



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Intelcom Support Services, Inc.

File: B-222547

Date: August 1, 1986

DIGEST

1. Allegation that agency was required to disclose in the solicitation a manning model developed by the agency evaluators to assess whether proposed personnel were adequate is denied since model was developed based on the tasks contained in the solicitation and merely reflected the evaluators' judgment concerning the minimum number of personnel necessary to perform the work.
2. Determination of whether a proposal should be included in the competitive range is a matter primarily within the contracting agency's discretion. Allegation that agency's decision to exclude protester was unreasonable is denied where agency's technical evaluation and determination that proposal was technically unacceptable had a reasonable basis.

DECISION

Intelcom Support Services, Inc. (Intelcom) protests the evaluation of its proposal as technically unacceptable under request for proposals (RFP) No. F05611-86-R-0001 issued by the Department of the Air Force for the complete operation of the base supply function at the United States Air Force Academy. Intelcom alleges that the Air Force's evaluation was not conducted in accordance with the RFP's evaluation criteria and that the deficiencies identified by the Air Force did not warrant its exclusion from the competitive range.

We deny the protest.

The RFP was issued on December 20, 1985 and advised offerors that it was part of a cost comparison, under Office of Management and Budget Circular No. A-76, to determine whether it would be more economical to accomplish the work in-house using governmental employees or by contract. Under the

RFP's evaluation scheme, proposals would not be ranked but would be rated either acceptable or reasonably acceptable. For this purpose, the following evaluation criteria, which were of equal weight, were listed:

- a. Understanding of the task
- b. Soundness of approach
- c. Organization and management
- d. Manning
- e. Previous experience

The RFP advised offerors that the lowest priced, technically acceptable offeror would be selected for comparison with the government's cost estimate for in-house performance.

The Air Force received eight proposals prior to the RFP's closing date. Proposals were evaluated by a Technical Review Board and a competitive range, comprised of the six proposals found technically acceptable, was established. The remaining two offerors, including Intelcom, were not included in the competitive range or subsequent discussions since the Air Force found that their proposals were so deficient that they could not be made acceptable without major revisions. The Air Force's request for best and final offers has been postponed pending the resolution of Intelcom's protest.

Evaluation and protester's objections

By letter dated April 17, 1986, the Air Force advised Intelcom of the deficiencies in its proposal and that it would not be considered for award. The Air Force indicated that Intelcom had failed to respond to some solicitation requirements, modified other requirements and totally omitted any reference to Technical Exhibit 10, concerning contractor safety performance, in its technical discussion. In addition, Intelcom's proposed manning to perform the contract was found unrealistic in view of the requirements contained in the performance work statement. For example, Intelcom proposed to operate the Receiving Branch with only three personnel and the Air Force considered this impracticable considering the fact that these individuals must unload trucks, process approximately 2700-3000 receipts per month and maintain receipt files, as well as perform the other duties normally associated with the operation of the Receiving Branch.

Furthermore, the Air Force found that Intelcom's proposal did not clearly specify who would be responsible for performing many of the required tasks. In this regard, the Air Force notes that of the 371 tasks included only 237 were identified to a specific area of responsibility. Also, the Air Force indicates that Intelcom proposed to operate a Base Service Store for the receipt, storage and issuance of supplies and that this was in direct conflict with the RFP requirement that deliveries

be made throughout the base. Overall, the Air Force found approximately 79 deficiencies in Intelcom's proposal which far exceeded the average of 13 for all other proposals. The Air Force contends that, as a result, Intelcom's exclusion from the competitive range was proper.

Intelcom argues that the use of an Air Force manning model to judge Intelcom's capability to perform the required tasks was improper because the RFP failed to disclose that such a model would be utilized. Intelcom contends that the Air Force's failure to include the model in the RFP was prejudicial since Intelcom proposed an innovative manning approach to accomplishing the tasks which it would not have done had it been aware that proposals would simply be compared to the Air Force's own personnel estimates. Intelcom contends that the RFP sought the most economical means of accomplishing the work and if the Air Force was only interested in obtaining a comparison of wages between private contractors and the government based on a static model, the Air Force should have advised offerors of this fact.

Also, Intelcom argues that its proposed manning was sufficient and was based in large part on its experience under a similar supply contract that Intelcom is currently performing successfully. Intelcom states that it employs staff with multiple capabilities which permits its employees to perform many different jobs as the need arises. In addition, Intelcom indicates that its staffing took into account the different levels of productivity between government personnel and civilian employees. Intelcom argues that had it been included in the competitive range it would have addressed any doubts raised by the Air Force and that given the firm's prior successful experience, Intelcom clearly had a reasonable chance of being selected for the award. Intelcom also alleges that a conflict of interest may exist because members of the evaluation board developed the manning model and Intelcom's innovative approach could not be evaluated by these same individuals in an unbiased manner.

In addition, Intelcom complains that many of the deficiencies identified by the Air Force concern matters of responsibility, i.e., Intelcom's ability to perform, and that it was improper to consider these deficiencies in rejecting Intelcom's proposal since this information can generally be provided at a later date. Intelcom argues that, in effect, only 29 deficiencies concern the responsiveness of its proposal and that this is a reasonable number for inclusion in the competitive range. Intelcom points out that on a prior procurement, it was included in the competitive range even though the agency had some 81 questions concerning its proposal.

Reasonableness of Evaluation

In reviewing protests concerning the evaluation of proposals and competitive range determinations, our function is not to reevaluate the proposal and make our own determination about its merits. This is the

responsibility of the contracting agency, which is most familiar with its needs and must bear the burden of any difficulties resulting from a defective evaluation. Robert Wehrli, B-216789, Jan. 16, 1985, 85-1 CPD ¶ 43. Procuring officials have a reasonable degree of discretion in evaluating proposals, and we will examine the agency's evaluation only to ensure that it had a reasonable basis. RCA Service Co., et al., B-218191 et al., May 22, 1985, 85-1 CPD ¶ 585. Furthermore, it is well established that the determination of whether a proposal should be included in the competitive range is a matter primarily within the contracting agency's discretion which will not be disturbed unless it is shown to be unreasonable or in violation of procurement laws or regulations. Metric Sys. Corp., B-218275, June 13, 1985, 85-1 CPD ¶ 682. Additionally, the fact that a protester does not agree with an agency's evaluation does not render the evaluation unreasonable or contrary to law. Logistic Services International, Inc., B-218570, Aug. 15, 1985, 85-2 CPD ¶ 173.

Here, we find the Air Force's evaluation of Intelcom's proposal and its resulting exclusion from the competitive range to be reasonable and consistent with the evaluation criteria specified in the RFP. We disagree with Intelcom that the Air Force was required to disclose in the RFP the manning model it utilized for evaluation purposes. The solicitation clearly indicated that manning would be evaluated and that the Air Force would consider whether the number of personnel proposed was realistic. The Air Force indicates that the model was developed based on the tasks contained in the performance work statement and did take into account the fact that civilian contractors operate with reduced manning when compared to the government. The model was developed merely to assist the technical review board in its assessment of the adequacy of the proposed manning of each offeror and reflected the evaluation board's judgment concerning the minimum number of personnel necessary to perform the work. We note that Intelcom acknowledges that it would have no objection to the evaluators formulating their own judgments concerning Intelcom's proposed manning based upon their individual experience and we see no distinction between such an action and the development of a collective model by the board as to the minimum number of personnel considered necessary.

In addition, we find the record reasonably supports the Air Force's determination that Intelcom's proposed staffing was inadequate. Although Intelcom asserts that there is no difference between the work to be performed at the Air Force Academy and its current supply contract, the record shows that a substantial number of requisitions at the Academy are local purchases and that this constitutes a significant difference from Intelcom's current supply contract. Moreover, although Intelcom generally argues that its cross-utilization manning concept would enable it to perform the work, Intelcom has not disputed, for example, the Air Force's specific determination that Intelcom's proposal that three people operate the Receiving Branch was inadequate. Also, assuming that Intelcom intended to utilize employees allocated to other functions to fill the void, there is no indication which employees or from what areas

additional staff would be drawn. Further, note that the Receiving Branch was not the only function where Intelcom's proposed staffing was found deficient. Intelcom proposed only two supply clerks to operate the Demand Processing, Research and Records Maintenance function. The Air Force indicates that the large volume of local purchase requisitions requires extensive item research and that Intelcom understaffed this function. Also, the Storage and Issue function was viewed as severely undermanned since the Air Force found that a minimum of four clerks would be required whereas Intelcom proposed only two. Overall, the Air Force concluded that Intelcom's proposal was so understaffed that it was doubtful that the concept of cross-utilization could be effectively utilized and we find that the Air Force has established a reasonable basis for its conclusions.

Further deficiencies in Intelcom's proposal support the Air Force decision to exclude Intelcom's proposal from further consideration. For example, although Intelcom asserts that it did include a safety plan in its proposal, the RFP (Part IV, Section L, paragraph 34 b.(3)) required that an offeror address each paragraph in the performance work statement and in Technical Exhibit 10 in its technical discussion, acknowledge the specific tasks and responsibilities and indicate how it intends to satisfy the requirement. Our review of Intelcom's proposal indicates that while a safety plan was provided, Intelcom failed to include a paragraph by paragraph discussion of the requirements contained in Technical Exhibit 10 as required by the RFP. We note that an agency's evaluation must be based on the information contained in the proposal and an offeror risks being excluded from the competition if it does not submit an adequately written proposal. Joseph L. DeClerk and Assocs., Inc., B-220142, Nov. 19, 1985, 85-2 CPD ¶ 567.

Concerning Intelcom's assertion that an apparent conflict exists among the evaluators which precluded a fair evaluation of its approach, the record contains no evidence that the evaluation of Intelcom's proposal in this regard reflected anything other than the evaluators' reasoned judgment concerning the merits of the proposal. See Scipar, Inc., B-220645, Feb. 11, 1986, 86-1 CPD ¶ 153.

With respect to Intelcom's argument that many of the deficiencies identified by the Air Force concerned Intelcom's responsibility rather than the responsiveness of its proposal and therefore should not have been considered, we note that the concept of responsiveness does not apply here since negotiation rather than sealed bidding procedures were used. See Clausung Machine Tools, B-216113, May 13, 1985, 85-1 CPD ¶ 533. The sole question is whether Intelcom's proposal, as submitted, could be viewed as technically acceptable and, in this respect, we have recognized that it is permissible in a negotiated procurement to use traditional responsibility factors as technical evaluation criteria and to judge proposals on that basis. C.M.P., Inc., B-216508, Feb. 7, 1985, 85-1 CPD ¶ 156; Anderson Engineering and Testing Co., B-208632, Jan. 31, 1983, 83-1 CPD ¶ 99. Consequently, we find that the Air Force properly considered Intelcom's response to evaluation factors which focus on Intelcom's ability to perform in judging the proposal.

Finally, we note that Intelcom alleges that it was improperly denied access to a document prepared by the Chairman of the Technical Review Board concerning the evaluation of its proposal. The contracting agency has the primary responsibility for determining which documents are subject to release and the agency considered the document procurement sensitive and refused to provide it to Intelcom. We note that the Air Force provided Intelcom with a copy of all the comments made by the evaluators concerning its proposal and adequate information was available to the protester to pursue its protest.

We do not find the agency's denial of Intelcom's request to be arbitrary and since the document was provided by the Air Force to our Office for our in camera review, our consideration of this additional information was consistent with our Bid Protest Regulations. 4 C.F.R. § 21.3(c) (1986).

The protest is denied.

for *Seymour E. Van Cleve*
Harry R. Van Cleve
General Counsel