

Gilhooly



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Instruments & Controls Service Company

File: B-230799

Date: June 6, 1988

DIGEST

After conducting one round of discussions with offeror, agency properly determined that offeror was no longer in the competitive range since its proposal was found technically unacceptable based on agency's evaluation which was supported by reasonable bases.

DECISION

Instruments & Controls Service Company (ICS) protests the exclusion of its proposal from the competitive range as technically unacceptable under request for proposals (RFP) No. GS-03P-87-DWC-0472, issued by the General Services Administration (GSA) for commercial facilities management (CFM) service at the Social Security Administration Payment Center, Philadelphia, Pennsylvania. ICS alleges that the evaluation of its proposal and its exclusion from the competitive range were improper. We deny the protest.

The RFP required offerors to submit separate technical and price proposals. Technical proposals were to be evaluated on, in descending order of importance, key personnel, corporate experience and reputation, and management plans. The RFP advised offerors that technical quality was more important than price, and award would be made to the responsible offeror whose offer was determined most advantageous to the government.

A GSA technical evaluation board (TEB) reviewed the five proposals received in response to the RFP and determined that two, including ICS's proposal, were technically unacceptable. However, the contracting officer determined it would be in the best interest of the government to keep all offerors in the competitive range, and conducted discussions with all five offerors, who then submitted best and final offers (BAFO's). The TEB evaluated the BAFO's and again determined that two, including ICS's, were technically unacceptable. The TEB gave ICS's proposal a technical score which was less than one-fourth that given to the lowest

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rated technical proposal which was included in the revised competitive range.^{1/} The contracting officer agreed with the TEB's finding and notified ICS that its technical proposal was scored significantly below other proposals and did not have a reasonable chance for an award. ICS was advised that its key personnel lacked the required experience in their respective areas, its firm did not possess the necessary experience in the CFM concept, and its proposal did not adequately demonstrate the company's ability to provide service under the CFM concept.

ICS contends that GSA should reopen discussions with ICS, alleging that it has proven itself as a competent supplier in the performance of other contracts for similar services, that its proposal addressed the evaluation factors, and that it offered the lowest price, so that it should have a chance to clarify the areas where its technical proposal was found deficient. Therefore, ICS maintains that GSA is being inconsistent in its evaluations because similar ICS proposals have been accepted elsewhere.

It is not the function of our Office to evaluate technical proposals de novo or resolve disputes over the scoring of technical proposals. Rather, we will examine an agency's evaluation only to ensure that it was reasonable and consistent with the stated evaluation criteria. The determination of the relative merits of a proposal, particularly with respect to technical considerations, is primarily a matter of administration discretion, which we will not disturb unless it is shown to be arbitrary or in violation of the procurement laws or regulations. Wellington Associates, Inc., B-228168.2, Jan. 28, 1988, 88-1 CPD ¶ 85. Moreover, the protester bears the burden of clearly establishing that an evaluation was unreasonable. A protester's mere disagreement with the agency's judgment does not meet this burden. Data Resources, B-228494, Feb. 1, 1988, 88-1 CPD ¶ 94.

We find that GSA's technical evaluation of ICS's proposal and exclusion of it from the competitive range were reasonable. The weaknesses found in ICS's proposal all relate to technical evaluation criteria. Though ICS asserts that its

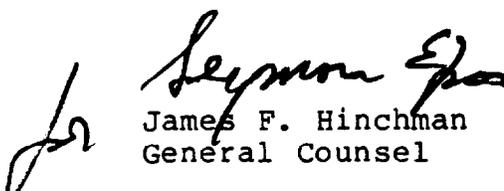
^{1/} Because award has not been made under this RFP, only limited information has been disclosed to the protester, not including the technical scores. Accordingly, our decision must be general regarding the technical evaluation. We have, however, examined the record in camera to determine whether GSA's action had a reasonable basis. See Telemechanics Inc., B-229748, Mar. 24, 1988, 88-1 CPD ¶ 304.

revised proposal addressed all areas which GSA had identified as deficient, the record shows that ICS's proposal did not indicate the required technical experience. GSA notes that the references provided in ICS's proposal all stated that ICS provided only mechanical maintenance service and did not provide any custodial, elevator maintenance or utility services required under the CFM contract.

ICS contends that GSA should not have rejected its proposal because similar proposals have been accepted elsewhere by GSA. This argument, however, does not provide a valid basis for protest, since the propriety of each award under negotiated procurements depends on the facts and circumstances of each procurement, including, for example, the quality of the proposals submitted by the competition. See Ensign-Bickford Co., B-211790, Apr. 18, 1984, 84-1 CPD ¶ 439. In any event, GSA reports that two of three prior solicitations cited by ICS as support for its argument are for mechanical services, not CFM services, and the third solicitation is still under evaluation.

ICS's allegation that it offered the lowest price is not relevant. Where, as here, an agency reasonably determines a proposal to be technically unacceptable, the proposal can not be considered for award regardless of the proposal price. Digital Devices, Inc., B-225301, Mar. 12, 1987, 87-1 CPD ¶ 278. Moreover, since the agency properly found ICS's proposal technically unacceptable, it did not have any obligation to conduct further negotiations with the firm. See Louisiana Foundation for Medical Care, B-225576, Apr. 29, 1987, 87-1 CPD 451.

The protest is denied.


James F. Hinchman
General Counsel