

Matter of: Advanced Seal Technology, Inc.

File: B-254667

Date: December 30, 1993

James P. Rome, Esq., for the protester.

John P. Patkus, Esq., Defense Logistics Agency, for the agency.

Roger H. Ayer, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency failed to consider small purchase quote is denied where it is not clear that the quote was ever received by the agency.

DECISION

Advanced Seal Technology, Inc. protests the proposed issuance of a purchase order to John Crane, Inc. under request for quotations (RFQ) No. DLA500-93-T-BZ71, issued by the Defense Logistics Agency, Defense Industrial Supply Center (DISC), Philadelphia, Pennsylvania, for 12 shaft seal assemblies. Advanced Seal contends that it submitted a lower-priced quote than the awardee's and that the purchase order therefore should have been placed with it. The agency reports that Advanced Seal's quotation was not considered because it was either lost or not received.

We deny the protest.

The RFQ was issued on July 4, 1993, under small purchase procedures. The closing date for receipt of quotations was July 25. The agency reports receiving a number of quotations. On August 27, a purchase order naming Crane as the awardee was signed, but not issued because of the agency's receipt of Advanced Seal's protest on the same day. Advanced Seal had learned on August 25 that its quotation was lost or not received by DISC, and that the order would be placed with Crane at a price higher than what Advanced Seal allegedly quoted.

Advanced Seal claims to have sent its quotation by telefacsimile machine on July 20. As proof of this transmission, Advanced Seal has furnished an amended copy of a document that the protester contends is its telefacsimile machine telephone bill.¹ The agency has no record of any July 20 telefacsimile transmission from Advanced Seal and advises that if a quotation was received, it was apparently lost. We find that there is no convincing evidence in the record that DISC received Advanced Seal's quote. The telefacsimile machine telephone bill at most is evidence that the machine communicated with DISC's machine for 1.2 minutes on July 20 beginning at 3:09 p.m.

Even assuming that DISC did in fact receive and then lose Advanced Seal's quotation, there is no independent evidence, apart from the protester's own assertions, that the quotation it telefaxed on July 20 was in fact identical to the copy that it submitted with its protest. Where a quotation is received by the agency and lost, the vendor may not resubmit its quotation since there is no certainty that a subsequently submitted copy would in fact be identical to the original. Displacing an otherwise successful competitor on the basis of a quotation provided well after the closing date is not consistent with maintaining the integrity of the competitive system. Interstate Diesel Serv., Inc., B-229622, Mar. 9, 1988, 88-1 CPD ¶ 244.

It is true that agencies have a fundamental obligation to have procedures in place not only to receive quotations, but also to reasonably safeguard quotations actually received and to give them fair consideration. East West Research Inc., B-239565; B-239566, Aug. 21, 1990, 90-2 CPD ¶ 298, aff'd, Defense Logistics Agency--Recon., B-239565.2; B-239566.2, Mar. 19, 1991, 91-1 CPD ¶ 298. However, even with appropriate procedures in place, an agency occasionally will lose or misplace a bid or quotation, especially where, as here, the procuring activity is responsible for a high volume of small purchase buys. See Rodeo Road Equip., Inc. B-242093, Mar. 7, 1991, 91-1 CPD ¶ 256. While this is unfortunate and agencies must have procedures to minimize the possibility of loss, the occasional negligent loss of a quotation by an agency does not entitle the quoter to any relief. Id.

¹The document shows 27 phone calls, made from AST's telefacsimile machine between June 30 and July 22, of which 11 are to the city of Philadelphia. All receiving telefacsimile machine telephone numbers have been redacted from the document except the telephone number of DISC's telefacsimile machine.

Advanced Seal does not allege that DISC deliberately lost its quotation or has inadequate procedures for handling small purchase quotes. Instead, Advanced Seal cites an alleged government pattern over the past 7 years of denying Advanced Seal opportunities to compete by failing to consider a number of alternate products that Advanced Seal submitted for evaluation. This is irrelevant with regard to DISC's procedures for handling small purchase quotes, particularly considering that the bulk of the instances cited by Advanced Seal do not involve DISC.

The protest is denied.

James F. Hinchman
General Counsel