



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Complere, Inc.
File: B-227832
Date: September 15, 1987

DIGEST

1. Where request for proposals contained estimated level of effort clause showing skill mix and staffing levels and offeror proposed different staffing schedule without adequate rationale except for past experience, agency properly evaluated proposal based on level of effort contained in request for proposal.
2. Offeror has the burden of submitting an adequately written proposal upon which the evaluation will be based. An evaluation is not based on the agency's knowledge of an offeror's capabilities or past experience or performance when such is not reflected in the written proposal.
3. Meaningful discussions do not have to be all encompassing, but rather must lead an offeror into the area of its proposal needing amplification. Questions posed during discussions regarding qualification of personnel and how scheduling conflicts would be reconciled should have alerted offeror that agency was concerned about staffing plan in proposal.
4. Protest alleging that procurement officials were biased against protester is denied because General Accounting Office will not attribute unfair or prejudicial motives based on inference or supposition and record shows proposal evaluation was conducted in a fair manner.
5. Under the Competition in Contracting Act of 1984, agencies are not required to provide to protesters and other interested parties documents related to a protest that would give one or more parties a competitive advantage or which the parties are not otherwise authorized by law to receive. Nevertheless, decisions on bid protests are based on the entire record and not merely on those portions that have been released to the protester and other interested parties.

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DECISION

Complere, Inc. protests the proposed award of a contract to Aerometrics, Inc. under request for proposals (RFP) No. 2-32653 (LML), issued by the National Aeronautics and Space Administration (NASA), Ames Research Center. The RFP solicited scientific and technical services in support of advanced research programs for experimental and analytical investigations of two and three-dimensional flow fields. Complere contends that NASA improperly evaluated proposals.

We deny the protest.

Offerors were required to submit separate technical and business management proposals. The RFP, which contemplated award of a level-of-effort contract for a 12-month base period and four unpriced 1-year options with budget estimates, provided for evaluation of proposals in four areas: mission suitability, cost, experience and past performance, and "other factors" (such as financial condition and capability and the unpriced options). Only the mission suitability factor, designed to evaluate the technical competence of the offerors, was to be numerically scored in the evaluation, although the RFP advised that cost and the other factors could become very important once evaluation of the mission suitability category indicated that firms could perform properly. The RFP listed the following criteria, in order of descending importance, for evaluating mission suitability: staffing plan, narrative summary explaining the offeror's approach and understanding of the work management, and control of resources.

Proposals from Complere and Aerometrics, the only two offerors, were reviewed by a source evaluation team (SET) and found to be within the competitive range. Aerometrics' initial technical proposal scored considerably higher than Complere's, and its proposed and probable costs, based on a NASA cost realism analysis, were slightly lower than Complere's.

Both firms submitted written responses to technical and cost questions. The SET scored Aerometric's revised proposal 22 percent higher than Complere's revised proposal, which was scored 90 percent higher than Complere's initial proposal. While Complere argues this vast point increase shows how much its proposal's evaluation was improved, the increase is explained by the fact that only one resume was submitted in the original proposal and, therefore, 35 of the possible 50 points were not scored during the initial evaluation. Though Complere's final proposed cost was slightly lower than Aerometrics', NASA's cost realism

assessment showed Aerometrics' probable cost to be slightly lower than Complere's. As there was no significant discriminator in the areas of experience and past performance and "other factors," the source selection official selected Aerometrics for final negotiations, based on his conclusion that Aerometrics' proposal was superior in mission suitability and could be performed at a lower adjusted cost than Complere's.

Complere protests that NASA's evaluation of its technical and business proposal was not based on a complete review of its staffing plan and estimated cost. According to Complere, NASA did not consider its staffing plan rationale when reviewing its technical proposal and, therefore, arbitrarily penalized Complere for including a staffing plan different from that included in the RFP "for informational purposes." Complere also contends that NASA, during its determination of probable cost, arbitrarily changed a job category in Complere's staffing plan, thereby significantly and unfairly increasing its probable cost without allowing explanation or clarification.

In reviewing protests of allegedly improper evaluations, this Office will not substitute its judgment for that of the agency's evaluators, who have wide discretion, but rather will examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria and whether there were any violations of procurement statutes and regulations. Norfolk Ship Systems, Inc., B-219404, Sept. 19, 1985, 85-2 C.P.D. ¶ 309.

Here, we find that NASA has established a reasonable basis for its overall evaluation of Complere's proposal. The RFP's "Estimated Level-of-Effort" clause provided, in pertinent part, that the skill mix and staffing level anticipated for this effort is:

"Senior Scientists Engineer - 1.0 man year
Technician - 1.0 man year
The skill mixes and staffing levels are provided for informational purposes and are not to be construed as a requirement. Rationale shall be provided to support your proposed approach."

Complere proposed a different staffing schedule by offering 4,220 productive hours rather than the 3,600 hours (two man years). The senior research scientist was proposed at 1,200 hours (two-thirds of a man year), a research engineer at 1,100 hours, two part-time computer science engineers at 900 and 800 hours, respectively, and a part-time technician at 220 hours.

The SET found the job descriptions in Complere's proposal of the research engineer and computer science engineers showed them functioning more at the level of high grade technicians and concluded that the proposed tasks could not be performed and reported expeditiously with the proposed distribution of personnel rather than the two full-time employees listed in the RFP. Since the SET found no rationale in Complere proposal to justify Complere's differing staffing plan, it evaluated Complere's probable cost by utilizing the guidelines in the RFP.

Complere argues that its rationale for its staffing plan was contained in its business proposal, not its technical proposal, and it appears the SET did not consider this in arriving at the decision that its staffing plan was a major weakness. Complere states that its past experience as the incumbent contractor is the rationale for its staffing plan.

We have reviewed Complere's business proposal and the only statement approaching a rationale for its staffing plan is as follows:

" . . . Direct labor hours for each job category are based on past experience and our best estimate of anticipated task requirements."

We do not find such a blanket statement without further explanation to provide a sufficient rationale for a major departure from the RFP guidelines. The evaluation of a proposal is based on the proposal itself and an offeror has the burden to submit an adequately written proposal. Blue Cross and Blue Shield of Virginia, B-222485, July 11, 1986, 86-2 C.P.D. ¶ 61. An agency's evaluation of an offeror is not based on the government's knowledge of the offeror's capabilities or past performance, but on the proposal as submitted. Maxima Corp., B-220072, Dec. 24, 1985, 85-2 C.P.D. ¶ 708.

While Complere argues that by evaluating its proposal under the RFP "guidelines," the agency turned the guideline into a firm requirement, we disagree. Since we have agreed with the SET that Complere did not advance an adequate rationale for its staffing plan, the SET, in order to make an intelligent comparison of the proposals, properly reverted to the RFP guidelines for evaluation purposes.

Complere also complains that if the SET found its staffing plan to be a major weakness in its proposal, it did not raise the problem during discussions. Following are the questions posed to Complere regarding Mission Suitability during negotiations:

- "1. What are the qualifications of key personnel other than the Principal Investigator?
 - 2a How would absence of the Principal Investigator effect contract work?
 - 2b How do you propose to reconcile schedule conflicts between this contract and other efforts in which you may engage?
3. What is the extent of corporate resources, in equipment and personnel, which can be made available to the government?"

We believe questions No. 1 and 2a and b reflected the SET's concern with Complere's staffing. Meaningful oral or written discussions does not mean that offerors are entitled to all encompassing discussions, but rather that an agency is required to lead offerors into areas of their proposal needing amplification, Northwest Regional Educational Laboratory, B-222591.3, Jan. 21, 1987, 87-1 C.P.D. ¶ 74. Questions 2a and b should have placed Complere on notice of the SET's concern with the use of part-time personnel.

Complere also objects to the cost analysis which was conducted based on a statement in the Source Selection Statement. Complere quotes, in its comments on the agency report, the following paragraph from the Source Selection Statement:

"An analysis was made of the comparative position of the proposals from the standpoint of cost/price, both as proposed by the competitors and as assessed by the evaluation committee for the probable cost of each proposal. The overall impact of the committee's probable cost adjustments revealed that although Complere's probable cost was lower than Aerometrics', Complere's probable cost to the Government would be higher based on slightly higher labor and indirect rates."

However, in the Source Selection Statement, the underscored "probable," above, is "proposed." This misquote has led to the confusion about the cost issue. A review of the cost analysis, furnished our office, shows the following final proposed and probable costs for both offerors:

	<u>Proposed</u>	<u>Probable</u>
Complere	\$155,120	\$147,368
Aerometrics	\$156,885	\$138,910

Based on the record before our Office, NASA's award was made to the offeror with the lowest probable cost, Aerometrics, which had a rating of Excellent (88 points) under the scored evaluation category of Mission Suitability as opposed to Complere's Mission Suitability rating of Good (72 points). Such award was consistent with the terms of the RFP.

While Complere has raised the issue that certain members of the SET may have been biased against the firm because of a prior contractual dispute, our review of the entire evaluation process shows that it was conducted in a straight forward and fair manner. We will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Seville Management Corp., B-225845, Mar. 18, 1987, 87-1 C.P.D. ¶ 308.

Complere also objects to NASA's failure to provide Complere with copies of all documents which NASA has relied upon in its responses to our Office. Under the Competition in Contracting Act of 1984, 31 U.S.C. § 3553(f) (Supp. III 1985), government agencies are not required to provide to protesters and other interested parties documents related to a protested procurement action that would give one or more parties a competitive advantage or which the parties are not otherwise authorized by law to receive. Nevertheless, consistent with our practice, we have reviewed and base our decision on the entire record, not merely those portions that have been provided to the protester. Louisiana Foundation for Medical Care, B-225576, Apr. 29, 1987, 87-1 C.P.D. ¶ 451.

The protest is denied.

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