



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: SelectTech Services Corporation

File: B-229851

Date: April 18, 1988

## DIGEST

1. Discussions were meaningful where the agency's clarifying questions accurately communicated the concerns of the evaluation panel and led the protester to the areas of its proposal in need of amplification.

2. Agency's negotiating position requiring direct experience with specified laboratory processes is reasonably related to and encompassed by the language of the solicitation when read as a whole.

## DECISION

SelectTech Services Corporation protests the rejection of one of its proposals to furnish support services for the Electronic Technology Division of the Avionics Laboratory (AAD) at Wright-Patterson Air Force Base under request for proposals (RFP) No. F33601-87-R-9005, issued by the Air Force for time-and-materials contracts in support of six separate laboratories, including the AAD laboratory. Specifically, the protester alleges that discussions conducted by the Air Force relating to the protester's ability to provide personnel with the requisite experience as specified in the solicitation's Statement of Work (SOW) were not meaningful.

We deny the protest.

According to the agency, the solicitation was issued to obtain support services consisting of the specialized procurement, maintenance, modification, overhaul, fabrication, repair and calibration of experimental processing and test equipment, instrumentation and special devices and capabilities used by the various laboratories. The solicitation, which was issued on June 25, 1987, provided that award would be made to the lowest-priced, technically acceptable offeror and set forth the following evaluation

criteria for judging the technical proposals in descending order of importance: (1) technical qualifications (2) management structure and organization (3) compliance with SOW requirements, and (4) soundness of approach and understanding of the problem.

SelectTech submitted a proposal to support all six laboratories covered by the RFP. On September 17, the agency's technical evaluation panel rated the protester's proposal "marginally acceptable." This conclusion was based in part on the evaluators' "critical" concern for the lack of experience on the part of SelectTech's proposed personnel with molecular beam epitaxy (MBE) and optical characterization, as well as a lack of experience and expertise with CALMA, Apollo, Mentor and Symbolics workstations. Contrary to the protester's suggestion that this rating indicated unqualified technical acceptance, we note that the solicitation defines a "marginal" proposal as one which does "not meet minimum requirements, but clarifying or supplemental information could make [the] proposal meet minimum requirements." Accordingly, on October 1, the Air Force wrote SelectTech concerning the AAD laboratory encompassed in SOW IV 1/, stating in part:

"(2) a. There is no experience among any of your proposed personnel in molecular beam epitaxy and the optical characterization technique. Both are critical to the mission of AADR [a component of AAD]. Clarify how you are going to support this requirement.

"b. In AADE [another component of AAD], the proposed personnel do not have experience and expertise with the CALMA, Apollo, Mentor or Symbolics workstations. Clarify how you are going to support this requirement."

In response to question (2)a, SelectTech elaborated on how it would meet the requirements of the SOW with its personnel as originally proposed and also proposed to make an employment offer to an individual "who has previously worked with the identified equipment and techniques." Concerning experience with the workstations, SelectTech indicated that one of its previously proposed staff members did have the requisite experience but that it was not included in his resume, and stated that it was offering additional staff with experience with some of the listed workstations. On

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1/ SelectTech's proposal for the laboratory encompassed in SOW IV was the only one of SelectTech's proposals that was rejected and is the subject of the protest.

November 4, the agency's technical evaluation panel rated SelectTech "technically unacceptable" <sup>2/</sup> based primarily on its previous concern with the firm's lack of experience with MBE, optical characterization, <sup>3/</sup> and the specified workstations. The report of the panel reflects the evaluators' concern that none of the personnel proposed by the protester, including the new individual, had any experience with MBE. In fact, the evaluators concluded that SelectTech's proposal to offer staff with only knowledge of "general R&D equipment" indicated that SelectTech did not appreciate the special requirements of MBE technology. Further, the evaluators were not convinced that the personnel offered, even with the enhanced resume of one of the originally proposed staff and the addition of a back-up person, would result in a staff that is sufficiently experienced with the designated workstations.

Thus, by letter dated December 10, the Air Force informed SelectTech that its proposal "was found to be technically unacceptable for . . . AAD [SOW IV] because your proposed personnel do not meet the requirements of the Statement of Work;" however, the firm was invited to submit a best and final offer (BAFO) with respect to the other laboratories covered by the RFP.

SelectTech met with agency contracting officials on a number of occasions between December 16 and December 21. By the protester's own account, "the entire SelectTech claim" was presented during this period. The Air Force's account of the conversations is evidenced by a memorandum by the contracting officer detailing her December 21 meeting with the president of SelectTech, which states in part:

"He [SelectTech's president] said that information regarding specific levels of experience with the various technical requirements of the labs had not been clearly requested. [SelectTech's president] indicated that if he had known what additional information we were seeking, he would have provided it as clarification originally. I offered to accept the additional information which [SelectTech's

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<sup>2/</sup> The reports of the evaluation panel in this matter have not been made available to the protester. We have reviewed them in camera.

<sup>3/</sup> The evaluation records mention only lack of experience concerning MBE. Therefore, we will focus on this basis rather than optical characterization, although that term is used throughout the protest submissions.

president] stated he had, but felt the Air Force had not formally requested."

The protester then submitted two BAFOs on December 22. The first covered only five laboratories, excluding the one encompassed in SOW IV, as requested by the December 10 letter. The second, denominated an "alternate proposal," covered all six laboratories and contained the additional information concerning SOW IV. The agency's technical evaluation panel reviewed the alternate proposal on January 15, 1988, and found it to be technically unacceptable in a number of areas for reasons that included the ongoing concern about lack of experience with MBE. The report of the evaluation panel reflects consideration of the resume of yet another proposed employee as well as the experience of a firm that apparently was proposed as a subcontractor to support MBE. In both cases, the evaluators concluded that the proposal did not show that adequate MBE experience was offered. Regarding the workstations, while the evaluators acknowledged that SelectTech had proposed to subcontract the effort concerning two types of workstations, they found that it had failed to address support for the remaining station. SelectTech was notified of the Air Force's rejection of its alternate proposal by letter dated January 22.

The protester contends that the lack of specificity by the Air Force in requesting clarification of its ability to perform the work with personnel with the requisite experience rendered the discussions conducted between SelectTech and the agency "meaningless." The protester further argues that SOW IV relating to AAD does not require the type of direct experience with MBE sought by the Air Force during negotiations. Finally, the protester argues that if, in fact, its alternate proposal was rejected because it proposed to subcontract some of the work, then that rejection was improper because the RFP does not preclude subcontracting.

#### Meaningful Discussions

While agencies generally must conduct written or oral discussions with all responsible offerors within a competitive range, advising them of deficiencies in their proposals so that they have an opportunity to satisfy the government's requirements, Federal Acquisition Regulation § 15.610, the requirement for meaningful written or oral discussions does not mean that offerors are entitled to all-encompassing discussions; rather, agencies are only required to lead offerors into areas of their proposals needing amplification. Aydin Corp., B-227817, Sept. 28, 1987, 87-2 CPD ¶ 306. Nevertheless, it is true, as the protester

points out, that we will recommend the reopening of negotiations where the record demonstrates that the questions of the contracting officer were unnecessarily general when compared to the detailed concerns of the agency evaluation panel which resulted in an unacceptable rating. See Dorsett Electronics Division, LaBarge, Inc., B-178989, Mar. 6, 1974, 74-1 CPD ¶ 120. However, here our review of the evaluation record shows that the evaluators' precise concerns regarding the experience of SelectTech's proposed personnel in the area of MBE and regarding the specified workstations were accurately communicated to SelectTech by the contracting officer as early as October 1. The questions asked by the agency focused clearly on the lack of experience in the specified areas. Subsequent events only served to clarify the matter for the protester, so that by December 21, it should have been clear to it that the Air Force required direct experience with MBE and the specified workstations. We note that such awareness on SelectTech's part is evident because on both occasions when it submitted additional information, it proposed additional personnel which it believed to have direct experience. Thus, we think that the agency met its obligation to conduct meaningful discussions in this matter; from our review, the Air Force led SelectTech into the areas of its proposal requiring amplification--no more was required. Target Financial Corp., B-226683, June 29, 1987, 87-1 CPD ¶ 641.

#### Direct Experience Requirement

The protester maintains that SOW IV does not, in fact, require direct experience with MBE or optical characterization. We disagree. We think it should have been clear to a reasonable offeror from a reading of the solicitation as a whole, including the evaluation criteria and the SOW, that the agency wanted its contractor to offer personnel with direct experience in MBE and optical characterization.

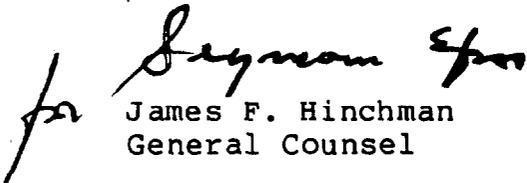
For example, paragraph 1.1 of the SOW generally mentions the equipment and capabilities which a contractor is required to support and emphasizes that "[m]uch of this equipment embodies special configuration of electronics and mechanics in support of advanced technological research performed by the Laboratory." Paragraph 1.2 states that the contractor shall "provide on-site the qualified personnel . . . necessary to . . . maintain this equipment . . . as required." Paragraph 3.4.2.3 requires the contractor to "maintain a semiconductor crystal growth capability which shall include molecular beam epitaxy growth systems . . . and associated electronics." Paragraph 3.4.2.4 requires the contractor to "maintain a semiconductor crystal growth capability which shall include . . . optical characterization techniques . . . ."

While it is true, as the protester points out, that the SOW does not specifically state that personnel with direct experience are required, when the solicitation is read as a whole, it is clear that direct experience with MBE and optical characterization was required by the agency. See Delaney, Siegel, Zorn & Associates, B-224578.2, Feb. 10, 1987, 87-1 CPD ¶ 144. Moreover, to the extent there were any questions from the face of the SOW as to whether directly experienced personnel were required, it should have been clear to the protester from the questions asked by the agency during discussions that the agency wanted the contractor to offer personnel with direct relevant experience. See Tidewater Health Evaluation Center, Inc., B-223635.3, Nov. 17, 1986, 86-2 CPD ¶ 563.

#### Subcontracting

The protester's suggestion that its alternate proposal may have been improperly rejected because it chose to subcontract for expertise in MBE and in connection with the specified workstations is not supported by the record. The record of the evaluation shows that neither SelectTech's amended nor its alternate proposal was rejected for this reason. The evaluators simply concluded that the protester's proposals to subcontract for the required effort did not clearly offer the experience the agency sought.

The protest is denied.

James F. Hinchman  
General Counsel