

**DECISION**

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

**FILE:** B-220660

**DATE:** February 11, 1986

**MATTER OF:** Cardkey Systems

**DIGEST:**

In view of closeness of final evaluation scoring, where protester's proposal was downgraded by agency for failure to meet unstated solicitation requirement and where agency did not make requirement known to protester during negotiations, negotiations should be reopened on basis of agency's actual needs.

Cardkey Systems (Cardkey) protests the award of a contract to Monitor Security & Control Systems, Inc. (Monitor), under request for proposals (RFP) No. USSS 85-35, issued by the United States Secret Service, Department of the Treasury. The agency did not award to Cardkey because its best and final offer was technically unacceptable for failure to offer a high resolution color graphics system. Cardkey contends that the RFP did not require such a system and the agency failed to advise Cardkey during discussions that a high resolution color graphics system was required.

The agency has withheld performance of the contract pending our decision. We sustain the protest.

The RFP originally required a color CRT (that is, a cathode ray tube or visual display screen) display screen and required that the system be "capable of monitoring a minimum of 250 zones of intrusion and fire detection and be capable of generating map graphics of alarm locations." Whether the system must include high resolution color graphics capabilities was discussed at a preproposal conference. The agency subsequently issued an amendment incorporating clarifications and changes to the RFP as a result of the preproposal conference. The amendment restated the requirement for map graphics to read that the system should be "software"

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capable of generating map graphics, and that additional hardware interfaces, if required, would be procured at a future time.

Cardkey's offered system included a monochrome CRT and a standard linear graphics package, with color graphics as an optional feature available for the system.

The agency received 12 proposals of which six were considered acceptable or capable of being made acceptable through discussions. These six proposals were included in the competitive range while the others were rejected as being technically unacceptable. Under the RFP's technical evaluation scheme, Monitor received the highest technical ranking--61 out of a possible 70 points--and Cardkey received a total of 52.5 points. The agency conducted discussions with the six offerors in the competitive range and requested best and final offers from each.

After best and final offers, Monitor's technical evaluation score was increased to 62 points. Monitor's offered price of \$255,500 was given 20.40 out of a possible 30 cost evaluation points for a total evaluation score of 82.40 points. Cardkey's technical rating was reduced two points based on the failure to offer high resolution color graphics and color CRT. After another adjustment, Cardkey's final score was decreased to 51.5 points. Since Cardkey's proposed price of \$173,865 was low, it received the maximum 30 cost evaluation points for a total evaluation score of 81.50 points.

The agency states that the RFP clearly required a high resolution color graphics system and that offerors attending the preproposal conference, including Cardkey, were advised of this. The agency states that all of the other offerors offered high resolution color graphics in their proposals.

Cardkey alleges that at the preproposal conference, it questioned the need for a color CRT inasmuch as the RFP contained no requirement for high resolution color graphics. Cardkey further alleges that other offerors

requested clarification of the RFP's requirement for a system capable of generating map graphics. According to the protester, the agency responded that it would issue an amendment clarifying these requirements and subsequently issued the amendment adding that the system must be "software" capable of generating map graphics.

Cardkey argues that the downgrading of its proposal for failing to offer high resolution color graphics was faulty since the RFP, as amended, only required that the system be software capable of general map graphics. Cardkey maintains that the amendment adding only the word "software" simply restated the original requirement for map graphics capabilities without regard to high resolution color graphics, since the next sentence in the amendment stated that additional hardware interfaces, if required, will be procured at a future time. Cardkey states that it believed the purchase of a high resolution color graphics package was contemplated in the future. Cardkey asserts it can provide such a package at a cost of \$12,080.

We agree with the protester that the RFP as initially drafted did not require high resolution color graphics. Further, the mere addition of the word "software" by the amendment did not call for the graphics resolution the agency required. It is a fundamental principle that an agency may evaluate offers only on the basis of the factors and requirements specified in the solicitation. See 10 U.S.C.A. § 2305(b)(1) (West Supp. 1985). If it becomes apparent that the contract being negotiated differs significantly from the requirements stated in the RFP, the contracting agency must amend the RFP or, at the least, advise offerors of the change during discussions and seek new offers. See Joint Action in Community Service, Inc., B-214564, Aug. 27, 1984, 84-2 CPD ¶ 228; Brizard Co., B-215595, Oct. 11, 1984, 84-2 CPD ¶ 399. The significance of the changed requirement depends on the resulting prejudice to offerors. Id.

The record contains no indication that during discussions with Cardkey the agency made any mention that a mandatory requirement for high resolution color graphics existed and that Cardkey's failure to offer that feature was not acceptable. Had the agency done so, Cardkey would have had the opportunity to add this feature to its offered system and may have been in line for the award in light of the closeness of the evaluation scoring.

The protest therefore is sustained. We recommend that the agency reopen negotiations based on the agency's actual requirements and take appropriate action to award a contract based on the results of these negotiations.

*for* Milton J. Rowland  
Comptroller General  
of the United States