



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Systems & Processes Engineering Corp.
File: B-232100
Date: November 15, 1988

DIGEST

Agency acted reasonably in finding the protester's proposal to be unacceptable and in excluding it from the competitive range where the proposal was found to lack supporting information required to be submitted by the solicitation for several areas listed for evaluation.

DECISION

Systems & Processes Engineering Corp. (SPEC) protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DAAB10-88-R-9029, issued by the United States Army Communications-Electronics Command Support Activity in Vint Hill, Virginia, for product improvements for an existing intelligence collection and direction finding system designated as AN/TRQ-32(V). The protester argues that the agency's evaluation of both its technical and proposals was improper. The protester also complains that the evaluators were not interested in increased competition and in this regard notes that an agency criminal investigation may be related to this attitude.

We deny the protest.

The RFP contained 61 line items, the first 5 of which represented a basic contract effort with the remainder representing various option alternatives. Offerors were advised that the basic effort and the options would be evaluated for award purposes. The RFP contained the following evaluation factors in descending order of importance--technical performance, schedule/management, logistics, cost realism, quality assurance and production--each of which was to be addressed in a separate volume of an offeror's proposal. Offerors were specifically cautioned

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that they should not merely parrot the language of the statement of work in their proposals, and that failure to adequately explain and substantiate the contents of a proposal, or failure to follow the prescribed format for the preparation of proposals, might result in rejection of an offer.

After the evaluation of initial proposals, the agency determined SPEC's proposal to be unacceptable and not susceptible of being made acceptable without a complete revision; accordingly, the protester was excluded from the competitive range.^{1/} SPEC's proposal received low scores in the logistics, production and cost realism areas. The evaluators seemed to be particularly concerned about the production and cost areas; in each case, they found a lack of supporting data reflective of a misunderstanding of the nature of the effort called for by the RFP.

With regard to the production volume of SPEC's proposal, the evaluators found that the protester had either parroted provisions from the statement of work or had provided no supporting information in a number of areas. The portions affected included: the protester's promises to meet the production requirements of the RFP; its plan to timely control the manufacture of the items called for by the RFP; its production management system stated to be under development; its promise that the company's operating procedures were being tailored to the work effort under the RFP; its discussion relating to tooling and test equipment; and its assertion that current production activities would not conflict with RFP work. Further, while noting that a lack of full staffing was not necessarily a problem prior to contract award, the evaluators found that a widespread lack of consistent staffing information in SPEC's proposal raised basic questions as to the integrity of the protester's production organization. Finally, while noting that the protester's proposal included a Preliminary Production Plan which was not required until 1 year after contract award, the evaluators nonetheless reviewed the document to see if it contained the information found lacking in the rest of the production volume; none was found and, during the review, the evaluators discovered information which

^{1/} SPEC received a total score of 43.49 points. Since award has not been made under the RFP, it would be inappropriate to discuss the scoring of the other proposals in detail, but our in camera review of the scores reveals a significant point differential between SPEC and the offerors included within the competitive range. Telemechanics Inc., B-229748, Mar. 24, 1988, 88-1 CPD ¶ 304.

indicated, among other things, that SPEC could not meet the basic delivery requirements of the RFP.

As to the cost information required, the evaluators found that SPEC had failed to follow the prescribed format for proposal submission and, to the extent that it submitted any data and supporting information at all, it fell fall short of what was required. Among other things, the evaluators noted that the protester had provided no SF 1411 as required by the RFP, that its coverage of the costs of options under the RFP was insufficient or nonexistent, and that, therefore, SPEC's overall cost was indeterminable and an adequate cost realism analysis could not be performed on the basis of the material provided.

In its protest concerning the technical evaluation SPEC argues that the evaluators failed to consider much of the treatment of the production area which was addressed in a separate volume concerning quality assurance. The protester concludes that the evaluators just did not read this important portion of its proposal. SPEC also argues that the evaluators went outside the RFP evaluation criteria in criticizing its proposal for not having production facilities and staff in place prior to award, and in downgrading the firm for submitting a Preliminary Production Plan 1 year earlier than required.

It is not the function of our Office to evaluate proposals de novo or to resolve disputes over the scoring of proposals. Rather, we will examine an agency's evaluation and competitive range determination only to insure that they were reasonable and consistent with the stated evaluation criteria. The determination of the relative merits of a proposal is primarily a matter of administrative discretion which we will not disturb unless it is shown to be arbitrary. Wellington Associates, Inc., B-228168.2, Jan. 28, 1988, 88-1 CPD ¶ 85. Moreover, the protester must clearly establish that an evaluation was unreasonable. This is not accomplished by the protester's mere disagreement with the agency's judgment. Instruments & Controls Service Co., B-230799, June 6, 1988, 88-1 CPD ¶ 531.

We find that the Army's evaluation of SPEC's technical proposal was reasonable. The informational deficiencies found in SPEC's proposal all related to RFP evaluation criteria and were numerous, yet the protester questions only a few.

With respect to SPEC's contention that the agency simply ignored information contained in its quality assurance volume while evaluating the production portion of its

proposal, the record indicates that the evaluators did consider this information; contrary to the protester's assertion that the information in this volume adequately addressed their production concerns, the evaluators found that it merely enhanced them because it called into question SPEC's understanding of the difference between quality assurance and production functions. With respect to the assertion that the evaluators went beyond the scope of the evaluation criteria in faulting the firm for not having production facilities and staff in place prior to award and for submitting its Preliminary Production Plan with its proposal, we note that these concerns were expressed as subsidiary comments to the evaluators' primary objections regarding a lack of required production information, which have remained largely unaddressed by the protester. Indeed, the evaluators' examination of the plan submitted by SPEC seems to have been an effort in giving the protester the benefit of the doubt by looking to see if supporting information lacking elsewhere in its proposal could be found in the plan.

Concerning the evaluation of the cost portion of its proposal, SPEC argues that Federal Acquisition Regulation (FAR) Part 30 exempts small businesses from providing the detailed cost information found lacking by the evaluators and that, in any event, FAR § 15.804-6(e) precludes the contracting officer from eliminating an offeror from the competitive range without first seeking additional cost data not initially provided with an offer. Also, the protester disputes the agency position that it neither complied with the required proposal format with respect to cost data nor provided information necessary to evaluate its proposal. Further, SPEC argues that the submission of an SF 1411 is merely a formality which should be of no consequence to a competitive range determination, and concludes that any deficiencies which exist in its proposal could be remedied through discussions and the submission of a minor amount of additional detail. Finally, with respect to both the cost and production areas, SPEC questions how it could have been eliminated from the competitive range since these areas were not rated as significant as others for evaluation purposes.

The RFP contained extensive instructions which informed offerors that their cost volumes were required to contain various breakdowns of labor (direct and indirect) and materials estimates. The cost information requested included breakdowns by RFP line item showing labor rates, material quantities and prices and all applicable indirect costs and expenses, together with fees. Moreover, the RFP required a detailed description of the labor hours and materials estimates together with supporting rationale for

these estimates in order for the agency to determine the reasonableness of an offeror's proposed costs. Our review of the protester's proposal indicates that the information provided was summary at best and that SPEC did not, for example, provide any supporting rationale for the labor hour and material estimates it submitted, as specifically required by the RFP. Thus, while there may be some dispute as to whether the prescribed format for submitting cost information was sufficiently followed or not, since a major component of the underlying rationale is lacking, we are unable to conclude that the agency acted unreasonably in downgrading SPEC as to cost realism.

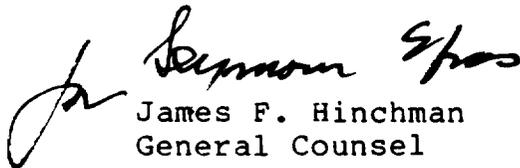
SPEC's reliance on FAR Part 30, which does provide an exemption from cost accounting standards for small businesses, is simply misplaced; the RFP requirement for proposals to contain such information as a supporting rationale for an offeror's labor hour and material estimates has nothing to do with the type of cost accounting system a contractor will have to maintain during performance. Likewise, the protester is incorrect in suggesting that FAR § 15.804-6(e) prevented the agency from citing the offeror's failure to provide the cost information required by the RFP as a basis for excluding the offeror from the competitive range. FAR § 15.804-6(e) concerns the regulatory requirement for the submission of cost and pricing data; it does not pertain to the instructions for proposal preparation included in a particular RFP. An offeror fails to follow these instructions at its own risk and, to the extent it does not include cost information required by the RFP, it may be eliminated from the competitive range without benefit of discussions. Educational Computer Corp., B-227285.3, Sept. 18, 1987, 87-2 CPD ¶ 274. Finally, we find the protester's argument that the Army is requiring far too much detailed cost information from small businesses to be anomalous since SPEC also asserts that the deficiencies found in its cost proposal could be easily remedied through the submission of a page or two of additional data which it stands ready to provide during discussions.

In sum, the significant deficiencies found by the evaluators with respect to SPEC's failure to submit adequate supporting production and cost information reasonably support the agency's conclusion that, short of a complete rewrite, SPEC's proposal was unacceptable. The scores it received for production and cost realism were so low that, when properly combined with SPEC's other scores, the resulting total was significantly less than the scores of offerors remaining in the competitive range.

Further, we find that the protester has provided no credible evidence in support of its allegation that the evaluators were unfairly predisposed against its proposal in an attempt to restrict competition. The allegation appears to arise from the fact that, before finally eliminating two proposals from the competitive range, agency counsel requested the preparation of a supplemental evaluation report. Rather than a "special inquisition" in response to counsel's criticisms of the initial evaluation report, as suggested by the protester, this effort was apparently undertaken to insure that the decision of the evaluators was properly documented. Prejudicial motives will not be attributed to contracting officials on the basis of unsupported allegations, inference or supposition. Micronics, Inc., B-228404, Feb. 23, 1988, 88-1 CPD ¶ 185.

Finally, with respect to SPEC's allegation that an ongoing criminal investigation may be related to some anticompetitive posture on the Army's part, we note that the agency reports that the investigation is unrelated to the evaluation of the protester's proposal and that, in any event, no evidence of wrongdoing has been discovered to date. According to the agency, the basis for the allegations underlying the investigation appears to be a misunderstanding on the part of another disappointed offeror.

The protest is denied.


James F. Hinchman
General Counsel