

Ayer



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Optical Data Systems-Texas, Inc.
File: B-227755
Date: October 26, 1987

DIGEST

An initial proposal was properly excluded from the competitive range, leaving a competitive range of only one offeror, where the proposal reasonably was found to be so deficient in its technical adequacy that major revisions would have been required to make it acceptable.

DECISION

Optical Data Systems-Texas, Inc., protests the Department of the Navy's exclusion of Optical's proposal from the competitive range under request for proposals (RFP) No. N61339-86-R-0073, a small business set-aside issued by the Naval Training Systems Center for two digital voice communications systems (one for the Atlantic Fleet and the other for the Pacific Fleet). The systems will replace existing communications facilities used to simulate inter-ship and intra-ship communications during training exercises. Optical is one of two small business firms that responded to the RFP.

Optical contends that its exclusion from the competitive range, without discussions, was improper because Optical has greater experience than the remaining firm and offered to perform at a price (\$2,381,994) substantially lower than the government estimate (\$6,694,000). Optical argues that its proposal shows its intent to provide a proven system, previously accepted by other government agencies, built around standard telephone company equipment. Optical urges that the Navy is obligated to include Optical's offer in the competitive range for purposes of discussions, because otherwise there is only one firm in the competition.

We deny the protest.

The RFP required three proposal volumes, covering technical approach (Volume I, consisting of 9 chapters, of which 6 are critical), logistics support (Volume II, consisting of 9

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chapters, of which are 3 critical) and cost (Volume III). The Navy found Optical's technical proposal (Volumes I and II) unacceptable because it contained general promises of compliance instead of the detailed explanations called for by the RFP, it did not include required technical information concerning the proposed system and its operation, and it made repeated references to undefined commercial standards in the face of the RFP's requirement for adherence to specified government standards. Optical was found unacceptable in three critical chapters of Volume I (system initialization and operation, electromagnetic compatibility, and supportability) and two critical chapters of Volume II (maintenance planning and technical data support package).

Optical's letter of protest questions the merit of the Navy's concerns by citing sections of the proposal that, in its opinion, prove the proposal adequately addressed the required technical areas. However, the agency report in response to the protest rebuts Optical's contentions and further delineates the Navy's technical objections to Optical's proposal. Since Optical's comments on the report do not respond to or take issue with the Navy's critical technical assessment of the proposal, we read this as an admission by Optical that its proposal was deficient in the listed areas for the reasons stated. See Midland Brake, Inc., B-225682, June 3, 1987, 87-1 C.P.D. ¶ 566.

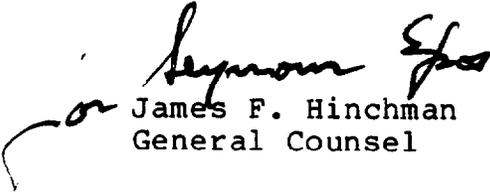
There remains the question of whether, given the scope and nature of the admitted technical deficiencies, it was reasonable to exclude the proposal, without discussions, from a competitive range encompassing only one other offeror. In view of the importance of achieving full and open competition in government procurement, we closely scrutinize an agency decision which results, as here, in a competitive range of one. Coopers & Lybrand, B-224213, Jan. 30, 1987, 66 Comp. Gen. _____, 87-1 C.P.D. ¶ 100; The Associated Corporation, B-225562, Apr. 24, 1987, 87-1 C.P.D. ¶ 436. Nevertheless, we will not disturb such a decision absent a clear showing that it was unreasonable, because an agency is not required to permit an offeror to revise an unacceptable initial proposal when the revisions required are of such a magnitude as to be tantamount to the submission of a new proposal. Falcon Systems, Inc., B-213661, June 22, 1984, 84-1 C.P.D. ¶ 658. In examining agency determinations that restrict the competitive range to a single offeror, we look for (1) close questions of acceptability, (2) significant cost savings, (3) inadequacies in the RFP that may have caused the poor showing in the technical proposal, and (4) whether the problems with the offer were informational deficiencies that easily could have

been corrected by relatively limited discussions. Audio Technical Services, Ltd., B-192155, Apr. 2, 1979, 79-1 C.P.D. ¶ 223.

Our review provides no basis to conclude that there is a close question of Optical's technical acceptability, or that the firm's proposal would have required other than major revisions to be made technically acceptable. Optical's technical proposal received 41.1 percent of the maximum possible technical score, while the other firm's technical proposal received 72.6 percent of the maximum possible score. It appears from the record that Optical viewed the procurement as requiring only the integration of existing off-the-shelf digital switch hardware and software into a standard communications network. We read the RFP, however, as reflecting the Navy's intent to procure a customized communications facility that the Navy could readily expand, up-grade and maintain for the next 10 years on the basis of technical information furnished by the awardee. Thus, the RFP required each offeror to furnish a design disclosure showing system initialization, operation, hardware design, computer system and software design, configuration management (a tracking system for components), electromagnetic compatibility (necessary because of the system's close proximity to other electronic equipment), reliability, maintainability, quality assurance, compliance demonstration and testing. Optical's required design disclosure in these and other areas was either deficient or totally lacking.

Further, because of the extent of the technical deficiencies in Optical's proposal, we cannot conclude that Optical's quoted price is for a system that meets the RFP's technical requirements, so that the fact that the price offered may be low essentially is irrelevant. Emprise Corp., B-225385, Feb. 26, 1987, 87-1 C.P.D. ¶ 223; aff'd, Emprise Corp.-- Request for Reconsideration, B-225385.2, July 23, 1987, 87-2 C.P.D. ¶ 75. Therefore, there is no reason to think that further consideration of Optical's proposal might offer significant cost savings.

In sum, we see no reason to object to the Navy's determination to exclude Optical from the competitive range. The protest is denied.


James F. Hinchman
General Counsel