

27547

**DECISION**



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

**FILE:** B-212516

**DATE:** February 7, 1984

**MATTER OF:** Frequency Engineering Laboratories

**DIGEST:**

1. Agency reasonably determined the protester's proposal to supply radio transmitters and receivers technically unacceptable and excluded the proposal from the competitive range where the proposal failed to include information, required by the solicitation, detailing the design and engineering effort necessary to meet performance specifications in the solicitation, and this failure could be cured only by major proposal revisions.
2. A technical evaluation must be based on information submitted with the proposal. No matter how capable an offeror may be, if it does not submit an adequately written proposal, it will not be considered in the competitive range or in line for discussions in a negotiated procurement.

Frequency Engineering Laboratories (FEL) protests the Navy's exclusion of its proposal from the competitive range, without discussions, under request for proposals No. N00039-83-R-0292(Q). The solicitation sought offers for a firm fixed-price contract to supply basic and optional quantities of high frequency radios and accessories, and included options for spare parts and services aimed toward achieving equipment reliability and interchangeability. The Navy excluded FEL from the competitive range principally because FEL's technical proposal failed to demonstrate that FEL had sufficient technical understanding to ensure its compliance with the specifications and interchangeability requirements that applied to certain major assemblies and subassemblies (such as printed circuit boards) of the solicited items. FEL challenges the reasonableness of the evaluation.

We deny the protest.

027780

The solicitation:

The solicitation sought offers principally on AN/URT-23() Radio Transmitters, R-1051()/URR Radio Receivers, and T-827()/URT Transmitters (themselves components of the AN/URT-23(s)). The solicitation imposed increased performance characteristics over those of the receivers and transmitters acquired under previous specifications. Because the Navy lacked any detailed data showing how the new specifications could be met, a solicitation amendment advised potential offerors that "it will be necessary for any successful offeror to undertake substantial engineering effort to produce equipment which satisfies the solicitation requirements," and required offerors to identify in their proposals the extent of such effort. To aid offerors in this task, the amendment notified potential offerors they could view the most current equipment--the AN/URT-23(C) and R-1051(G)/URR--and available engineering drawings for the AN/URT-23B and R-1051F/URR. Technical manuals for the current equipment, and the cited drawings, also were made available for purchase.

While the solicitation's stated evaluation criteria did not expressly explain how the Navy would evaluate the substantial engineering effort that the amendment required offerors to identify in their proposals, the solicitation listed technical merit as a significant evaluation criterion that included the following factors:

- (a) Specification Compliance;
- (b) Interchangeability;
- (c) Statement of Work; and
- (d) Technical Data and Documentation.

Of the four, the solicitation stated that Specification Compliance was the most important. This factor entailed a technical review of the offeror's compliance with solicitation instructions requiring proposals 1) to identify and detail steps that would be taken to ensure that proposed equipment would fully comply with the specifications, and 2) to respond to each paragraph of the specifications using a numbering sequence corresponding to the solicitation's.

Altogether, the solicitation listed in descending order of importance three major evaluation criteria, of which technical merit was second in importance. Price was the most important criterion, while Management, Personnel, Facilities, and Record of Past Performance was the third.

The solicitation advised that price and technical merit were significantly more important than the third criterion.

FEL's offer:

FEL's initial proposal did not address each paragraph of the specifications, and did not provide details of the engineering analysis of how it intended to meet the specification's performance characteristics and requirements for interchangeability. FEL's technical proposal stated that FEL reviewed the new specifications, compared them to previous specifications and scrutinized technical manuals for the previously-procured items. The proposal then stated:

"This effort allowed an evaluation of the expected performance of the [old equipment] to the current specifications with a high confidence level. Also, it revealed those areas where changes are definitely required. In addition, it supplemented the Technical Data Package procured under this solicitation thereby setting the bid configuration or preliminary baseline."

The technical proposal, however, included almost no elaboration on this statement with details of FEL's purported analysis. Rather, FEL explained a methodology by which it would test all the modules in the old equipment (to be furnished by the government after award) to determine which would meet the new specifications, which would require minor changes and which would require major revisions.

The Navy, in evaluating FEL's proposal, concluded that the ability to test the old modules and to identify areas requiring redesign did not demonstrate the technical understanding and ability to design and produce new modules meeting the solicitation's requirements. A technical evaluation panel, without knowledge of the proposed prices, reviewed the proposals to determine the proposals' technical merit and their merit under the third evaluation criterion. The panel found FEL's proposal technically unacceptable.

FEL's failure to analyze the design changes necessary to meet the new specifications apparently accounted for approximately one-half the difference between FEL's technical merit score (9.4 out of a possible 40) and the scores of the two firms whose offers were selected for inclusion in the competitive range for technical discussions and further consideration for award.<sup>1</sup> FEL's technical score includes 3.3 of a possible 25 points for the important Specification Compliance factor--the two other firms received substantially higher scores--and 1.6 of the maximum 6 points under the Interchangeability factor, compared to, again, much better scores for the other two firms.

The technical evaluation panel's report was reviewed by a contract award review panel, which also considered price. FEL's offer received the third-highest total score for all factors including price, but that total still was approximately 23 percent less than the two acceptable offerors' total scores (which were very close). The contract award review panel therefore recommended that the competitive range include only the two firms with the highest scores, and that recommendation was approved by the source selection authority.

Analysis:

We do not independently determine the relative merits of proposals, since the evaluation of proposals is the function of the procuring agency. We therefore will not question an agency's technical evaluation and/or its determination whether an initial proposal is in the competitive range unless the protester shows the agency's judgment lacked a reasonable basis or the agency otherwise violated procurement statutes or regulations--including the requirement that the evaluation comport with the evaluation scheme established in the solicitation. SETAC, Inc., B-209485, July 25, 1983, 83-2 CPD 121.

A proposal properly may be excluded from the competitive range for deficiencies which are so material that major additions and revisions would be required to make the offer acceptable; there is no requirement that an agency permit an offeror to revise an initial proposal when such a revision would be tantamount to the submission of a new

-----  
<sup>1</sup>We have reviewed the evaluation record in camera, as requested by the Navy.

proposal. MacGregor Athletic Products, B-211452, September 23, 1983, 83-2 CPD 366. Where a solicitation includes specific instructions to address the solicitation's mandatory and desirable requirements, offerors are put on notice that they risk rejection if they fail to do so. Informatics, Inc., B-194926, July 2, 1980, 80-2 CPD 8.

Applying these principles, we believe the Navy's decision to exclude FEL from the competitive range was proper. FEL failed to provide the paragraph-by-paragraph responses to the specifications, and an explanation of the anticipated engineering effort necessary to design and produce equipment meeting the specifications, that the solicitation expressly required to be submitted with technical proposals. We believe these failures gave the Navy a reasonable basis to downgrade FEL's technical proposal under the Specification Compliance and Interchangeability factors, which resulted in the great discrepancy between FEL's technical and total scores and those of the two firms selected for discussions. Further, since FEL's proposal basically failed to address important technical considerations for award, the Navy also had a reasonable basis to determine that FEL's proposal could not be made acceptable except through major revisions tantamount to a new proposal. In that case, FEL properly was excluded from the competitive range, especially in light of the fact that the Navy received two technically acceptable proposals which were competitively priced with each other and with FEL's offer.

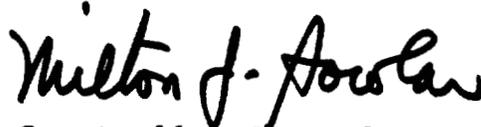
The protester argues that its methodology nevertheless will produce the equipment required by the solicitation, and that FEL is highly capable of performing the contract. A technical evaluation, however, must be based on information submitted with the proposal. No matter how capable an offeror may be, if it does not submit an adequately written proposal, it will not be considered in the competitive range or in line for discussions in a negotiated procurement. Informatics, Inc., supra.

The protester also contends that, notwithstanding the Navy's instructions in its amendment that offerors explain their engineering effort, the solicitation failed to spell out that a technical problem-analysis was required of offerors and would be heavily weighted in the technical evaluation. We disagree.

While such an analysis may not expressly have been mandated, a solicitation, including any amendments, must

be read as a whole, CSG Corporation, B-208338, July 25, 1983, 83-2 CPD 119, and we believe the informational requirement here was clear. As previously stated, the amendment explicitly warned potential offerors that it would be necessary for any successful offeror to undertake substantial engineering effort to produce equipment satisfying the solicitation's requirements; required offerors to identify in their proposals the extent of such effort; and, in instructions referenced in the Specification Compliance factor, required identification and detail of the steps proposed that would ensure offered equipment would comply with the specifications. While a "technical problem-analysis" similarly may not have been noted as such in the solicitation's evaluation criteria, evaluation of FEL's offer in that respect reasonably related to, at the least, the Specification Compliance and Interchangeability factors that were listed. Although agencies are required to identify the significant evaluation factors, they are not required to identify explicitly the various aspects of each factor that will be taken into account, provided that such aspects are reasonably related to the stated factors. CMD, Inc.; DMC, Inc., B-209742, May 25, 1983, 83-1 CPD 565.

Thus, we believe the Navy's evaluation of FEL's offer and decision to exclude the firm from further consideration were reasonable. The protest is denied.

*for*   
Comptroller General  
of the United States