

DOCUMENT ISSUE

02048 - [A1052036]

[Protest against Finding of Technical Unacceptability].
B-188069. April 12, 1977. 4 pp.

Decision re: Pigua Engineering, Inc.; by Robert P. Keller,
Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Department of the Navy: Naval Air
Systems Command.
Authority: 40 Comp. Gen. 40. B-186002 (1976).

The procuring agency's finding the protester's technical proposal, in step one of a two-step procurement, as unacceptable was protested as improper cause for nonsolicitation in step two. The procuring agency's refusal to solicit a bid under the second step of the procurement was not improper where the step-one technical proposal failed to address, in part, quality assurance processes and controls required. The protest was denied. (SC)

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*Marc Boman
Proc II*

DECISION



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

FILE: B-188069

DATE: April 12, 1977

MATTER OF: Piqua Engineering, Inc.

DIGEST:

Procuring agency's refusal to solicit bid from protester under second step of two-step procurement was not improper where technical proposal submitted under step one failed, in part, to address quality assurance processes and controls required by request for technical proposals.

Piqua Engineering, Inc. (Piqua) protests the finding of technical unacceptability which rendered it ineligible for participation in the second step of a two-step procurement of 2120 MK 13 MOD 2 Safety-Arming (S&A) devices under solicitation No. N00019-76-B-0011, issued by the Naval Air Systems Command (NAVAIR), Washington, D.C.

The instant "Request for Technical Proposals, Step One of a Two Step Procurement," was issued July 13, 1976 and was sent to over 100 firms, of which seven submitted technical proposals. A technical evaluation team found four proposals acceptable and three, including Piqua's, unacceptable. Notwithstanding the team's negative recommendation as to Piqua's proposal, a procurement review board, with the contracting officer's concurrence, found Piqua's proposal "reasonably susceptible of being made acceptable" and, by letter of October 8, 1976, advised the company of deficiencies in its proposal and of needed clarifications. Among other requested clarifications, Piqua was asked to:

"Clarify the procedures employed in implementing, integrating, and controlling the requirements for quality assurance, reliability, configuration management and the production flow of the program.

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"Provide * * * governmental documentation showing the amount of explosive material that Piqua is authorized to have present in its facility.

"Provide * * * official and governmental documentation certifying that Piqua conforms to all safety regulations, relative to explosive materials, required by federal, state and local agencies.

"Identify and summarize Piqua's procedures, equipment, personnel and its technical ability/experience that would be used to perform failure analyses on production problems.

"Clarify and delineate in greater detail * * * the quality assurance plans and provisions in accordance with AR-92 and MIL-Q-9858A for controlling the quality aspects of the production process from incoming inspection through final acceptance.

"Clarify and delineate in greater detail * * * the procedures in accordance with AR-92 and MIL-Q-9858A for certification, calibration, and control of instruments, and test equipment."

On November 9, 1976, Piqua responded to the request for additional information. Its submission did not include, inter alia, the protester's plan for satisfying the solicitation's quality assurance requirements, particularly those requirements of the request for technical proposals which Aeronautical Regulation (AR)-92 added to the less onerous MIL-Q-9858A; the documents requested by NAVAIR relating to the amount of explosive material Piqua is authorized to have at its facility and certifying Piqua's compliance to Federal, state, and local safety regulations; and a description of the personnel who would perform failure analyses on production problems. By letter of December 16, the contracting officer notified Piqua.

"The evaluation has been completed and you are herewith notified that the additional clarifications submitted * * * failed to

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demonstrate an adequate understanding of the quality assurance processes and controls required for successful production of Sidewinder AIN-96 MK 13 MOD 2 Safety & Arming Devices. Accordingly, your firm will not be invited to submit a bid in Step Two of the subject procurement."

On December 27, 1976, Piqua filed the instant protest with our Office.

The protester contends that NAVAIR's determination that Piqua's proposal "failed to demonstrate an adequate understanding of the quality assurance processes and controls for successful production * * *" is unreasonable because, as the manufacturer of the prototype MK 13 MOD 2 S&A (under an earlier contract with the Naval Weapons Center), Piqua claims to be uniquely familiar with the technology of that device and the quality assurance requirements which attend its manufacture. Furthermore, Piqua maintains that its quality control record in the manufacture of the MK 33 and MK 17 S&A, and in the manufacture of MK 1 Arming and Firing devices demonstrates that its "adherence to quality assurance procedures and controls is unquestionable." Piqua cites other examples to establish its record of producing quality products of a similar nature for the Navy.

Notwithstanding the examples which Piqua now cites as evidence of its experience in the manufacture of the prototype MK 13 and similar devices and its quality performance record with other Navy commands, the protester does not dispute the fact that its proposal, as supplemented, did not address the quality assurance procedures which AR-92 added to MIL-Q-9858A. Nor can we conclude that Piqua's development and production of a small number of MK 13 S&A prototypes or its successful production of similar devices indicates a commitment to the specific quality assurance procedures required by the instant request for technical proposals.

In 40 Comp. Gen. 40 (1960), we upheld an agency's refusal to solicit a bid (in a two-step procurement) from the manufacturer and designer of the prototype camera being purchased, where the offeror failed to submit adequate

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information in support of its technical proposal. In that case, we stated that the procuring agency had the "right to reasonably circumscribe the area of consideration * * * and to condition the consideration upon the technical data submitted * * *." In view of the fact that Piqua's technical proposal did not address the special quality assurance standards of AR-92 and did not include specifically requested documents and information, we believe that the Navy's refusal to solicit a bid from the protester was not unreasonable. Struthers Electronics Corporation, B-186002, September 10, 1976, 76-2 CPD 231.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States