



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Engineering and Computation, Inc.

File: B-261946

Date: November 13, 1995

Suresh Verma for the protester.

Joyce Freiwald for F2 Associates Inc., and William M. Moeny for Tetra Corporation, interested parties.

Col. Mark L. Sucher, Lt. Col. Charles D. Ankney, and Capt. Donna M. Clark, Department of the Air Force, for the agency.

Christina Sklarew, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's determination to award contract based on initial proposals without conducting discussions is unobjectionable where the solicitation notified offerors of this possibility and source selection was consistent with solicitation's terms.

DECISION

Engineering and Computation, Inc. (ECI) protests the award of a contract by the Department of the Air Force to Tetra/F2 under request for proposals (RFP) No. F33615-95-R-5515, which was issued by Wright Patterson Air Force Base. ECI alleges improprieties in the evaluation and argues that because its proposed cost was lower than the awardee's, it was improper for the agency to award the contract without conducting discussions.

We deny the protest.

The RFP contemplated the award of a cost-plus-fixed-fee completion type contract to provide a field demonstration of a prototype aircraft component cleaning and coating removal system based on laser technology that can accommodate a wide variety of parts and soils/coatings. The contractor is to design, fabricate, test, evaluate and demonstrate an automated, controllable laser cleaning and coating removal system, and transfer this technology to the agency. The RFP advised offerors that proposals would be evaluated for technical excellence, price, and other general considerations, and that these criteria were listed in descending order of importance. The RFP also stated that award would be made to the offeror whose proposal was considered most advantageous to the government based upon an integrated assessment of these evaluation factors. The RFP advised offerors of the agency's intent to award the contract based on initial proposals, without conducting

discussions (although the agency reserved the right to conduct discussions "if later determined by the contracting officer to be necessary"). Federal Acquisition Regulation § 52.215-16, Alternate III.

Six offerors, including ECI and Tetra/F2, submitted proposals. When the technical proposals were evaluated, Tetra/F2's proposal was rated "exceptional," with a low risk rating, whereas ECI's proposal was rated "marginal minus," with a high risk rating. Based on the technical evaluation team's report, which found Tetra/F2's proposal technically superior and without significant weaknesses, and Tetra/F2's cost which although higher than ECI's, was considered fair and reasonable, the source selection authority (SSA) selected Tetra/F2 for award.

ECI challenges the evaluation of technical proposals and protests that it was improper for the Air Force to award the contract without holding discussions, given that ECI offered a cost advantage.

In considering protests against an agency's evaluation of proposals, we will not reevaluate the technical proposals; rather, we will examine the agency's evaluation only to ensure that it was reasonable and consistent with the solicitation's stated criteria. MAR Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367. Offerors have the burden of submitting an adequately written proposal, and an offeror's mere disagreement with the agency's judgment concerning the adequacy of the proposal is not sufficient to establish that the agency acted unreasonably. Lucas Aerospace Communications & Elecs., Inc., B-255186, Feb. 10, 1994, 94-1 CPD ¶ 106.

ECI argues that the evaluators improperly were influenced by a subjective preference for eximer laser technology over CO2 laser technology and therefore misevaluated ECI's approach, which relied primarily on the use of CO2 lasers. We find no support for this allegation in the record. The RFP advised offerors to demonstrate an understanding of at least three laser systems, listed as CO2, eximer, and ND:YAG. In its technical proposal, ECI discussed only two laser systems, omitting any mention of eximer lasers. Since the protester failed to demonstrate any understanding of this system, we think the agency's assessment of this portion of ECI's proposal as marginal was reasonable. The protester's arguments regarding the alleged superiority of one system over the others is simply irrelevant to the issue of whether the evaluation was consistent with the terms of the RFP.

ECI also generally alleges that the evaluation was improper, based on its conclusory assertion that its own proposal was "excellent." In response, the agency has submitted an analysis of its evaluation, pointing out the specific weaknesses that were found in ECI's proposal under each of the evaluation criteria. ECI has not refuted any of the agency's assertions or demonstrated any specific impropriety in the evaluation and, based on own review of the evaluation record, we think it was entirely consistent with the evaluation scheme that was established in the RFP. In

this circumstance, based on our review, we have no basis to question the evaluators' conclusion that the proposal overall failed to demonstrate the requisite level of understanding for this requirement, and warranted a rating of marginal minus.

ECI protests that the agency was required to conduct discussions, arguing that any deficiencies in its proposal were "only informational in nature," and that the cost difference between its proposal and the awardee's proposal warranted holding discussions.

A Department of Defense contracting agency may make an award on the basis of initial proposals and not conduct discussions or allow offerors to revise their proposals where the solicitation advises that proposals are intended to be evaluated, and award made, without discussions with the offerors, unless the agency determines otherwise. FAR § 15.610(a)(4). Here, as noted, section L of the RFP incorporated by reference FAR § 52.215-16, Alternate III, which specifically advised offerors that the agency intended to evaluate proposals and award a contract without discussions, and warned offerors to submit their best terms in their initial proposals. Moreover, the RFP cover letter drew offerors' attention to this clause and emphasized that initial proposals should contain the most favorable terms the firms were prepared to offer. As discussed above, the evaluation of ECI's proposal as technically marginal was reasonable. In addition, the evaluation team considered Tetra/F2's proposal technically superior to the other proposals received (an evaluation conclusion that ECI does not challenge), and there was no significant cost difference between the four proposals that were assigned higher technical ratings than ECI's proposal. Under these circumstances, the agency was not required to conduct discussions with ECI; it properly could make award on the basis of initial proposals. See Honolulu Marine, Inc., B-245329, Dec. 27, 1991, 91-2 CPD ¶ 586.

The protest is denied.

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