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DECISION



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

FILE: B-213574

DATE: April 19, 1984

MATTER OF: Integrity Management International, Inc.

DIGEST:

1. Protest that agency's refusal to permit weekend site visit to observe mess attendant services precludes intelligent bidding for weekend services is without merit where solicitation contains information sufficient to prepare bids for weekend services.
2. Government is not required to equalize competitive advantage of past contractor where such advantage does not result from preference or unfair action by government.

Integrity Management International, Inc. (Integrity), protests invitation for bids (IFB) No. N00600-83-B-4694, issued by the Naval Sea Systems Command (Navy), for mess attendant services for the United States Naval Academy, Annapolis, Maryland. Integrity argues that the Navy's restriction of an onsite visit to a weekday hinders a bidder's ability to prepare manning lists for weekends and bid competitively for weekend services and results in an unfair competitive advantage for the incumbent contractor. The Navy has advised this Office that award was made on December 15, 1983.

We deny Integrity's protest.

For purposes of determining responsibility, bidders were required to submit manning lists showing daily estimates of mess attendant personnel present to perform various services.

The Navy maintains that the solicitation package which permitted a weekday onsite visit contained adequate information to prepare daily manning lists and submit realistic prices for weekend services. We agree.

The solicitation contains daily estimates of work volume, i.e., estimates which show the number of individuals

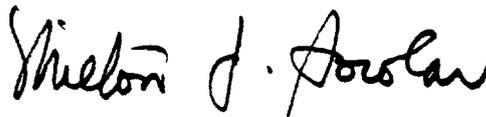
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to be served on a daily basis for each month of the contract. These figures, which are not challenged by the protester, show the variances in work volume for weekdays, weekends, holidays and special events and for each meal. The solicitation also provides monthly estimates of the number of tables to be served, a detailed description of services to be performed by mess attendant personnel and floor plans of the work areas. Based upon this, we do not see how the Navy's refusal to provide a weekend site visit affected the protester's ability to prepare manning lists and intelligently bid for weekend services. See Dynalectron Corp., B-198679, August 11, 1981, 81-2 CPD 115. Moreover, in this regard, we note that only three of the nine bidders attended the weekday site visit provided and the protester did not attend.

Concerning Integrity's allegation that the Navy's failure to permit a weekend site visit gives the incumbent an unfair competitive advantage, we point out that any advantage which the incumbent contractor may possess by virtue of its past experience, absent preferential treatment by the government, is not unfair and the government is not required to equalize competition to compensate for the incumbent's advantage. Southeastern Services, Inc., and MC&E Service Support Co., Inc., B-183108, June 16, 1975, 75-1 CPD 366. Here, as discussed above, the solicitation contained information sufficient for all bidders to prepare daily manning lists and bid intelligently and, therefore, we cannot conclude that the Navy's refusal to allow a weekend site visit resulted in an unfair competitive advantage for the incumbent. Southeastern Services, Inc., and MC&E Service Support Co., Inc., supra.

The protest is denied.

for 
Comptroller General
of the United States

Six offerors did so. Among the six offerors, Mathetics ranked first both technically and overall; A-E Systems ranked fourth both technically and overall. (Two offerors tied for third.) Thereafter, A-E Systems was notified of the impending award to Mathetics; it then protested the award to the contracting officer, who denied the protest. A-E Systems subsequently filed this protest with our Office.

Technical Evaluation

A-E Systems complains that the evaluations of its technical proposal and that of Mathetics were biased. The firm questions a number of areas where it believes evaluator W.E. Mosblech improperly downgraded its proposal, charging that he "appears to have a love affair with Mathetics due to his knowledge of [its] personnel." A-E Systems requests that we conduct a "proper" evaluation of both its and Mathetics' proposal.¹

It is not our function to reevaluate proposals where a protester challenges a contracting agency's technical evaluation. Ocean Data Equipment Division of Data Instruments, Inc., B-209776, September 29, 1983, 83-2 CPD 387. Rather, our role in such instances is to determine if there is a reasonable basis for the evaluation. Aqua-Tech, Inc., B-210593, July 14, 1983, 83-2 CPD 91. A protester alleging that the evaluation process was biased has the burden of proving that offerors in the competition were not treated fairly and equally. Gould Defense Systems, Inc. et al., B-199392.3, B-199392.4, August 8, 1983, 83-2 CPD 174.

We have examined the record in this case and find no evidence to support A-E Systems' allegations of bias. A-E Systems asserts, for instance, that the solicitation did not require proposals to follow a particular paragraph numbering format and that Mr. Mosblech's deduction

¹Technical proposals in this case were first evaluated by a team of four project engineers and the acquisition director. Thereafter, the lead engineer, Mr. Mosblech, and the acquisition director reviewed the evaluations and agreed upon a technical score for each proposal. The record contains the individual score sheets of Mr. Mosblech and the acquisition director, a composite score sheet of the other engineers' evaluations, and the final score sheet.

of 1 point (of 20) from the firm's score for its failure to do so was unfair. A-E Systems' assertion is incorrect. Section 2.1 of the technical program requirements (TPR) portion of the solicitation specifically required a proposal's paragraph numbering system to correspond to that of the TPR.

A-E Systems also questions Mr. Mosblech's deduction of 8 points (of 40) for the firm's failure to discuss budget slippage.² Section 2.1.2(c) of the TPR stated that:

"The proposed system of administrative controls shall be described in detail in terms of program planning, schedule and budget maintenance and reporting, and planning/management for team efforts. Complete discussion of these areas with plans for corrective action in the event of schedule or budget slippage will receive the highest score. No discussion will result in no score."

A-E Systems' proposal, however, merely promised that the firm would "use sound, cost-effective administrative controls to ensure optimum program planning, schedule, budget maintenance, and reporting . . . includ[ing] plans for corrective action in the event of schedule and budget slippage." Mr. Mosblech concluded that A-E Systems' proposal in this regard was not detailed and only paraphrased the provisions of the TPR. In light of the TPR's clear warning that the discussion should be complete, we find nothing improper in Mr. Mosblech's conclusion.³

A-E Systems views as biased the fact that Mr. Mosblech criticized its proposal because the firm named its corporate president as the individual who would perform the full-time duties of the management analyst, or chief project administrator, of the contract. The firm concludes that its proposal was subjected to unequal treatment since no points were deducted from Mathematics'

²While A-E Systems now asks what "budget slippage" is, we note that the firm had ample opportunity to clarify the term before submitting the proposal. (NTEC defines "budget slippage" as excess expenditures in relation to the percentage of job completion.)

³The record shows that another evaluator also deducted 8 points from A-E Systems' proposal due to its failure to discuss schedule and budget slippage.

proposal even though one evaluator stated that he "would like confirmation of availability of some key subcontractor personnel who are principals in own company."

We do not see anything incongruous in the treatment of A-E Systems' proposal in this regard, nor do we find any evidence of bias. The record shows that Mathetics did not propose to appoint its president as the management analyst but instead selected the vice-president of one of its branch offices to serve in that position. In addition, the subcontractor personnel that the firm proposed to use who were company principals were not slotted to positions that the solicitation required to be full-time. We also note that A-E Systems' choice for the management analyst position was questioned not only by Mr. Mosblech but by another evaluator as well. In view of the important responsibilities that the solicitation placed on the individual in that position, we do not believe that it was unreasonable for points to be deducted from A-E Systems' proposal when they were not deducted from Mathetics'.

A-E Systems implies that Mathetics' proposal should have been substantially downgraded because the firm proposed to use 13 subcontractors. The record shows that, while some evaluators deducted points from the firm's proposal due to its extensive subcontracting, other evaluators believed that Mathetics' management plan was superior. Our scrutiny of Mathetics' proposal revealed that the firm set forth its management plan in a 20-page lengthy discussion, with illustrations, that described the structural relationship of the companies involved, the responsibilities of various key individuals, and the mechanics of responding to each NTEC delivery order. In light of that detail, we are unable to find that the determinations of the evaluators who did not deduct points from Mathetics' proposal were unreasonable.

A-E Systems argues that Mr. Mosblech was generally biased in favor of Mathetics' proposal because of his alleged familiarity with the firm's personnel. The record, however, does not support this allegation. It is true that among the personnel Mathetics proposed to use were former NTEC contractors and employees. That fact alone, however, does not support a presumption that Mr. Mosblech was biased in favor of those personnel. While Mathetics may have gained a competitive advantage in this regard due to the extensive NTEC experience of those individuals, evaluators were not required to ignore that experience in rating the firm's technical proposal. See Linqtec, Incorporated, B-208777, August 30, 1983, 83-2 CPD 279. Further, we note that, while Mr. Mosblech gave Mathetics' proposal a perfect technical score of 400 points, he was not the only evaluator to do so.

A-E Systems has not offered any further support for its argument, and we find no evidence in this case of bias. Instead, we believe that the record supports a finding that the evaluations of A-E Systems' and Mathetics' proposals were reasonable.

Cost Evaluation

A-E Systems argues that Mathetics' cost are unrealistic. In this regard, the firm asserts that contract performance requires the contractor to be present frequently at NTEC headquarters in Florida. Thus, A-E Systems concludes, Mathetics, a California firm, either improperly included relocation costs in its proposal, or will incur substantially more travel costs during performance than it projected.

A-E Systems' argument is erroneous. The solicitation clearly provided throughout its statement-of-work provisions that the contractor would perform the contract either at training equipment sites or at the facilities of the prime NTEC contractors developing the training devices, which, the Navy states, are located throughout the country. Thus, there is no evidence to support A-E Systems' assertion that the solicitation intended contractor personnel to be located in Florida. (We note, in any event, that Mathetics maintains a Florida office.)

Moreover, the record shows that the contracting officer examined Mathetics' costs in accordance with the solicitation and found them to be realistic. Our review of cost realism assessments is limited to a determination of whether an agency's evaluation was reasonable, that is, not arbitrary, capricious or in violation of procurement regulations. See Varian Associates, Inc., B-209658, June 15, 1983, 83-1 CPD 658. Since A-E Systems has presented no evidence here that the contracting officer's determination was unreasonable, we have no basis on which to question that determination.

Selection Decision

A-E Systems contends that, even if Mathetics' proposal was technically superior, the excess contract costs associated with the proposal cannot be justified. In this respect, in a negotiated procurement technical factors may be given greater weight for purposes of award than cost factors. See Riggins & Williamson Machine Company, Inc.; ENSEC Service Corporation, 54 Comp. Gen. 783 (1975), 75-1 CPD 168. The cost/technical

trade-off, however, must be appropriate in light of the solicitation's evaluation scheme. See Albert J. Haener; E. H. Ladum, B-206642, B-206642.2, October 29, 1982, 82-2 CPD 381.

Here, the solicitation provided that technical factors were twice as important as cost factors. As we have already noted, there is nothing in the record to suggest that the technical evaluations of A-E Systems' and Mathetics' proposals were unreasonable. Since Mathetics' technical proposal was rated substantially higher than A-E Systems', and in view of the solicitation's selection formula, we see nothing wrong with awarding a contract to Mathetics even though its proposed cost was more than that of A-E Systems. If A-E Systems is suggesting that award should have been based on the lowest cost, not only should the firm have made that suggestion before proposals were due, 4 C.F.R. § 21.2(b)(1) (1983), but we note that A-E Systems' proposal was not the lowest-cost, technically acceptable offer in any event. We find NTEC's award to Mathetics at a higher cost therefore to be legally unobjectionable.

The protest is denied.



Acting Comptroller General
of the United States