



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: West Coast Research Corporation

File: B-281359; B-281359.2

Date: February 1, 1999

H. M. Spivack for the protester.

Howard E. Ward for Able Corporation, an intervenor.

Capt. Mark D. Pollard, Department of the Air Force, for the agency.

C. Douglas McArthur, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where solicitation required vendors to provide detail sufficient to show compliance with listed salient characteristics of brand name model, determination that protester's quotation, which did not address certain of those characteristics, was technically unacceptable was reasonable and consistent with the solicitation.
2. In procurement conducted under Federal Acquisition Regulation Subpart 12.6, providing streamlined procedures for solicitation and evaluation of commercial items, and Part 13, governing simplified acquisition procedures, where agency determined that the only technically acceptable quotation was unreasonably priced, protest against decision to solicit additional quote for the purpose of expanding competition is denied.

DECISION

West Coast Research Corporation (WCRC) protests the issuance of a purchase order to Able Corporation under request for quotations (RFQ) No. F05611-98-T-2008, issued by the United States Air Force Academy, for the purchase of equipment to be used in a scientific laboratory. The protester contends that the agency improperly rejected its quotation.

We deny the protest.

On September 3, 1998, the agency issued the RFQ as a combined synopsis/solicitation for commercial items--a "sophisticated" five-force one-moment balance, calibration body, and master tape gauge, in accordance with a statement of objectives (SOO), which appeared in a Commerce Business Daily (CBD) notice announcing the solicitation. Air Force Memorandum of Law, Nov. 5, 1998 at 1; CBD Notice dated Sept. 9, 1998 at exhibit 2 to WCRC protest. The agency advised potential vendors that it had prepared the notice in accordance with Federal

Acquisition Regulation (FAR) Subpart 12.6, which prescribes streamlined procedures for the solicitation and evaluation of commercial items. CBD Notice at 1. The notice referenced FAR § 52.212-1, Instructions to Offerors--Commercial Items, subparagraph (b)(4) which requires vendors to provide enough detail to evaluate compliance, for example, through the submission of descriptive literature, product samples, or technical features. Page 3 of the notice advised potential vendors that the agency would evaluate technical acceptability and price and make an award based upon the ability of the quoted item to meet requirements of the SOO and price.¹

The notice contained a list of salient characteristics for a 0.5-inch diameter force balance, model 0.75MKXIII, manufactured by the Able Corporation, which represented the "minimum needs" of the government. CBD Notice at 1. The required balance was of a two shell design (floating frame) with the inner shell (rod) being mounted to the wind tunnel sting support and the outer shell (case or sheath) being mounted to the model. That is, a concentric sleeve envelops a rod with sensors and transmits the forces that the model encounters to the sensors; the rod is attached to a "sting," or bolt, attached to the supports. Protester's submission, exhibit 1 to the protest; CBD notice at 1; Able Corporation letter dated Nov. 9, 1998 at 1-2. The listed salient characteristics included general requirements as well as specific requirements for dimensions, rated loads, temperature sensitivity, excitation and sensitivity, interaction, and wiring. CBD Notice at 1-3. In pertinent part, the general requirements stated as follows:

Failure of any or all of the force and moment sensing elements shall not cause separation of the model from the balance or sting. . . .
[E]ach force and moment sensing element shall be repairable or replaceable by the contractor without replacing the entire set of elements. The load range of the force and moment sensing elements shall be changeable by removing the original elements and replacing any or all of them with elements having a new load range.

CBD Notice at 2.

Two firms responded prior to the stated closing date of September 18, one with a quotation of the brand name item. The protester quoted a lower price but few details; its quotation principally addressed the protester's experience and expertise in designing wind tunnel balances. It provided a drawing of a "proposed" balance, as well as a "preliminary design" for a concentric sleeve. The agency provided a copy of the quotation to evaluators on September 22.

¹In conducting this procurement, the agency also used the procedures authorized under Part 13 for simplified acquisitions.

Evaluators noted that the protester's quotation failed to address many of the required characteristics and found evidence that the proposed design would fail to meet certain others. For example, the quotation did not address separation of the model from the balance or sting; although WCRC indicated that the elements were replaceable, it did not indicate whether users could replace individual elements without removing all of them. Evaluators determined that the quotation was technically unacceptable because it did not demonstrate that the design offered by WCRC would satisfy all of the agency's minimum needs.

The other quotation, for the brand name model, appeared technically acceptable but the price of \$90,208.12 exceeded funds available for the procurement and the contracting officer considered that price unreasonable. On September 23, he contacted Able, the brand name manufacturer, which had not seen the initial notice but requested an opportunity to submit a quotation. Able provided its quotation at a price of \$85,102.00 that afternoon. Since Able's quotation was the lower-priced of the two technically acceptable quotations, the agency issued a purchase order to Able on September 24. This protest followed.

WCRC objects to the evaluation of its proposal. While acknowledging that it did not address all of the requirements that the CBD notice included, the protester contends that it was unreasonable for the agency to expect vendors to address every one of the listed salient characteristics in their quotations. A requirement to address each characteristic specifically, WCRC argues, overburdens the quotation with minor details. Rather, WCRC contends, the agency should presume that vendors have the qualifications to understand requirements and can meet them, where as here the quotation is silent, since such silence creates an implied acceptance of "basic technical requirements." Protest at 3.

In reviewing protests against an allegedly improper evaluation, where the agency uses simplified acquisition procedures, we examine the record to ensure that the agency reasonably exercised its discretion and that it evaluated quotations in accordance with the terms of the solicitation. Environmental Tectonics Corp., B-280573.2, Dec. 1, 1998, 98-2 CPD ¶ 140 at 4. Where a solicitation sets forth the agency's requirements and a vendor fails to address certain of those requirements, an agency need not presume that the vendor accepts those requirements and may, in fact, reject the quotation if it contains insufficient affirmative evidence that the item as quoted will meet the agency's requirements. See Cirrus Tech., Inc., B-244461, Oct. 21, 1991, 91-2 CPD ¶ 348 at 2-3. Since the record here shows that WCRC did not, in fact, address several of the requirements listed in the CBD notice, the agency's determination that the protester's quotation was technically unacceptable was reasonable.

We examine here several of the bases upon which the agency rejected the protester's quotation. See Keco Indus., Inc., B-261159, Aug. 25, 1995, 95-2 CPD ¶ 85

at 8 (where agency finds an offer technically unacceptable in several areas, GAO need not address every finding, since finding of unacceptability in any area would be sufficient to justify rejection of the proposal). As quoted above, the CBD notice required, as general features, that failure of any sensing element not cause the model to separate from balance or sting and that each element be repairable or replaceable without replacement of all the other elements. It required that, in order to change the load range, the agency should be able to remove an individual element and replace it with one having the new load range. The protester's quotation did not address whether failure of a sensing element would cause separation of the model; although it stated that elements were replaceable, it did not address whether a user could replace one element--either because of failure or to change the load range--without replacing the others. The failure to provide an affirmative indication that the protester's product would meet these requirements provided a sufficient basis, under the solicitation, for the agency to reject the quotation as technically unacceptable.

After receipt of the agency report filed in response to the protest, WCRC filed a supplemental protest, asserting that it was improper for the agency to extend the due date for quotations, for the benefit of Able, while not affording the protester an opportunity to provide additional information. The protester argues that, if the agency had conducted discussions with WCRC, the protester could have satisfied the agency's technical concerns in a "10 minute" telephone conversation with evaluators. Protest at 5.

FAR § 13.106-2(b)(2), which applies to simplified acquisition procedures, emphasizes efficiency rather than formal procedure and provides that it is not necessary to develop formal evaluation plans, establish a competitive range, or conduct discussions. Where using simplified acquisition procedures, an agency has considerable discretion in its approach, as long as it promotes competition to the maximum extent practicable. Cromartie and Breakfield, B-279859, July 27, 1998, 98-2 CPD ¶ 32 at 2; FAR § 13.003(h). An RFQ, unlike a request for proposals or an invitation for bids, does not seek offers or bids that can be accepted by the government to form a contract; our Office has raised no objection to agencies seeking and considering revisions to quotations submitted any time prior to award. Safety Storage, Inc., B-275076, Jan. 21, 1997, 97-1 CPD ¶ 32 at 2; Cf. John Blood, B-274624, Dec. 19, 1996, 96-2 CPD ¶ 233 at 2. Where, as here, the purpose is to enhance competition, and given that the agency had no technically acceptable quotations at a price the contracting officer considered reasonable, we see nothing improper in allowing Able, the brand name manufacturer, to submit a quotation after the closing date. At the same time, given that this was a simplified acquisition, the agency was not required to discuss the material deficiencies in the protester's quotation. See CDS Network Sys., Inc., B-281200, Dec. 21, 1998, 98-2 CPD ¶ 154 at 3. In any event, based on the record, we do not think the protester has established that the deficiencies in its quote were readily correctable.

WCRC also complains that, in the course of these proceedings, the agency supplied a copy of its protest, including one page marked as protected, to the Able Corporation. Absent any basis to conclude that the agency's action had any effect on the evaluation and award process for this or any other specific solicitation, WCRC's arguments in this regard fail to state a valid basis of protest. Advanced Seal Tech., Inc., B-280980, Dec. 14, 1998, 98-2 CPD ¶ 144 at 4 n.3.

The protest is denied.

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