

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

C. Cunningham  
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**FILE:** B-218480 **DATE:** June 28, 1985  
**MATTER OF:** Hawaiian Telephone Company

**DIGEST:**

In evaluating proposals, agency may reasonably exclude proposal from the competitive range for deficiencies which are so material that major revisions would be required to make the proposal acceptable.

Hawaiian Telephone Company (Hawaiian) protests the exclusion of the company's proposal from the competitive range under request for proposals (RFP) No. 9CG-OSP-N-A0843/84, issued by the General Services Administration (GSA) for telephone service for federal agencies located in Honolulu, Hawaii. Besides Hawaiian, several other companies submitted proposals which are still being negotiated.

GSA excluded Hawaiian's proposal because the protester proposed equipment which required a ceiling height 9 inches higher than the intended finished ceiling height in the room which is to house the telephone equipment. Specifically, Hawaiian clarified its initial proposal, which showed three varying ceiling heights, to affirm a ceiling height of "eight feet nine inches." This proposed ceiling height is 9 inches in excess of the 8-foot-ceiling-height limitation imposed by RFP clause C-35(a), which provides: "Ceiling height within the proposed equipment room is eight feet."

Hawaiian contends that while clause C-35(a) calls for an 8-foot ceiling, this requirement was effectively modified by GSA's actions. Hawaiian reports that the originally designated room with an 8-foot ceiling was found unacceptable and a room with an 8-foot, 9-inch ceiling was substituted, thus implying a change in the requirement.

We deny the protest.

GSA reports that on October 31, 1984, a preproposal conference was held "at the contract site." GSA states that attendees were shown two rooms that were under consideration

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as the proposed equipment room. The first room (B-11) shown was "found unacceptable" by GSA because of water damage. GSA states that it found the second room (B-35), while yet unfinished, to be acceptable. GSA also states that one of its representatives made the following remarks to all conference attendees about the need for a drop ceiling in the equipment room:

"We're asking for an eight-foot ceiling clearance. We're looking for an area for housing this system very similar to a computer environment.

"So, we want to have the environment factors; we want to make sure we have a drop ceiling. The equipment does generate a lot of heat, so we want to be able to make sure that we meet all the requirements for environment [controls]."

As a result of the designation of the second equipment room, which Hawaiian concluded had a height of 8 feet, 9 inches--based in part, on the protester's examination of GSA's drawing for the room--Hawaiian says that it "understood that the terms and conditions of clause C-35 were to be interpreted to reflect the new ceiling height limitations." Hawaiian further says it submitted its proposal in accordance with this new understanding. Consequently, Hawaiian states that GSA's rejection of its proposal was improper and requests that we direct GSA to reissue the RFP "clearly setting forth the specifications as to the room height requirement."

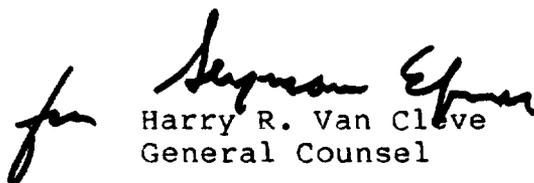
In reply, GSA states that it did not make any oral or written representations to Hawaiian that room B-35 had a ceiling height of 8 feet, 9 inches. GSA further states that, as explained to all offerors at the preproposal conference, it intends to install a drop ceiling in the room housing the equipment. In the 9-inch space above the drop ceiling, GSA further explains, it intends to install a "vapor barrier, a dustproof ceiling, and a halo fire extinguishing distribution system." GSA specifically points out that the GSA drawing which Hawaiian examined shows only the width and length of the room, but not its ceiling height. Consequently, GSA argues that Hawaiian incorrectly concluded that the originally specified ceiling height had been changed by GSA. We agree with GSA's position.

The 8-foot ceiling height was clearly specified in clause C-35(a). Given that clear specification, GSA's

statement at the preproposal conference that it intended to install a drop ceiling in the area which would house the proposed system, and the lack of any ceiling height marking on the GSA drawing for room B-35, we do not find that GSA modified the 8-foot ceiling requirement specified in clause C-35(a). In that regard, we note that RFP clause L-9, "Explanation to Prospective Offerors," required offerors to request interpretations of the solicitation "in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers" and stated that "oral explanations or instructions given before the award of the contract will not be binding." However, Hawaiian made no written request to GSA to confirm its interpretation and under clause L-9 had no right to rely upon any oral explanations which were contrary to the solicitation. Our conclusion is not altered even if, as contended by Hawaiian, GSA showed the second room (B-35) on November 9 rather than October 31, 1984.

Further, GSA brought clause C-35(a) to Hawaiian's attention during negotiations but Hawaiian insisted on an 8-foot, 9-inch ceiling height--thus prompting GSA to determine to exclude Hawaiian's proposal from the competitive range since, in GSA's view, the "protester proposed a system which will not physically fit into the space allowed for the system." Hawaiian admits that the proposed equipment was designed to meet an 8-foot, 9-inch ceiling height.

The competitive range is composed of those proposals which the procuring agency believes have a reasonable chance of being selected for award and we will question an agency's judgment to exclude a proposal from the competitive range only if that decision is arbitrary or unreasonable. Communications Manufacturing Company, B-215978, Nov. 5, 1984, 84-2 C.P.D. ¶ 497. In evaluating proposals, agencies may reasonably exclude a proposal from the competitive range for deficiencies which are so material that major revisions would be required to make the proposal acceptable. ASEA Inc., B-216886, Feb. 27, 1985, 85-1 C.P.D. ¶ 247. Since major revisions to Hawaiian's proposal would be required to make it acceptable, it was proper for GSA to reject the company's proposal.

  
Harry R. Van Cleve  
General Counsel