



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: R2Sonic, LLC

File: B-405864

Date: January 6, 2012

John A. Ordway, Esq., and Ayanna Wooten-Days, Esq., Berliner, Corcoran & Rowe, LLP, for the protester.

Francis X. Eugenio, Esq., Department of the Army, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging solicitation requirement for topside processor in acoustic hydrographic multibeam system as restrictive of competition is denied where agency demonstrates a reasonable basis for the requirement.

DECISION

R2Sonic, LLC, of Santa Barbara, California, protests the terms of request for quotations (RFQ) No. W912DW-11-Q-0194, issued by the U.S. Army Corps of Engineers, Seattle District for acoustic hydrographic multibeams. Specifically, the protester objects to language in the solicitation requiring that the multibeams' processors be located at the vessel's topside.

We deny the protest.

BACKGROUND

In general terms, acoustic hydrographic multibeam systems consist of sonar heads (mounted on the hull of a boat or a pole) that contain projectors (which transmit acoustical pulses) and receivers (which receive the echoes and convert them into electrical signals); the systems also include processing units that convert the data received to a useable bathymetric product, and survey computers that store and display the data. In some manufacturers' systems, the processing units are located topside (that is, inside the hull of the boat, above the waterline), whereas in the protester's system, the processing modules are embedded in the sonar heads. One of the consequences of embedding the processing modules in hull-mounted sonar

heads is that if the boat is sufficiently large, dry-docking of the vessel will be required to perform repairs to the processor modules.

The RFQ here seeks two acoustic hydrographic multibeam systems, with associated installation and training. The agency explains in its report that one of the systems will be installed on the Shoalhunter, a 56-foot survey vessel that will require dry-docking if repairs to hull-mounted equipment are required, and NWS 1-16-32, a 23-foot boat that is, to use the agency's terminology, "trailer-able." The solicitation specified a number of minimum performance requirements, including the following:

Processors shall be located at vessels topside to allow for ease of access to processor modules and eliminates the need of vessel dry docking if and when module repairs are needed. The vessel Shoalhunter is an Ocean going vessel that would require Dry Docking if an embedded processor has problems. Districts experience with past survey equipment, including multibeam, is that the processor is most likely to have problems.

RFQ at 6. R2Sonic filed an agency-level protest objecting to the above requirement prior to the specified closing date for receipt of quotations. The agency denied the protest on September 30, and R2Sonic protested to our Office on October 3.

ANALYSIS

The protester argues that the requirement that the processors be located topside is restrictive of competition.

While a contracting agency has the discretion to determine its needs and the best method to accommodate them, those needs must be specified in a manner designed to achieve full and open competition. Paramount Group, Inc., B-298082, June 15, 2006, 2006 CPD ¶ 98 at 3. Solicitations may include restrictive requirements only to the extent they are necessary to satisfy the agency's legitimate needs. 10 U.S.C. § 2305(a)(1) (2006). Where a protester challenges a requirement as unduly restrictive of competition, the procuring agency has the responsibility of establishing that the requirement is reasonably necessary to meet the agency's needs. Richard Bowers & Co., B-400276, Sept. 12, 2008, 2008 CPD ¶ 171 at 2. We will review the rationality of the agency's explanation.

The Corps explains that it requires a topside processor for the Shoalhunter so that it will be able to access the processor to perform repairs, upgrades, and/or replacement of the processing unit without dry-docking the vessel. In other words, its need is for a system that will require minimal dry-docking of the vessel. With regard to the 23-foot boat, which is "trailer-able," the agency explains that it wants the same system on both boats. The Corps contends in this connection that the two vessels are operated by the same captain and crew members, so having the same system on both will reduce the need for operator training. The Corps further

explains that it is an advantage to the agency if the two systems have compatible and interchangeable parts since this will allow the agency to switch system components between the two boats if one of the vessels is required for a survey at the same time that its multibeam system is in need of repair.

The protester argues that the agency has not demonstrated a reasonable link between topside processors and its goal of minimizing dry-docking. R2Sonic contends that the agency focus on locating the processor topside ignores the fact that there are many parts of the sonar heads that could fail, requiring dry-docking of the vessel, and that there have been no instances of failure of its embedded processors in the over 300 systems that it has sold since April 2009.

Initially, we maintain some sympathy for the protester's position. First, the record reflects, ironically, that it is the failure of topside processors that has led the agency to include a requirement for topside processors in order to minimize the time and expense associated with the failure of other than topside processors. Second, a portion of the processing unit failures that have occurred involved failures to components of the processing units other than the processing modules themselves.¹ Third, there is no evidence that the protester's embedded processor chips have ever failed. Nonetheless, it is not the role of this Office to substitute its judgment for that of the agency, and we conclude that the agency has met its burden of demonstrating a reasonable basis for the requirement at issue.

As established above, the primary concern underpinning the agency's requirement for topside processing modules is its desire to minimize the risk of having a processor failure that results in the disruption and expense associated with dry-docking its vessel. Notwithstanding the protester's assertions to the contrary, this risk is not illusory. The protester does not dispute the fact that if its processor fails, the Corps' vessel will need to be dry-docked to repair the failed processor. Rather, the protester maintains that there is little or no risk of processor failure. Although, as pointed out above, some of the failures described by the agency did not involve the processor functions that the protester embeds in the sonar head, the record does reflect that other failures did involve those functions, thereby lending credence to the agency's underlying concern. With regard to the protester's argument that its chips have never failed, the agency notes that the protester's system incorporating an embedded processing chip has only been available for a few

¹ For example, the project manager describes the failure in July 2007 of a power unit located in a topside processor. (The distinction between the failure of components that actually perform the processing functions and the failure of ancillary components that some manufacturers place in the processing units, such as power units, is of significance in that while the protester's system embeds the processing modules in the sonar heads, the power unit is located topside in a sonar interface module.)

years and therefore has not been on the market long enough to establish a record regarding its long-term performance. Further, in response to the protester's complaint that other parts of the sonar heads could also fail, the agency reports that it has been its experience that the transducer (i.e., sonar head) components rarely cause problems, and the protester has not sought to rebut the agency position.² Given the potential disruption posed by the failure of a non-topside mounted processor, and the agency's reasonably-based desire to minimize the risk of disruption associated with such a failure, we have no basis to find the agency's requirement unreasonable or otherwise improper.

The protest is denied.

Lynn H. Gibson
General Counsel

² Additionally, we conclude that the agency has demonstrated a reasonable basis for requiring that the same system be acquired for the 23-foot boat—i.e., having the same system on both boats will reduce the need for operator training and will allow the agency to switch components between the boats.