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**DECISION**



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

FILE: B-204245

DATE: December 21, 1981

MATTER OF: Basin Research Associates

**DIGEST:**

1. Allegation that solicitation should have been set aside for small business is untimely, since the protest of this alleged impropriety in solicitation was not filed until after closing date set for receipt of proposals.
2. Allegation that proposals were not evaluated on the same basis is without merit, since record indicates that both protester's and awardee's proposals were reviewed with respect to all evaluation criteria.
3. GAO will not disturb the judgment of the contracting officer that a proposal is technically unacceptable unless the determination is clearly shown to be without a reasonable basis. Where agency determined protester's proposal unacceptable because it lacked specific methods of research and survey and failed to demonstrate experience in the area to be surveyed under the contract, technical evaluation was not unreasonable.
4. There is no requirement that a contracting agency equalize a competitive advantage unless it is the result of preference or unfair action by the Federal Government.
5. Protester has not met burden of proof concerning allegations that the evaluation of proposals was biased in favor of the awardee, that the awardee

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received information prior to the closing date not available to other offerors, and that former students of awardee-university served on evaluation team. Here, allegations of bias are denied by the contracting officer and record contains no evidence to support protester's allegations nor has protester submitted evidence to support allegations.

Basin Research Associates, Inc. (Basin), protests the award of a contract to Sonoma State University Academic Foundation (Sonoma) under request for proposals (RFP) R5-NCZ-81-17 issued by the United States Forest Service (Forest Service) for a cultural resource survey of Tahoe and Eldorado National Forest.

The protest is untimely in part and without merit in part.

Basin's allegation that the RFP should have been set aside for small business is untimely. The allegation concerns an alleged impropriety in the solicitation apparent prior to the closing date set for receipt of initial proposals and should have been, but was not, filed prior to the closing date in order to be considered. 4 C.F.R. § 21.1(b)(1) (1981); Maryland Machine Tool Sales, B-200736, June 30, 1981, 81-1 CPD 541.

Basin asserts that its proposal was not evaluated on the same basis as Sonoma. Basin compares certain portions of Sonoma's and Basin's proposals. Basin argues that Sonoma's proposal did not address at least four evaluation criteria upon which presumably Basin was evaluated. These criteria are understanding the Government's needs; special problems during research; resources and facilities available to the offeror; and ability to accomplish logistic requirements such as material equipment. Basin concludes that Sonoma was given points for criteria which it did not address, thus receiving an unjustifiably high technical score.

There is no basis in the record for a finding that the proposals were not evaluated on the same basis. Contrary to Basin's allegation, Sonoma's proposal does address the four areas Basin argues were not covered. As an example, special problems in research were addressed in Sonoma's proposal. In fact, the proposal includes a

discussion of ground visibility difficulties which are anticipated in the conduct of the research. Similarly, Sonoma's proposal contains a statement of facilities and equipment available to Sonoma in performing the work. Thus, the record indicates that Sonoma's proposal covered the evaluation criteria set forth in the solicitation. Therefore, Basin's contention that the Forest Service did not adhere to the stated criteria in evaluating Sonoma's proposal is without merit.

Basin also has not shown that its proposal was improperly evaluated. The contracting officer points out that the firms, including Basin, which were not technically acceptable generally did not submit proposals indicating specific methods of research and survey and failed to demonstrate experience in the area being surveyed as thoroughly as those which were acceptable. The record indicates Basin received no points or low scores with respect to the various evaluation criteria concerning experience in the project area.

With respect to the technical evaluation of proposals, we will not disturb the judgment of the contracting agency unless it is clearly shown to be without a reasonable basis. Dragon Services, Inc., B-200259, April 22, 1981, 81-1 CPD 307; Del Rio Flying Service, Inc., B-197448, August 6, 1980, 80-2 CPD 92. Moreover, the fact that the protester does not agree with the agency's evaluation of its proposal does not render the evaluation unreasonable. Del Rio Flying Service, supra. Since the record contains no evidence that the technical evaluation of Basin's proposal was unreasonable, we conclude that there is no merit to Basin's allegation in this regard.

Basin asserts that Sonoma has an unfair competitive advantage because it is a regional State-funded archeology archives clearinghouse with facilities not generally available to other offerors or available only upon payment of archive fees. The Forest Service reports that Sonoma is an information clearinghouse, but not for the counties covered under this RFP, and, furthermore, that the offeror, Sonoma Academic Foundation, is not the same entity as the university which controls the archives. In any event, there is no requirement that the contracting agency equalize a competitive advantage unless it is the result of preference or unfair action by the Federal Government. Amdahl Corporation, B-198911.2, March 27, 1981, 81-1 CPD 231. The advantage of which Basin complains is not one

which can or should be remedied by the contracting agency, since it was not the result of Federal Government action.

Basin argues that Forest Service actions indicate an ongoing pattern of favoritism toward Sonoma. Basin alleges that the Forest Service provided information to Sonoma prior to the closing date which was not made available to other offerors, thus affording Sonoma an advantage in the competition. Basin also contends that former Sonoma University students served on the Forest Service board of contract awards or the proposal evaluation team, thus causing a conflict of interest and a biased review and award. The contracting officer denies these allegations, stating that Sonoma received no information beyond that available in the RFP and that no former Sonoma students served on the board or evaluation team. There is no evidence in the record to support Basin's allegations and Basin has not submitted any evidence to support its allegations of bias. In the circumstances, Basin has not met its burden of proof concerning these assertions. See Alan-Craig, Inc., B-202432, September 29, 1981, 81-2 CPD 263; Health Management Systems, B-200775, April 13, 1981, 81-1 CPD 255; Monchik-Weber Associates, Inc., B-196433, August 8, 1980, 80-2 CPD 102.

Furthermore, concerning the allegations of bias towards Sonoma, this Office has stated that a protester's suspicion is not enough to invalidate an award. Unfair or prejudicial motives cannot be attributed to individuals on the basis of inference or supposition. Where the allegations, therefore, amount only to speculation about possible bias or unfairness on the part of the evaluation without any factual substantiation, the protest on this issue must be denied. See PSI Associates, Inc., B-200839, May 19, 1981, 81-1 CPD 382.

Accordingly, the protest is dismissed in part and denied in part.

*Harry D. Jan Cleve*  
For Comptroller General  
of the United States