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DECISION

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

[Protest of Agency Rejection of Technical Proposal]

FILE: B-200334

DATE: February 19, 1981

MATTER OF: C.A. Parshall, Inc.

DIGEST:

1. Contracting agency's receipt of proposals without taking corrective action requested in protest filed with agency alleging apparent solicitation improprieties constitutes adverse action on protest. Subsequent protest to GAO filed more than 10 working days after proposal receipt therefore is untimely. Moreover, protest that two-step formal advertising is inappropriate in particular procurement does not raise significant issue to invoke exception to GAO timeliness rules.
2. Agency reasonably may determine offer unacceptable where offeror, relying upon Government's experience with it as supplier of similar requirement, fails to provide specific information required by solicitation for technical evaluation.

C.A. Parshall, Inc. protests the rejection of its technical proposal in the first step of a two-step formally advertised procurement of training lessons for various military occupational specialties (MOS). The solicitation (RFTP N61339-80-R-0120) was issued by the Navy's Training Equipment Center, Orlando, Florida on July 18, 1980.

Parshall, which already has a fixed-price indefinite quantity contract to supply the same Navy activity with MOS training lessons, protests on the following grounds: (1) the issuance of the RFTP while Parshall holds its contract creates an auction situation in which bidders in the second step of the procurement will have the opportunity to review the prices in Parshall's contract and

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bid lower, and as a result receive work which otherwise might have been ordered under Parshall's contract (although the minimum quantity stipulated in Parshall's contract has been ordered); (2) two-step formal advertising is not appropriate for this procurement; (3) the RFTP contains certain defects which prompted Parshall to request clarification which was not received until the day before technical proposals were due and was inadequate; (4) the RFTP's evaluation criteria were vague and unclear; and (5) the Navy's evaluation of Parshall's proposal as unacceptable was arbitrary and capricious.

Parshall previously protested all but the fifth ground to the agency by a mailgram dated August 15, 1980, and received by the Navy on August 18, the closing date for the submission of initial technical proposals. The Navy formally denied the protest by letter dated August 25, and received by the protester the next day. Shortly thereafter, on August 29, the protester received notice that its proposal was rejected.

Parshall's protest to our Office, received on September 10, is untimely as concerns the grounds previously protested to the agency, and therefore is dismissed. The protest on the remaining issue is denied.

Our Bid Protest Procedures require that a protest concerning alleged improprieties apparent on the face of a solicitation be filed with either the contracting agency or the General Accounting Office prior to the date set for the receipt of initial proposals. 4 C.F.R. §§ 20.2(a) and (b)(1)(1980). It appears that Parshall's protest to the Navy was timely under that requirement. However, where a protest has been timely filed initially with the contracting agency, any subsequent protest to this Office must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 20.2(a). We have held that an agency's proceeding with the scheduled receipt of proposals without having amended an RFP in response to a protest of this type constitutes initial agency action adverse to the protest. McCaleb Associates, Inc., B-197209, September 2, 1980, 80-2 CPD 163. Accordingly, Parshall's protest to our Office, filed more than 10 working days after the Navy received proposals under the RFTP as issued despite the alleged improprieties which Parshall protested, is untimely.

We recognize that consistent with our Bid Protest Procedures' encouragement to firms to seek resolution of their complaints initially with the contracting agency, Parshall discussed certain of the protested matters with the Navy prior to formally protesting, and the firm initially timely protested to the Navy rather than our Office. 4 C.F.R. § 20.2(a). We also recognize that because proposals were due shortly after the protest was filed with the Navy, the Navy in fact may not have had an opportunity to afford much consideration to the protest before receiving proposals. Nonetheless, a firm is not entitled to delay filing a protest in our Office until after its receipt of the agency's formal denial of the protest if the delay will result in an untimely protest to this Office.

Our Procedures encourage firms to bring their problems to the contracting agency first so that action to correct any procurement irregularities, if necessary, can be taken when most practicable and thus least burdensome on the conduct of the procurement. Bird-Johnson Company--Request for Reconsideration, B-199445.3, October 14, 1980, 80-2 CPD 275. Here, although Parshall's timely filing with the Navy entitled the firm to consideration of the matter by that agency and our Office (if subsequently timely protested), by choosing to file its protest with the contracting activity so close to the receipt of initial proposals the firm essentially precluded the possibility of corrective action by the agency before proposal receipt. Since the purpose of the time limitations prescribed in our Bid Protest Procedures is to provide for the expeditious consideration of bid protests without unduly burdening Government procurements, Linguistic Systems, Incorporated, 58 Comp. Gen. 403 (1979), 79-1 CPD 250, it would be inconsistent to in effect waive the time limits by affording the firm more than 10 working days after proposal receipt (the initial adverse agency action) to protest to our Office as would be the requirement in any other protest of this type. See Electro-Magnetic Refinishers, Inc., B-191240, March 3, 1978, 78-1 CPD 168.

Parshall nonetheless asserts that we should consider the propriety of using two-step formal advertising in this case because the issue is significant to procurement law generally. We disagree. While we may consider untimely protests where

we determine that they raise issues significant to procurement practices or procedures, 4 C.F.R. § 20.2(c), that exception is limited to issues of widespread interest to the procurement community and is exercised sparingly so that our timeliness standards do not become meaningless. McCaleb Associates, Inc., supra. We do not believe that Parshall's protest on this issue, which merely raises the question of whether two-step formal advertising is appropriate under the particular circumstances of this procurement, is significant in that respect.

We will consider Parshall's allegation that the Navy's evaluation of its proposal was arbitrary and capricious since Parshall timely filed its protest on that issue within 10 working days after receiving notice that its proposal was rejected as unacceptable. See 4 C.F.R. § 20.2(b)(2). However, our function is not to make an independent evaluation of the protester's proposal, because the procuring agency has the function of making technical judgments and evaluations; our review is limited to examining whether the agency's evaluation was fair and reasonable and consistent with the stated evaluation criteria. We will question the agency's evaluation only upon a showing of unreasonableness, abuse of discretion, or violation of procurement statutes or regulations. METIS Corporation, 54 Comp. Gen. 612, 615 (1975), 75-1 CPD 44; A. T. Kearney, Inc., B-196499, April 23, 1980, 80-1 CPD 289.

We have reviewed the RFTP, Parshall's proposal, and the Navy's evaluation, and we conclude that the evaluation was conducted fairly and reasonably and in accordance with the stated evaluation criteria.)

The RFTP identified four major areas of evaluation -- Program Management Plan, Methodology Plan, Background and Experience, and Personnel -- and advised that the first two had equal weight and together had a value twice that of the last two, listed in order of importance. A Navy letter to Parshall, dated August 25, detailed the proposal's deficiencies and identified the specific related evaluation criteria in the RFTP. The Navy's letter stated that Parshall's proposal was unacceptable in all areas but Background and Experience.)

For instance, with respect to the Program Management Plan, the RFTP required specific information and an in-depth discussion concerning the system of administering the project and the handling of potential interactions with subcontractors. The letter noted that Parshall's proposal gave virtually no details of current management, and merely identified the subcontractors, stated that they would be monitored, and listed a series of subcontractor quality control forms. The letter advised that the proposal was deficient because it did not identify management tasks and explain in the required detail how they would be accomplished, nor did it detail how subcontractors would be monitored.

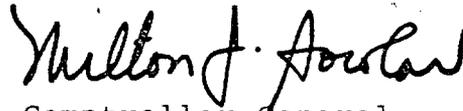
Similarly, in the Personnel area, while the RFTP required detailed resumes of all personnel proposed for the project, Parshall submitted only brief resumes for the firm's president and four vice presidents, and failed to submit any resumes for the personnel to perform the project.

Parshall does not really dispute the Navy's position that the firm's proposal was deficient in the specifics requested in the solicitation. Rather, Parshall's position is that it basically relied upon the contracting activity's experience with it as a supplier of similar training lessons to suffice as a demonstration of the firm's qualifications and technical acceptability. The basis for the protest to our Office on this issue essentially is that the Navy's experience in that regard should have been sufficient to find the proposal acceptable (or at least susceptible to being made acceptable through discussions).

However, technical evaluations must be based on the information submitted with a proposal. Comten-Comress, B-183379, June 30, 1975, 75-1 CPD 400. No matter how capable an offeror may be, if it does not submit an adequately written proposal addressing the solicitation's requirements in sufficient detail for the necessary technical evaluation, it need not be considered in line for further discussions and may be deemed unacceptable. See Informatics, Inc., B-194926, July 2, 1980, 80-2 CPD 8. For example, an offeror's failure to translate whatever capabilities it may have accrued from its incumbency into an initial proposal properly may result in rejection of the proposal. Macro Systems, Inc.; Richard Katon & Associates, Inc., B-195990, August 19, 1980, 80-2 CPD 133 at page 9.

Since the protester has presented no evidence that the Navy unreasonably evaluated the proposal as detailed in its letter, and the Navy's technical judgment appears reasonable from the record, we have no basis to object to the evaluation.

The protest is dismissed in part and denied in part.)



For the Comptroller General
of the United States