



The Comptroller General
of the United States

Washington, D.C. 20548

Gary

Decision

Matter of: Tracor Marine, Inc.

File: B-230255

Date: June 6, 1988

DIGEST

Protest that agency acted improperly in failing to reconvene technical evaluation panel to review best and final offers is without merit; the fact that proposals are reevaluated by a person who was not a member of the original panel is not objectionable.

DECISION

Tracor Marine, Inc., protests the award of a contract to General Offshore Corporation under request for proposals RFP No. CS-87-055, issued by the United States Customs Service, Department of the Treasury, for the maintenance of Customs vessels based in Florida and Georgia. Tracor contends that Customs acted improperly in failing to reconvene the original technical evaluation panel to review its best and final offer (BAFO).

We deny the protest.

The solicitation provided for award to be made to the responsible offeror whose conforming proposal was most advantageous to the government, price and other factors considered, and provided for evaluation based on the following criteria: (1) technical approach (30 points); (2) personnel qualifications and experience (20 points); (3) corporate experience (20 points); (4) management plan (20 points); and (5) computer reporting system (10 points). The solicitation stated that a technical evaluation panel had been established to score technical proposals, and that "each member of the committee will evaluate each proposal."

Four firms responded to the solicitation. Based upon the technical evaluation panel's review of initial proposals, Customs found only Tracor and General to be within the competitive range. After evaluating these firms' responses to subsequent technical and cost interrogatories, the panel

042370

found that General had submitted the technically superior proposal: General received a technical score of 84.19, while Tracor earned a score of 77.37.

Customs then conducted oral discussions with both firms and requested BAFOs from both. The original technical evaluation panel was not reconvened to evaluate the BAFOs; instead, the contracting officer's technical representative (COTR) reviewed the revised proposals and discussed them with members of the original panel (who had since returned to duty stations elsewhere). The contracting officer concluded from the evaluation materials that General had submitted the technically superior, lowest-cost proposal, and therefore made award to General.

Tracor contends that Customs acted improperly in not reconvening the technical evaluation panel to consider its BAFO and that, accordingly, the source selection decision did not take into account the firm's response to concerns raised by Customs during oral discussions.

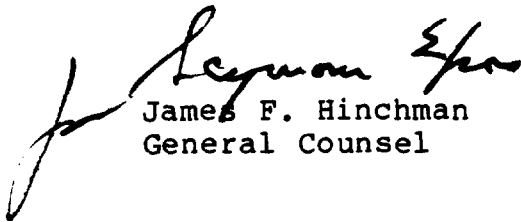
The record shows that Tracor's BAFO in fact was evaluated by contracting officials, and was considered in the award decision. As indicated above, the COTR reports that he reviewed Tracor's BAFO and discussed it with members of the original technical evaluation panel. In addition, the source selection memorandum indicates that Tracor's BAFO had been reviewed and found wanting; the contracting officer found that the BAFO failed to respond satisfactory to the concerns raised during discussions with regard to the adequacy of Tracor's proposed corrective (emergency) maintenance program and the qualifications and experience of the mechanics proposed for maintaining and repairing high performance engines in North Florida. More specifically, Tracor's BAFO was found not to contain significant additional information that would have warranted an upward revision of its technical score. On the contrary, according to the agency, Tracor's proposal was only weakened by the revisions in its BAFO: the newly proposed mechanics did not meet the minimum qualifications established by the RFP and the firm merely reiterated the previously-expressed rationale for its technical approach.

Although the COTR was not a member of the original evaluation panel that evaluated Tracor's initial proposal, he was present during the oral discussions with Tracor and apparently discussed the BAFO with members of the original panel. In any case, the composition of a technical evaluation panel generally is within the discretion of the contracting agency, and we previously have held that reevaluation of proposals by one person who was not a member

of the original panel is not objectionable. See Data Flow Corp., et al., 62 Comp. Gen. 506 (1983), 83-2 CPD ¶ 57; see also BDM Management Services Co., B-220385, Jan. 29, 1986, 86-1 CPD ¶ 104.

Furthermore, it appears that the evaluation of proposals was consistent with the solicitation statement that each evaluator would evaluate each proposal; the COTR, in effect acting as the technical evaluation panel for the review of the revised proposals, evaluated the BAFOs submitted by both General and Tracor.

Tracor has not demonstrated any irregularity in the BAFO evaluation and has made no showing that Customs' evaluation of its proposal was unreasonable. Accordingly, the protest is denied.


James F. Hinchman
General Counsel