Brent Wolmer
Proc. II

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

01413

FILE: B-186787 DATE: December 27, 1976

MATTER OF: Plessey Environmental Systems

DIGEST:

1. Where record supports agency position that data furnished by offeror to show reliability of offered equipment cannot be used because data relates to older model, rejection of offeror's proposal as technically unacceptable is not subject to objection, notwithstanding protester's claim that proposed equipment is only enhanced version of earlier design.

2. Protester's charge that agency "earmarked" procurement for competitor's equipment and that rejection of its proposal resulted from biased evaluation is not substantiated by record which shows only that agency technical evaluation was reasonable.

Plessey Environmental Systems (Plessey) protests the rejection of its technical proposal as outside the competitive range by the Naval Oceanographic Office (NOO), Bay St. Louis, Mississippi, under request for proposals (RFP) N68463-76-R-0005. Plessey asserts that rejection of its proposal was improper and was one of many irregularities in a procurement "earmarked" for one of Plessey's competitors.

The RFP solicited proposals for 200 magnetic tape recording ocean current meters and associated equipment. In response, Plessey proposed to furnish its model 9021 current meter (9021), which it represents is an enhanced domestic version of Plessey Company Limited's (Plessey's parent corporation) model M021 current meter (M021) previously manufactured in England. Plessey's proposal, along with the technical proposals of AMF Incorporated's Electrical Products Development Division (AMF) and one other firm, were forwarded to the Deep Ocean Current Measuring System Review Board (DOCMS) for evaluation in accordance with the RFP criteria. The DOCMS, in its report dated May 7, 1976, to the contracting officer, found the Plessey proposal to be technically unacceptable primarily because it did not include required supporting data demonstrating the reliability of its proposed meter.

Plessey's proposal did include reliability data. However, the data related to the M021 rather than to the offered 9021. The Navy viewed that data as inadequate for evaluating reliability of the 9021 because of what it regards as significant differences between the offered model and the M021. On the other hand, Plessey asserts that the data it provided was valid for evaluation of the 9021 because the 9021 is only an enhanced version of the M021 and that the design improvements involved did not compromise the integrity of the basic proven design.

Section C of the RFP advised offerors to submit technical proposals describing in sufficient detail their respective systems so as to permit the Navy to properly evaluate each proposal in accordance with listed evaluation factors. Each offeror was requested to provide specific data on the reliability, maintainability and cost of maintaining its proposed current meter. In the area of "reliability", which was worth 40 of the 80 points assigned to the technical evaluation factors (cost was worth 20 points), the RFP stated:

"D.2.1 Reliability

The evaluation of the meter that each offeror will present will be based on the following factors:

1. Data return accurately presented on magnetic tape on a representative number of current meters * * * deployed for periods of 2, 6, and 12 months.

2. Performance of each sensor * * *.

3. Performance of the mechanical components i.e., housing, gimbals, bearings, etc. over periods of 2, 6, and 12 months.

4. Average life of the sensors.

5. Performance of the electronic modules.

Emphasis will be placed on the record of performance of the meter during usage in both deep and shallow water environments."

Plessey's data included a sheet entitled "Partial List of MO-21 Implantment History", which, as its title suggests, was representative of the deployment of the M021 current meter. The DOCMS

believed this data to be of very limited utility for evaluating Plessey's 9021 because that model was viewed as a new, unproven design, the reliability of which could not be accurately measured by M021 data, and because data was not provided for implantments of 3 and 12 months. As a result, Plessey received only 8.7 points (compared to 33 points for AMF) in the reliability evaluation area. Although Plessey's score for the remaining technical evaluation area (35 points) exceeded AMF's score (32.90 points), Plessey's insufficient reliability data rendered its proposal technically unacceptable and thus outside the competitive range.

Plessey disagrees with the Navy's view of the 9021. According to Plessey, the 9021 merely incorporated improvements made over the years to the M021 design, is being produced for a wide range of customers, and represents much of the advanced technology required by the Navy for the instant procurement. As Plessey sees it, it offered an improved version of a proven, highly reliable instrument to which the data it submitted was directly applicable.

The Navy reports that it has seen no data which establishes that the 9021 offered by Plessey is in production or that it is anything more than a "prototype" or paper design. According to the Navy, much of Plessey's data "relates to instruments that had different application, i.e. shallow water, short mission * * * and salinity/temperature/depth measuring systems" than what will be required of the desired current meter. In fact, the Navy states, Plessey has made signifcant changes to the M021 in order to meet the stringent requirements of the procurement, and it is those significant changes which make the 9021 an unproven design that would have to be subjected to "extensive testing" before its reliability could be established.

In support of its position, the Navy cites approximately a dozen design changes made to the M021 which it considers to be significant and largely responsible for increasing the measuring depth (from 1,000 meters to the required 6,000 meters) and mission endurance (from 60 days to 1 year) of the meter. These changes include the discontinuance of the use of transistors and an open printed circuit board with numerous leads, wires, and cabling attached thereto and the employment of integrated circuits with a minimum of cables and back plane writing, as well as revisions to the sensors, the mechanical suspensions, and the housing configuration.

On this record, we agree with the Navy's determination regarding the acceptability of Plessey's proposal. The determination of whether a proposal is in the competitive range, particularly

with respect to technical considerations, is primarily a matter of administrative discretion which will not be disturbed by our Office absent a clear showing that the determination lacked a reasonable basis. 48 Comp. Gen. 314 (1968); METIS Corporation, 54 Comp. Gen. 612 (1975), 75-1 CPD 44. Here Plessey concedes that numerous design changes have been made to the M021 and that the 9021 is more sophisticated and advanced than any of its previous models, while the Navy, in considerable detail, has stated why it considers those changes to be significant and why those changes have resulted in an essentially new instrument that must be subjected to testing before its reliability can be established. Although Plessey does not agree with the Navy, it has not shown that the Navy's position is unreasonable. Therefore, since the RFP explicitly required the submission of reliability data reflective of the actual system being proposed and since the Navy had a reasonable basis for not regarding the Plessey data as indicative of the reliability of the meter being offered, we find no basis for questioning the rejection of Plessey's proposal. See Honeywell, Inc., B-181170, August 8, 1974, 74-2 CPD 87; Houston Films, Inc., B-184402, December 22, 1975, 75-2 CPD 404.

Plessey also questions why the Navy was willing to accept AMF's data while rejecting Plessey's data. According to Plessey, numerous changes have been made to AMF's offered current meter "almost simultaneously" with the changes made to the Plessey instrument. The Navy reports that for the most part, the changes made to the AMF-offered meter are relatively minor and do not cast doubt on the validity of the AMF data. Plessey has not shown this judgment to the erroneous. Furthermore, in this regard, it appears from the record that the meter offered by AMF has operated at representative operating conditions and for the required periods of time, while, as stated above, the 9021 has not. Since AMF's data is related to an offered meter with operational experience, the Navy's acceptance of AMF's data is not subject to objection.

With regard to Plessey's assertion of Navy bias in favor of AMF, the record establishes only that the Navy's technical evaluation of proposals had a reasonable basis. We therefore are unable to conclude that this procurement was tainted by bias toward one offeror. See Institute for Social Concerns, B-181800, May 1, 1975, 75-1 CPD 274; Decision Sciences Corporation, B-183773, September 21, 1976, 76-2 CPD 260.

Plessey raises other issues regarding the absence of guidelines for determining competitive range, the use of "normalized" scoring of proposals, and alleged attempts to circumvent the provisions of

the Buy American Act, 41 U.S.C. 10a et seq. (1970). We see no merit to Plessey's contentions regarding these issues, and in view of our conclusion regarding the propriety of the Navy's evaluation, we see no need to discuss these issues in detail.

In view of the foregoing, the protest is denied.

Acting Comptroller General
of the United States