



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Colbar, Inc.
File: B-227555.4
Date: February 19, 1988

DIGEST

Agency's exclusion of protester's proposal from the competitive range for full food service contract is reasonable where the record indicates that the proposal was deficient in all but one evaluation area and would require major revisions to become technically acceptable.

DECISION

Colbar, Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. F34650-87-R-0570, issued as a small business set-aside by the Air Force for full food services at Tucker Air Force Base in Oklahoma.

We deny the protest.

The RFP was issued as a modified two-step sealed bid procurement, requiring offerors simultaneously to submit a technical proposal and a sealed bid price. Technical proposals were to be evaluated on the basis of management, production, and quality factors. Offerors were instructed to indicate how each of the requirements in the RFP's Performance Work Statement (PWS) would be satisfied. Offerors were cautioned in the RFP that the government might make a final determination as to whether an offeror was acceptable or not solely on the basis of the technical proposal as submitted, without requesting any further information. Under the terms of the solicitation, award was to be made to the lowest priced, technically acceptable offeror.

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The Air Force received 18 initial technical and cost proposals. The technical evaluation team reviewed the technical proposals and concluded that three offers were technically acceptable, nine offers were susceptible to being made acceptable, and six offers, including Colbar's, were technically unacceptable. Colbar was advised by letter that its "technical approach is unacceptable as it does not satisfy the requirements of the Performance Work Statement." Colbar objected to this decision and requested a detailed explanation of the rejection. The contracting officer advised the firm that the contract had been awarded and agreed to provide a debriefing.

Colbar alleges, generally, that any deficiencies in its proposal were "minor and correctable" and indicates that it does not understand why its proposal was excluded from the competitive range. The protester also contends that there is a distinction between a proposal that is outside the competitive range and one that is technically unacceptable.

The competitive range includes all proposals that have a reasonable chance of being selected for award, that is, the proposals that are technically acceptable or are capable of being made acceptable. Federal Acquisition Regulation, FAR § 15.609(a); see Telecommunications Specialists, Inc., B-224842.2, Feb. 26, 1987, 87-1 CPD ¶ 221. The evaluation of proposals and the determination of whether an offeror is in the competitive range are matters within the discretion of the contracting agency. Pacific Computer Corp., B-224518.2, Mar. 17, 1987, 87-1 CPD ¶ 292. In reviewing protests against allegedly improper evaluations, it is not the function of our Office to determine the relative merits of competing proposals, but rather to examine the record to determine whether the agency's judgment was reasonable and in accord with stated evaluation criteria. Volunteers of America, B-225460, Mar. 10, 1987, 66 Comp. Gen. _____, 87-1 CPD ¶ 271. 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 made acceptable. General Exhibits, Inc., B-225721, May 5, 1987, 87-1 CPD ¶ 473.

The agency report includes a technical evaluation plan that provides that proposals were to be evaluated in three major areas, management, production and quality. Under "Management," the solicitation provided for the evaluation of resumes of company executives, the project manager and supervisors, a corporate or business organizational chart, the current in-house workload and full food service contract

experience. Under "Production," offerors were to be evaluated for their organization for this job and for their man-loading chart. Under the "Quality" criterion, offerors were to submit their quality control and inspection procedures defining their methods for ensuring compliance with the solicitation PWS.

Colbar's proposal was found unacceptable under all but the in-house workload factor under the Management criterion, and thus received an "unacceptable" rating. More specifically, the Air Force states that Colbar failed to submit a resume or information on how a project manager would be recruited; failed to submit an organizational chart clearly reflecting the management positions required to supervise the dining facilities and kitchen; failed to submit evidence of a minimum of 5 years experience with a full food service contract; failed to provide a detailed narrative description on essential job assignments; demonstrated a shortage in the total manhours to provide the required food services at the dining facilities; and submitted a production plan that was vague and which had no quality control program for review. The technical evaluation team's overall consensus was that Colbar's proposal would require a total rewrite in order to be evaluated as "acceptable."

The record supports the agency's conclusion that Colbar's proposal was unacceptable. Under management, the solicitation required the offeror to submit a detailed resume for a project manager. The record shows that Colbar failed to submit a resume for a proposed project manager, or otherwise identify its project manager. Colbar merely indicated that the firm would hire a project manager to be in charge of this contract after Colbar received the award. The protester simply provided no basis upon which this portion of its proposal could be favorably evaluated.

The agency also found unacceptable Colbar's detailed organizational chart. Colbar's chart indicated that the project manager or alternate in charge of the one dining facility would also be in charge of another facility, as well as the kitchen. While Colbar indicated that another employee, the second cook, would act as supervisor in the kitchen in the project manager's absence, no such provision was made in connection with the second dining facility. The chart also failed to provide coverage for the second cook when the cook performed as a supervisor. The evaluators concluded that it is not clear that these plans would actually satisfy the agency's requirements for adequate and effective management of the three facilities. Since the PWS specifically required "a detailed organizational chart . . .

identifying supervisor assignments, responsibility and authority," we find it was reasonable for the Air Force to conclude that the protester's proposed organization as indicated by its organizational chart was inadequate.

The agency also found that Colbar lacked experience in providing full food services. The record indicates that although Colbar's proposal includes a long list of contracts, many do not reflect applicable full food service experience; the contracts are either limited in scope or are for janitorial services. Only one contract, apparently awarded in 1985, and two awarded in 1984, were for full food services. Colbar does not indicate the duration of any of these contracts except to note that one of them lasted only 1 month. The Air Force concluded that Colbar did not have satisfactory experience. The Air Force technical evaluation plan included a standard of 5 years full food service experience. The solicitation did not specifically require this minimum of 5 years experience. However, in our view it was not improper or unreasonable for the agency to evaluate offers on this basis, since it is not required that a solicitation state the contracting agency's model-expectations, formulated for purposes of evaluating competing proposals. See Intelcom Support Services, Inc., B-225600, May 7, 1987, 87-1 CPD ¶ 487.

With regard to Colbar's organization and narrative description of essential job assignments necessary to accomplish PWS requirements, Colbar's proposal includes discussions of only three positions: project manager, secretary/payroll clerk, and maintenance manager. As the Air Force points out, the protester omits any description of essential positions such as Baker, First Cook, Second Cook, Cashier, Clerk, Salad preparer etc. We cannot find unreasonable the agency's conclusion that these job assignments and skills are important to accomplish the contract and that lack of a written discussion of these personnel indicated a lack of understanding of agency needs.

Under production, offerors also were required to submit a man-loading chart to "reflect the number of employees required by specialty, per facility, the number currently employed, and source of remainder, call-back and recruitment." Colbar's proposal listed manhours rather than the number of employees per facility as required under the solicitation and the agency could not determine that Colbar proposed a sufficient number of employees for the two dining facilities. For example, the agency found that based on the estimates and historical information contained in the solicitation, Colbar's manhours at two dining facilities was

short of the hours needed to operate the facilities. In addition, Colbar failed to indicate, as required, how much of the proposed workforce was already employed, and omitted any discussion of specific recruitment plans, beyond a statement that Colbar's usual policy is "to pick up all existing hourly employees."

Further, under production, offerors were required by the solicitation to provide a detailed description of their proposed method of accomplishing the program as specified in the PWS, showing (for example) the employee skills mix and shifts per week required to accomplish the job. Colbar failed to do this. Therefore, the record supports the agency's determination that protester's production plan was insufficient.

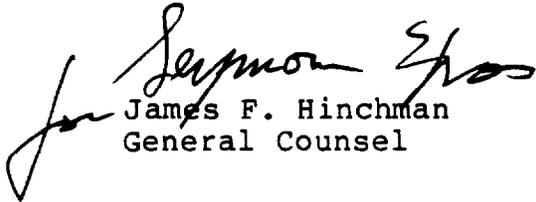
Finally, Colbar submitted no quality control program at all, stating simply that one would be written to specifically cover all aspects of the PWS upon notice of award. In light of the solicitation requirement for submission of quality control and inspection procedures defining the offeror's methods for PWS compliance, Colbar's offer is clearly inadequate.

The agency reasonably concluded that Colbar's initial offer failed to propose a required key employee, the project manager, and failed to provide a detailed organizational chart showing adequate supervisory and key personnel coverage. Colbar's proposal also indicated insufficient experience in the particular work involved and failed to provide adequate manpower or otherwise demonstrate it could perform the work. Finally, Colbar did not submit the required quality control plan for evaluation. Colbar does not specifically refute any of these deficiencies. Based on the record, we think the Air Force reasonably concluded that Colbar's proposal would require major revisions to become technically acceptable and reasonably excluded the protester from the competitive range.

Colbar also requests that we reveal to it, under the Freedom of Information Act, (FOIA), 5 U.S.C. § 552 (1982), various details of the award determination, such as technical scores and prices from all offerors, which the Air Force has refused to disclose. However, our Office has no authority under FOIA to determine what information agencies must disclose under the Act. A protester's sole recourse where

information is not furnished is to pursue the remedies provided under FOIA.^{1/} See Employment Perspectives, B-218338, June 24, 1985, 85-1 CPD ¶ 715.

The protest is denied.


James F. Hinchman
General Counsel

^{1/} We note that the General Accounting Office (GAO) has amended its Bid Protest Regulations, to permit a protester to request, with its bid protest, documents that it considers relevant to its protest and further provides that GAO ultimately may release such documents in certain circumstances. 52 Fed. Reg. 46445, 46448 (1987) to be codified at 4 C.F.R. § 21.3(c). However these regulations are applicable only to protests filed after January 15, 1988.