



Comptroller General
of the United States

Washington, D.C. 20548

145708 Burkard

Decision

Matter of: Aztek, Inc.

File: B-245626

Date: January 17, 1992

Rand L. Allen, Esq., and Paul F. Khoury, Esq., Wiley, Rein & Fielding, for the protester.
David Cohen, Esq., and Lisa Hovelson, Esq., Cohen & White, for Autographix, Inc., an interested party.
Herbert F. Kelly, Jr., Esq., and Gerald P. Kohns, Department of the Army, for the agency.
Richard P. Burkard, Esq. and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that proposed awardee's graphic design system does not comply with specification which requires access to protester's proprietary data is denied where record shows that, contrary to the protester's interpretation, the solicitation did not, in fact, require access to such data.

DECISION

Aztek, Inc. protests the proposed award of a contract to Autographix, Inc. under request for proposals (RFP) No. DAKF12-90-R-0018, issued by the Department of the Army for 15 high speed interactive graphic design illustration systems. Aztek alleges that one of the systems offered by Autographix does not comply with certain RFP specifications which require access to proprietary Aztek technology.

We deny the protest.

The RFP, which was issued on December 27, 1990, as a small business set-aside, required that 15 interactive graphic design systems be delivered to 12 Army Training Support Centers. The RFP required at Section C that all systems offered comply with general specifications and characteristics and that all the new systems were to be fully compatible with each other. Further, the RFP provided at Section C that all systems must be compatible with specific existing hardware/software specified under separate technical exhibits attached to the RFP. The technical

exhibits corresponded to Army Training Support Centers and identified specific requirements for the systems at each site. The protester here challenges Autographix' compliance with specifications contained in technical exhibit 15, which described the system required at Ft. Polk.

As originally issued, the RFP generally required that the systems be compatible for file sharing with existing Aztek systems that were in place at various installations including Ft. Polk. Autographix filed a protest with the agency alleging that the specifications improperly restricted competition because the RFP contained requirements, including access to proprietary files and data, that only Aztek could meet. The Army deleted this compatibility requirement by Amendment No. 2 to the RFP.¹

Turning to technical exhibit 15, offerors were required to "UPGRADE AZTEK STUDIO 1 SYSTEM TO 20 MHZ 80386 MULTI-PROCESSOR DISTRIBUTED SYSTEM CPU." The exhibit also listed other hardware system requirements. As originally issued, technical exhibit 15 required "INTERFACE WITH" various existing components including "AZTEK MDL SYSTEM ONE, TERMINAL WORK CENTER." By amendment No. 3 to the RFP, however, the agency deleted the requirement for interface with the existing Aztek MDL System One, Terminal Work Center.² The protester subsequently withdrew its objection to the specifications as unduly restrictive.

The agency received six proposals in response to the RFP; three offerors, including Aztek and Autographix, submitted proposals that were determined to be in the competitive range. A technical evaluation committee evaluated proposals and conducted the live test demonstrations. The Army determined that Autographix demonstrated through its proposal and live test demonstration performance that its systems meet the requirements set forth in the RFP. The agency determined that the Autographix proposal, the low offer of the three in the competitive range, was the most advantageous to the government. The agency then notified the unsuccessful offerors of its intention to award to Autographix. Both unsuccessful offerors filed protests with the Small Business

¹The RFP also required that all offerors within the competitive range demonstrate performance capability through a "live test demonstration." As originally issued, offerors were required to demonstrate importation and exportation of Aztek graphic files. The Army also deleted this requirement by Amendment No. 2.

²The Army advised Autographix that the failure to previously remove this compatibility requirement in the technical exhibit was an oversight.

Administration (SBA) challenging Autographix' size status. On September 12, Aztek filed this protest with our Office. The SBA rendered a final ruling on October 2 that Autographix is a small business.

Aztek alleges that the requirement in technical exhibit 15 of the RFP that offerors upgrade the existing Aztek Studio One System at Ft. Polk requires access to technology which is proprietary to Aztek. The protester contends that this RFP requirement is clear, points out that Autographix does not have access to the technology necessary to modify the existing Aztek equipment to meet the RFP's specifications, and concludes that Autographix' proposal is unacceptable.

Both the Army and Autographix maintain that the amendments to the RFP removing Aztek compatibility requirements allowed offerors to propose systems which did not require access to Aztek technology. They argue that Aztek's interpretation of the RFP is unreasonable and inconsistent with the competitive nature of the RFP as amended. The Army states that, based on its conversations and correspondence with Aztek, that firm was aware long before announcement of the intended award that the government considered the procurement to be competitive and did not interpret the RFP in the restrictive manner asserted by Aztek.

Where, as here, a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the matter by reading the solicitation as a whole and in a manner that is reasonable and which gives effect to all its provisions. Honeywell Regelsysteme GmbH, B-237248, Feb. 2, 1990, 90-1 CPD ¶ 149. Further we will not read a provision restrictively where it is not clear from the solicitation that such a restrictive interpretation was intended by the agency. MAR Inc., B-242465, May 6, 1991, 91-1 CPD ¶ 437.

Applying those standards here, we find that the RFP is clear in allowing offerors to propose systems which need not be compatible with the existing Aztek equipment and that the protester's interpretation of the RFP as requiring access to its software is not a reasonable one.

The RFP, as amended, simply did not require that the system to be upgraded at Ft. Polk be compatible with the existing Aztek system. In this regard, the agency explains that the "upgrade" of the Aztek system could be accomplished by either acquiring updated or enhanced versions of the system's current software, which presumably could only be accomplished by using upgrades that are proprietary to Aztek, or by replacing the existing system with both new hardware and software components, which would not require the use of Aztek-proprietary software. While the upgraded system is required to be compatible with the other new

systems offered, the requirement for compatibility with existing systems was clearly limited to the requirements specified in the technical exhibits. We agree with the Army that by deleting the "interface" or compatibility requirement with the "AZTEK MDL SYSTEM ONE, TERMINAL WORK CENTER" in technical exhibit 15, it was clear that the upgrade of the existing Aztek system could be met by other vendors. We therefore conclude that the RFP contemplated that offerors could submit technically acceptable proposals without having access to proprietary Aztek technology. Further, it appears that the protester conceded as much in its best and final offer when it stated that "the requirement for integration with existing government owned Aztek equipment . . . is removed leaving only the requirements for integration with other competitor's equipment."

The protester also alleges, in its comments to the agency's report, that the awardee has not offered to replace two additional existing Aztek workstations with ones that would be compatible with the equipment Autographix is providing under technical exhibit 15. There is no requirement in the RFP that the offeror's equipment be compatible with any existing equipment other than that specifically listed in the technical exhibit or that the offeror replace all existing components or achieve the performance requirements in the upgrade in the same manner as the existing system. We therefore have no basis to interfere with the evaluators' judgment that the technical approach embodied in the new system proposed by Autographix complied with the RFP specifications.

The protest is denied.



James F. Hinchman
General Counsel