bid protest function, consistent with the Competition in Contracting Act of 1984, 10 U.S.C. § 2301 (1988), is to ensure that full and open competition is obtained to the maximum extent practicable; accordingly, we will not consider a protest that the procuring agency should use more restrictive specifications to meet its minimum needs. See Container Prods. Corp., B-232953, Feb. 6, 1989, 89-1 CPD ¶ 117. Accordingly, we will not consider Trimble's protest that the Air Force should use the more restrictive specifications listed in specification revision A in order to meet its minimum needs.

To the extent that Trimble suggests that the agency's decision to relax the time to subsequent fix specification was improperly motivated by a desire to accommodate Trimble's competitors, the record simply does not support this contention. Instead, the record shows that the relaxation of the specification was the result of the ongoing dialogue the agency conducted with industry sources in an effort to foster competition while meeting its minimum needs.<sup>8</sup>

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<sup>7</sup>In its comments on the agency report, Trimble takes issue with the agency's assertion that the PLGR is a nondevelopmental item. Trimble's comments on the issue do not rise to the level of a protest on this ground. The issue is the subject of a protest by another firm, however, and will be addressed in our decision on that protest (Motorola, Inc., B-247913.2, filed June 5, 1992).

<sup>8</sup>In its comments on the agency report, Trimble states that the "[g]overnment's conduct in continuing to change the PLGR specification during the course of this procurement may or may not be improperly motivated." Trimble then asserts that a hearing should be held to determine "[w]hether the [g]overnment's unfair action was motivated by bad faith. . . ." We see no basis to hold a hearing on this issue given that there is no indication whatsoever of any improper motivation.

Agencies have the discretion to amend specifications to reflect their determination of how best to meet their minimum needs and are entitled to use relaxed specifications they reasonably conclude will satisfy their needs, in order to obtain competition. Sea Containers Am., Inc., B-243228, July 11, 1991, 91-2 CPD ¶ 45. The record shows that this is precisely what happened in this case. The record also shows that the agency clearly communicated to potential offerors that defining the specifications was an evolving process with revisions possible throughout the process. Trimble's problems in meeting the bid sample due date are the result of Trimble's own decision to begin designing its PLGR before the final revisions to the draft specifications were received, when Trimble was aware that the specifications could be revised again.

Insofar as Trimble protests that the Air Force has not allowed sufficient time for offerors to submit bid samples, the Air Force asserts that it cannot delay the procurement to provide offerors 1 year to submit a bid sample, as Trimble requests, because its current equipment does not comply with the DOD directive requiring that any user GPS equipment have PPS capability.<sup>9</sup> The Air Force also reports that in response to Trimble's protest, it surveyed potential bidders to determine whether it could continue to expect adequate competition and that four bidders, including Trimble, indicated that they expected to submit bid samples by the September 1 due date. Finally, the Air Force notes that bidders have known of the general nature of the procurement since November 1990.

A contracting agency is required by statute to allow a minimum 30-day response period for all but a limited number of procurements. See 15 U.S.C. § 637(e)(3)(B) (1988). Here, since the Air Force permitted bidders 4 months to submit bid samples, its actions were not per se improper. Under such circumstances, we review the agency's refusal to extend the due date for bids to determine whether it is inconsistent with the full and open competition standard and whether there was a deliberate attempt to exclude the


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<sup>9</sup>The Air Force explains that during Operation Desert Storm waivers were obtained to this directive in order to provide the troops in the field with the best items available on the market. However, as a result of the use of non-PPS equipment, it was necessary to abandon selective availability to the GPS information; thus, anyone with a receiver, including the enemy, was able to use the system for navigation with the same degree of accuracy. As a result, United States forces were unable to gain an advantage from the restricted PPS data, which would have enabled them to more precisely pinpoint their positions than could the enemy.

potential offeror from the competition. See Transtar Aerospace, Inc., B-239467, Aug. 16, 1990, 90-2 CPD ¶ 134. In this regard, full and open competition is defined as permitting all responsible sources to submit offers, 41 U.S.C. § 403(6) (1988). That does not mean, however, that an agency must delay satisfying its own needs in order to allow a vendor time to develop the ability to meet the government's requirements. Indeed, the law defines a responsible source as one that can comply with the required delivery schedule. 41 U.S.C. § 403(7)(B); Transtar Aerospace, Inc., supra.

Here, in setting the time for submission of bid samples, it was reasonable for the Air Force to take into consideration the need to bring its current equipment into compliance with the DOD directive. Further, the agency conducted a survey after Trimble's protest was filed and learned that four potential offerors plan to submit bids. Finally, as stated previously, Trimble's problems in meeting the bid sample due date are the result of Trimble's own decision to begin designing its PLGR before the final revisions to the draft specifications were received, when Trimble was aware that the specifications could be revised again. Under these circumstances, there is no basis in the record to conclude that the Air Force was attempting to exclude Trimble from the competition or otherwise violated the full and open competition standard.

The protest is denied.

  
James F. Hinchman  
General Counsel