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DECISION



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

[Protest of Agency Exclusion of Proposal From Congre

FILE: B-200599

DATE: February 6, 1981

MATTER OF: Jack Faucett Associates

DIGEST:

Procuring agency had reasonable basis for excluding protester's proposal from competitive range when proposal did not adequately discuss economic issues, which RFP made clear was required, contrary to protester's assertion. Capability of offeror must be reflected in technical proposal and offeror should not rely on past performance or industry knowledge to show capability.

Jack Faucett Associates (JFA) has protested the exclusion of its proposal submitted under request for proposals (RFP) No. RP01-80EI10754 from the competitive range. The RFP was issued by the Department of Energy (DOE).

The RFP solicited proposals for the review of the DOE Financial Reporting System (FRS), which monitors and analyzes the financial structure and performance of the energy industry, and Federal Energy Regulatory Commission (FERC) oil and gas pipeline data systems to determine the potential for using the FERC pipeline data to supplement the FRS data base.

The RFP stated that a proposal should contain the following for each evaluation factor, which are listed in order of descending importance:

"(1) Research Plan

The offeror should propose a methodology for analyzing the FRS-FERC interface. What are the accounting and economic issues that you would investigate? Indicate a schedule of work.

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"(2) Staffing Plan

The offeror should specify by name a research staff with qualifications that cover, a) energy economics, b) regulatory accounting, c) data systems analysis, and d) administration and supervision.

"(3) Understanding of the Problem

The offeror should demonstrate an understanding of, a) the FRS and FERC data systems, b) the economic issues that a proposed analysis might clarify, c) regulatory accounting in the energy sector, and d) contract requirements.

"(4) Related Experience

The offeror should demonstrate staff experience in areas related to the proposed study."

(The summary statement in the RFP, which contained the statement of work, lists three basic tasks for the proposed work, which were:

- "1. A conceptual and detailed analysis of this complex interface that is directed to the following issues:
can the FERC system serve as a useful supplement to the FRS system?
- "2. A review of the primary economic issues in the pipeline industry with special emphasis on joint ventures and a demonstration analysis that focuses some issues concerning these ventures.
- "3. A proposal for a system of output reports based on FRS-FERC data."

Following this list, the statement of work listed six tasks, which were, in actuality, the deliverables under the contract.

The contracting officer's response to the protest notes that the JFA proposal centered on a computer program that would serve as the analytical foundation for the study. While the contracting officer agrees the computer program could be very useful, the RFP made clear that the focal point of the study was to be the economic issues. JFA's proposal only briefly mentioned the economic issues. A review of the technical evaluation sheets of JFA's proposal reveals that the proposal was downgraded because it was judged weak in the area of understanding the problem.

JFA argues that it was unfair for its proposal to be downgraded for selecting the second set of tasks on which to base its proposal since, in JFA's view, the first set of tasks, quoted above, is too general and ambiguous to be operational without elaboration. JFA contends that a reading of the entire RFP shows that the second set of tasks was to be the focus of the work under the contract.

We find the protest to be without merit.

The determination of whether a proposal is within the competitive range, particularly with respect to technical considerations, is primarily a matter of administrative discretion. Our function is not to evaluate anew proposals submitted and make our own determinations as to their acceptability or relative merits, but to examine the record and apply a standard of a clear showing of reasonableness to determinations of the contracting agency. The fact that the protester does not agree with the agency's evaluation of its proposal does not render the evaluation unreasonable. Decilog, ✓ B-198614, September 3, 1980, 80-2 CPD 169.

We have reviewed JFA's proposal in light of the above standards and conclude that DOE had a reasonable basis for excluding JFA from the competitive range. While JFA disagrees, we believe the RFP made clear that economic issues required adequate discussion in the proposal.

We note that JFA's proposal only consists of four pages (exclusive of charts) dealing with pipeline issues and the FRS-FERC data system. The remainder of the proposal, exclusive of staff resumes, description of corporate experience and various appendices of pipeline companies, consists of 10 pages describing JFA's research plan and how it proposed to furnish the deliverables. Five of these pages discuss the implementation of the computer program. While JFA, in its protest, contends that it is very knowledgeable in the oil and gas pipeline area and has performed many projects, it appears this knowledge was not conveyed to the DOE evaluators through JFA's proposal. As we have noted in the past, no matter how capable an offeror may be, it must reflect this capability in its proposal and ~~not rely on past performance or industry knowledge~~ Servrite International, Ltd., B-187197, October 8, 1976, 76-2 CPD 325.

Finally, JFA argues that contracting personnel contacted certain of JFA's former clients about JFA's prior performance after JFA's proposal had been excluded from the competitive range, which JFA contends shows that DOE could not properly justify rejection of its proposal and was attempting to rationalize the decision.

These contacts were made after the determination to exclude JFA's proposal and, according to the contracting officer, were made by personnel in the Technical Program Office in an attempt to prepare for JFA's debriefing. While the contracting officer recognizes that these inquiries were not necessary for a debriefing and has so instructed the persons involved, the contracting officer states that JFA's proposal was evaluated in accordance with the stated evaluation criteria and these contacts did not affect the evaluation.

As noted above, we find nothing unreasonable in the evaluation of JFA's proposal and these subsequent reference checks, while not necessary for the debriefing, do not render the evaluation improper.

Based on the above, our Office cannot object to
JFA's exclusion from the competitive range and (the
protest is denied.)

Milton F. Jordan

For the Comptroller General
of the United States