



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Educational Computer Corporation
File: B-227285.3
Date: September 18, 1987

DIGEST

Protest that offer was improperly excluded from the competitive range is denied where the agency reasonably concluded that the offer had major technical weaknesses as well as informational deficiencies requiring major revisions before it could be made acceptable; the offer received the lowest score out of four offers, and was scored substantially below the two highest-rated offers; and the offer was the highest-priced of those received.

DECISION

Educational Computer Corporation (ECC) protests the exclusion of its initial proposal from the competitive range under Department of the Army request for proposals (RFP) No. DAAB10-87-R-9001, for the design, development, and fabrication of computer-controlled maintenance training devices for three electronic warfare tactical jamming systems. The work included installation, user training, logistical support, and data submission. ECC alleges that the evaluation of its proposal and its exclusion from the competitive range were improper. We deny the protest.

The RFP advised that technical criteria were of slightly greater importance than cost, with award to be on the basis of the best value to the government. Proposals were to be evaluated under the following technical factors: technical, manhours realism, schedule, personnel and facilities, management, and total evaluated price. The first three factors were the most important, with technical having substantially greater importance than the other factors. The RFP warned offerors that proposals not containing information in sufficient detail for evaluation purposes might be considered unacceptable. Proposals were received from four companies, including ECC, were scored by a 28-member source selection evaluation board, and were examined for a final determination as to whether the correct systems were proposed. Based on recommendations from the

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evaluation board, the contracting officer included in the competitive range, excluding ECC and another offeror, Harris Corporation.

The Army rated ECC's proposal lowest of the proposals submitted, with 44.9 out of a possible 100 points, based on its determination that ECC's technical proposal did not address specific RFP requirements under three technical approach subfactors--software, expansion potential, and reliability, availability, and maintainability--and the manhours realism factor. ECC's score was substantially lower than the two highest-rated offerors, and its proposed cost was the highest. The Army concluded that the significant informational weaknesses and deficiencies in ECC's proposal cumulatively rendered the proposal unacceptable, and also found that because the deficiencies were so significant that the proposal would require major revisions to become acceptable, ECC had no reasonable chance of receiving the award.

ECC maintains that its proposal did in fact contain information sufficient for evaluation in the four cited deficient areas, and that certain cited weaknesses should have been deemed offset by cited strong points. ECC also claims its proposal improperly was downgraded for failure to address certain specifications and standards.

In reviewing complaints about the reasonableness of the evaluation of a technical proposal, and the resulting determination of whether an offeror is within the competitive range, our function is not to reevaluate the proposal and independently judge the proposal's merits. W&J Construction Corp., B-224990, Jan. 6, 1987, 87-1 CPD ¶ 13. Rather, procuring officials have a reasonable degree of discretion in evaluating proposals, and we will determine only whether the evaluation was unreasonable or otherwise in violation of the procurement laws and regulations. Id. Our Office will not disturb an agency's decision to exclude a firm from the competitive range where its technical proposal is reasonably considered so deficient, compared to other proposals, that it would require major revisions to be acceptable. General Exhibits, Inc., B-225721, May 5, 1987, 87-1 CPD ¶ 473.

Based on our examination of the record, we find that the evaluation had a reasonable basis. With respect to the protester's first argument, we find no merit to ECC's specific rebuttals on the weak points cited in the evaluation summary as resulting from informational deficiencies. The greatest deficiency in ECC's proposal was under the software subfactor, for which ECC received only 10.7 percent of the available points. Most evaluators scored the

proposal less than acceptable in this area, and nearly all of these evaluators rated the proposal nonresponsive to the RFP requirements. For example, the evaluated deficiencies in the software area included the failure of the proposal to demonstrate compliance with the requirement of Ada programming language for software. The protester directs our attention to a portion of its proposal that it claims implied that Ada would be used. We have viewed this section of the proposal, however, and while it is entitled "Software System Design," the discussion to which ECC refers appears under the subheading "Use of Assembly Language." The cited portion of the proposal speaks of the use of Assembly language "only to implement hardware driver-related routines," and states that Assembly language is required "because of Ada's inability to communicate with hardware registers and components in real-time." While ECC may have intended to indicate that Ada would be used in areas other than hardware driver-related routines, we find no clear indication from this discussion that Ada programming language would be used as required by the RFP.

Under the second-lowest scored technical approach subfactor, expansion potential, ECC's proposal again was scored less than acceptable by a substantial majority of the evaluators and, again, most of these evaluators found the proposal nonresponsive to technical requirements in this area. The deficiency in this area was based on the finding that ECC failed to address expansion capabilities or demonstrate compliance with requirements for expansion. In support of its claimed compliance in this area, ECC directs our attention to a portion of its proposal entitled "Expansion/Alteration Potential." However, while this section does in fact address the area, the discussion provided is very general and does not address specific statement of work requirements such as the reserve memory and reserve channels.

In another deficient area, manhours realism, ECC was rated less than acceptable by almost half the evaluators. Among the deficiencies in this area was a lack of a materials cost breakdown, required by the RFP in order to determine cost reasonableness. Although ECC claims it did comply in this area, the portion of its proposal it alleges provided a detailed materials price breakout, in fact only lists "material" as a heading and does not appear to include cost figures for materials.

It is an offeror's obligation to submit an adequately written initial proposal in order to establish that what it proposes will meet the government's needs. Communications and Data Systems Associates, B-223988, Oct. 29, 1986, 86-2 CPD ¶ 491. We find that the Army reasonably determined that

substantial significant information was either omitted from or not clearly set forth in ECC's proposal and that the conclusion that the proposal was deficient in these areas thus was reasonable.

In arguing that the evaluated weak points should have been offset by evaluated strong points, ECC points to examples of alleged inconsistencies between cited weak and strong points. For example, the protester argues that one weak point under hardware (a consideration under the technical approach subfactor), which questioned the feasibility of the protester's technical approach (and also stated that the protester's approach consisted of the patching together of commercial equipment without explanation of its workability), was offset by a strong point stating that the technical approach was well defined and feasible with today's technology.

The agency responds that any apparent contradictions in weak and strong points are due to differences in either the topics (e.g., general versus specific) or specifications to which the points are addressed, or can be explained, simply, as different viewpoints and perspectives of the 28-member evaluation board. We agree with the Army.

The protester's examples of inconsistencies in this area concern hardware, which was not one of the four deficient areas cited by the agency as the basis for elimination from the competitive range, so the propriety of the evaluation of the proposed hardware would have little bearing on the outcome of the protest. In any event, we find the agency's position reasonable. First, we have reviewed the listed strong and weak points and find no clear inconsistencies. In the example cited, for instance, the weak point seems to focus on the specifics in the proposal while the strong point seems to express a more general view of the technical approach in light of today's technology; this difference in focus is not necessarily an inconsistency. Secondly, and more importantly, we have recognized that since evaluating proposals involves subjective as well as objective judgments, it is not unusual for individual evaluators to reach disparate conclusions. See Digital Radio Corp., B-216441, May 10, 1985, 85-1 CPD ¶ 526. Thus, whether or not there were differing conclusions by different evaluators, this does not establish, and ECC has not otherwise shown, that the overall conclusions of the evaluation board were incorrect or unreasonable.

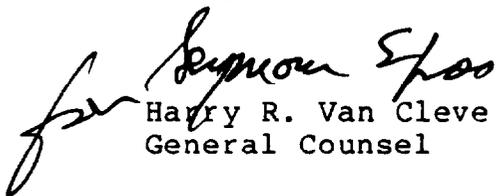
In support of its argument that its proposal improperly was downgraded for failure to address required specifications and standards, ECC maintains that it serves no purpose to require a specific agreement to comply with such standards

when its proposal committed the firm to meeting all requirements. The Army explains, however, that ECC's failure here was not a failure affirmatively to agree to the specifications, but ECC's indication in its proposal that it would not meet these requirements. For example, as already discussed, despite the RFP requirement that the Ada programming language be used (in accordance with Military Standard 1815A), ECC discussed the use of Assembly programming language instead, and stated that its use was required in the particular application because of deficiencies with Ada. Under these circumstances, we think the Army reasonably determined that ECC failed to agree to the requirement.

The protester finally challenges the propriety of the evaluation on the ground that Harris proposed two-dimensional training devices instead of the required three-dimensional devices, but still was found generally to be in compliance with the requirements and was scored 10 points higher than ECC. The protester's understanding is incorrect. Harris' proposal in fact was found to be noncompliant and as indicated above, also was not included in the competitive range.

The protester has not shown the agency evaluation and exclusion of its proposal from the competitive range to be unreasonable. Based on the major technical weaknesses and information deficiencies in ECC's proposal, and its high price compared to the other proposals, we believe the Army properly determined that ECC did not have a reasonable chance of receiving the award, and thus properly excluded ECC from the competitive range.

The protest is denied.


Harry R. Van Cleve
General Counsel