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DECISION

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

FILE: B-212668 DATE: July 2, 1984

MATTER OF: BASIX Controls Systems Corporation

DIGEST:

1. There is no obligation for a contracting agency to continue discussions with an offeror judged to be outside the competitive range.

2. There is nothing improper per se in an agency's making more than one competitive range determination.

3. GAO will not disturb an agency's decision to exclude a proposal from the competitive range absent a clear showing that it was unreasonable or contrary to the procurement statutes and regulations.

BASIX Controls Systems Corporation protests the elimination from the competitive range of the proposal it submitted in response to request for proposals No. F19628-83-R-0020 issued by the Department of the Air Force for an automatic entry control system. The Air Force excluded BASIX principally because certain components of the system did not meet the specifications and because a preaward demonstration indicated that the BASIX system could not perform all RFP requirements without substantial modification. BASIX essentially contends that its system either meets each of the requirements in question or its system can be easily modified to meet them.

We deny the protest.

The RFP is for Phase I of the Air Force's procurement of automatic entry control systems. Under Phase I, one or more contractors will be selected to provide entry control systems to be installed at Elgin Air Force Base, Florida, and at Cheyenne Mount, Colorado where they will be tested to determine suitability for controlling access to secure

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areas. Under Phase II, a follow-on effort, the contractors whose systems perform suitably under Phase I will be eligible to provide production units required for 48 Air Force bases.

Briefly, the system described in the RFP performs as follows. To gain entry to a secure area, the entering individual inserts his identification card into a card reader located in an unsecure area. The reader calls up the individual's reference file which is stored in an electronic memory. The file is examined to determine whether the individual is authorized to enter the secure area at that particular time. If access is authorized, the individual enters a secret five digit number on a personnel identification number key pad which is compared to the secret number in the reference file. Finally, a personal identity verification terminal measures a biological characteristic of the individual (for example, fingerprints, voice, hand geometry) and these measurements are compared with the biological information contained in the reference file. If identification is verified, the system automatically permits entry into the secure area. The system must have numerous other capabilities, including the ability to generate alarms in various situations and to compile various types of system reports.

The RFP states that proposals will be evaluated on the basis of technical considerations, supportability and cost. The technical evaluation is comprised of factors such as proposed approach, availability of off-the-shelf hardware and software, description of interface and degree to which the proposed system meets the requirements in a preaward demonstration.

The Air Force found BASIX's initial proposal to be within the competitive range. On May 11, 1983, the Air Force informed BASIX of this finding and requested BASIX to respond to a somewhat lengthy list of perceived deficiencies and ambiguities in its proposal. On May 25 BASIX responded, addressing each of the Air Force's concerns in writing, and on June 6 BASIX performed a preaward system demonstration required by the RFP.

At the demonstration, the Air Force observed several deficiencies or inadequacies that were not evident from the written proposal. First, the Air Force observed that BASIX's identification card reader did not conform to the specification requiring the reader heads to be remotely located from the reader electronics. The Air Force also concluded that neither the personnel identification number key pad nor the personal identity verification terminal met with the RFP requirement for off-the-shelf components. Finally, the Air Force observed that BASIX did not satisfactorily demonstrate several important system functions required by the RFP. The Air Force associated a moderate to high degree of technical and delivery schedule risk with remedying these demonstration failures. The Air Force determined that BASIX would have to revise its proposal substantially in order to become eligible for award and consequently determined that BASIX's proposal no longer merited consideration within the competitive range.

BASIX first complains that the Air Force impermissibly failed to conduct further discussions with BASIX during the preaward demonstration. BASIX assumed, when the demonstration was conducted without mention of deficiencies, that the Air Force considered its proposal and response to the clarification and deficiency report to be acceptable. BASIX believes that the Air Force should have conducted further discussions with it.

The stated purpose of the preaward demonstration is to validate the capabilities of the proposed system. There is no indication in the RFP that the demonstration was intended to be a forum for oral discussions. Furthermore, the Air Force was not required to conduct further discussions with BASIX at the conclusion of the demonstration if it properly determined that as a result of the demonstration BASIX was outside the competitive range. See RDW Systems, Inc., B-204707, July 20, 1982, 82-2 CPD ¶ 61.

BASIX next argues that the Air Force's change in position on competitive range in itself is an indication that the exclusion was capricious and unwarranted inasmuch as BASIX had not changed its proposal in any significant

way between the time of its inclusion in the competitive range and its ultimate exclusion.

We reject this reasoning. There is nothing improper per se in an agency's making more than one competitive range determination. See SDC Integrated Services, Inc., B-195624, Jan. 15, 1980, 80-1 CPD ¶ 44. The Air Force's change in position was premised upon new information about the proposal that was not contained in the proposal as initially evaluated, and upon the relatively poor showing during the demonstration. Thus, there is nothing illogical or inconsistent in the Air Force's change in position. The determinative question in cases such as this is not whether a second determination was proper, but whether the Air Force was ultimately justified in excluding BASIX. See Cotton & Company, B-210849, Oct. 12, 1983, 83-2 CPD ¶ 451. Moreover, the determination of the competitive range is primarily a matter of administrative discretion. Consequently, we will not disturb an agency's decision on competitive range absent a clear showing that it was unreasonable or contrary to the procurement statutes and regulations. Syscon Corporation, B-208882, March 31, 1983, 83-1 CPD ¶ 335.

BASIX maintains that its ultimate exclusion was unfounded and unreasonable because its proposal either met the requirements of the RFP or could do so with minor modifications. First, BASIX contests the finding that its card reader did not meet the requirement that the reader heads be mounted remote from the reader electronics. As the Air Force points out, BASIX's card reader contains the heads and electronics in a single unit. Consequently the reader electronics would be located in an unsecure area and thus would be exposed to possible tampering by unauthorized personnel. BASIX maintains that separating the heads from the electronics is merely a minor packaging change that can be effectuated without substantial redesign of the component. Since the component can be readily modified to meet the requirement, asserts BASIX, the deficiency does not support its exclusion from the competitive range.

It is the Air Force's judgment, however, that to meet the requirement BASIX would have to either significantly redesign its current model or substitute a wholly new reader, either of which would be a substantial change in the proposal. Additionally, Air Force evaluators associated a high degree of risk with redesign or replacement of the component.

BASIX has not submitted any information, diagrams or specific argumentation to support its view concerning the magnitude of the modification. We conclude that the protester, by merely registering disagreement with the Air Force's opinion, has not met its burden of proving the opinion to be unreasonable. See Integrated Forest Management, B-200127, March 2, 1982, 82-1 CPD ¶ 182.

BASIX also contests the Air Force's assessment of BASIX's performance in the preaward demonstration. As noted, the stated purpose of the demonstration is to evaluate the extent to which the proposed systems meet the requirements of the RFP. The Air Force found that BASIX's system was incapable of performing several important requirements, including the generation and acknowledgment of alarms, the processing of escorted visitors and the generation of five types of reports. The Air Force determined that to bring the system into compliance with these requirements would entail significant modification of software, with which the Air Force associated a significant degree of risk. In comparison, the systems ultimately included within the competitive range had far fewer demonstration failures and the Air Force associated a low degree of risk with bringing those systems into full compliance.

First, BASIX contests the finding that it failed to demonstrate the ability to generate reports on transaction records, alarm history and personnel. BASIX asserts that the contracting officials did not request BASIX to perform these requirements at the demonstration. The Air Force responds, however, that it specifically requested BASIX representatives to perform each of the exercises in question and BASIX failed to do so. Where the only evidence on an issue of fact is the conflicting statements of the

protester and the contracting officials, the protester has not carried the burden of proving its case. Dictaphone Corporation, B-210692, June 27, 1983, 83-2 CPD ¶ 26.

Next, BASIX asserts that its system can be brought into full compliance with either minor modifications or with changes to its basic software. For example, BASIX states that it could meet the requirement for acknowledgment of alarm messages and for generation of an audio alarm simply by entering a set of instructions into the system since the alarm functions are table driven. BASIX also asserts that it could comply with the requirement to generate a report of program history by modifying its basic software.

The Air Force does not dispute BASIX's assertion that the system could be modified to comply with the performance requirements. The Air Force does believe, however, that the required modifications to BASIX's software are significant and do entail a moderate to high degree of risk. BASIX has neither specifically asserted that the Air Force unreasonably assessed the degree of modification necessary and the associated risks, nor has it addressed the nature, extent or difficulty of the required modifications to its software. We do not believe BASIX has presented a basis upon which to question the Air Force's evaluation of the preaward demonstration.

Next, BASIX disputes the Air Force's determination that two components, the personnel identification number key pad and the personal identity verification terminal are not off-the-shelf items. The RFP states that the proposed system must employ current state of the art commercial components and designates as an evaluation criterion the availability of off-the-shelf hardware and software. The Air Force reports that the supplier of the personal identity verification terminal informed officials at the demonstration that the personal identity verification terminal required further design, that the demonstrated model was composed of components of three previous prototype models, and that the demonstrated model had not yet been released to the manufacturing engineer for production engineering. This dialogue conflicted with BASIX's written clarification, supplied prior to the

demonstration, that the model to be demonstrated was selected from the initial production run of the terminal. Based on the conversation with the supplier, the Air Force determined that the proposed personal identity verification terminal was not an off-the-shelf item and concluded that the terminal represented a high degree of technical and delivery schedule risk.

BASIX alleges that the demonstrated model is in fact a stock item, not specially designed or custom-made, and that it was released from engineering to manufacturing 1 month before the demonstration. BASIX surmises that the Air Force officials must have confused the demonstrated model with some other model.

First, we observe that if the terminal were an off-the-shelf item, BASIX could demonstrate it by simply submitting copies of orders and invoices for the terminal, but has not done so.

Second, the Air Force has supported its version of the conversation with the supplier with an affidavit sworn to by three Air Force officials present at the demonstration, including the project engineer and the project manager. Against this evidence, BASIX has submitted a letter from the supplier of the terminal which materially conflicts with the Air Force's summary of the conversation. Again, where the only evidence on the record on this point is the conflicting statements of the government and the protester, we must conclude that the protester has not borne its burden to affirmatively prove its case. See Dictaphone Corporation, supra. Consequently, we accept the sworn statements of the Air Force officials as accurately representing the conversation. Taking as given the supplier's admission that the demonstrated terminal was not yet under production the evaluators acted reasonably in concluding that the terminal is not a commercial, off-the-shelf item and in assigning a high degree of production risk to this aspect of BASIX's proposal.

The evaluators concluded that the personnel identification number key pad was not an off-the-shelf item on the basis of their observation at the demonstration that the unit consisted of a "key pad mounted in a breadboard-type

metal box." BASIX contests this conclusion, asserting that it has supplied the component for at least 2 years as an off-the-shelf item.

We question whether the Air Force could have drawn a conclusion, with any degree of certainty, as to whether the component is off-the-shelf based solely on a visual inspection. We believe the Air Force should have at least sought clarification on the commercial availability of the component before reaching its conclusion.

Nonetheless, the failure to seek clarification does not adversely affect the propriety of the Air Force's decision to exclude BASIX since the other findings, which BASIX has not shown to be unreasonable, amply support the decision. As the Air Force points out, remedying the deficiencies would require, among other things, the substitution or redesign of the card reader, the substitution of a new PIV terminal, and the rewriting of the basic system software. We believe the Air Force reasonably viewed the needed changes as encompassing a substantial revision of BASIX's proposal. Consequently, we find that the Air Force acted reasonably in excluding BASIX from the competitive range.

The protest is denied.

for Shelton J. Dorolan
Comptroller General
of the United States