



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Southeastern Center for Electrical Engineering  
Education  
File: B-230692  
Date: July 6, 1988

### DIGEST

1. Proposed awards to higher priced, higher technically ranked offerors are not objectionable where the solicitation award criteria made technical considerations more important than cost and the contracting officer reasonably concluded that the protester's lower proposed price did not outweigh the technical advantages demonstrated in its competitors' higher priced proposals.
2. A protester is not prejudiced by alleged agency failure to apprise it during discussions of all weaknesses in its proposal, where it does not claim that it could or would have improved its proposal as a result of the discussions.
3. Agency request after receipt of best and final offers that the proposed awardee submit updated small business and small disadvantaged business subcontracting plan does not constitute improper discussions or require the agency to request revised proposals from all offerors because the requested plan does not affect the acceptability of the proposal, but relates to the offeror's responsibility.

### DECISION

The Southeastern Center for Electrical Engineering Education (SCEEE), a consortium, protests its exclusion from negotiations under request for proposals (RFP) No. F30602-87-R-0061, issued by the Rome Air Development Center, Griffiss Air Force Base, New York.

We deny the protest.

Offerors were invited to propose on any or all of four technical areas of the "Expert Science and Engineering Program." Under this program, as requirements were identified, successful offerors would be expected to perform varied technical tasks with a focus on solution of problems in Command, Control, Communications and Intelligence (C3I).

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SCEEE proposed on two of the four areas: Information Processing (IP) and Devices and Materials (DM). The Air Force has awarded contracts for the other two areas, but has not awarded contracts in the IP and DM areas pending our decision.

The RFP advised offerors that any award would be made to the offeror who could perform the contract in a manner most advantageous to the government, all factors considered, including technical competence and management, technical, and cost proposals. Offerors were also advised that six technical subfactors, as a group, would be considered first in relative order of importance. The subfactors themselves were ranked in order of importance with "Soundness of Approach" and "Compliance with Requirement," most important; "Understanding of Problem" and "Special Technical Subfactors," second most important; and "Task Statements I and II," third most important. Cost factors were second in relative order of importance, and though cost was a "substantial factor" in selection, offerors were advised that it "may not be the controlling factor." An offeror's qualifications based on the offeror's submitted data was third in relative order of importance and "past performance as a general consideration" was stated as being fourth in relative order of importance.

SCEEE and Calspan-University of Buffalo Research Center (CUBRC) were the only offerors in the competitive range for the IP area and SCEEE and the University of Dayton (Dayton) were the only offerors in the competitive range for the DM area. Only the technical subfactors were point scored. The initial technical score of CUBRC was 97 points and SCEEE 64 points in the IP area. In the DM area, Dayton received 76 points and SCEEE 63 points.<sup>1/</sup>

Both of SCEEE's proposals were found weak in their discussion of the C3I area (Understanding of the Problem) and because there was no specific alignment of its consortia members with their respective technical areas (Soundness of Approach). The evaluators also found SCEEE's proposals weak because SCEEE did not possess any experimental facilities, staff or laboratories and thus had no control over these resources. The Air Force states that all these weaknesses were communicated during discussions to SCEEE. SCEEE claims that only the discussion of C3I was noted as a weakness.

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<sup>1/</sup> SCEEE's score in the DM area was subsequently adjusted to 65 points when one of its task scores was raised from 0 to 2 points.

CUBRC's evaluation revealed no weaknesses. Dayton's evaluation revealed weaknesses in its C3I discussion, failure to align consortia members with their respective technical areas, and failure specifically to address the response time to tasking letters. During discussions these weaknesses were communicated to Dayton.

Each offeror submitted a best and final offer (BAFO), a certificate of current cost and pricing data, and a small business subcontracting plan along with responses to the Air Force's questions about proposal weaknesses. SCEEE addressed only the C3I weaknesses, but did not provide sufficient additional information to raise its technical rating. Dayton addressed all three of the weaknesses questioned by the Air Force, but likewise failed to provide responses sufficient to raise its technical score. CUBRC's BAFO was approximately 12 percent higher in cost than SCEEE's and Dayton's BAFO was approximately 8 percent higher in cost than SCEEE's.

After review of the BAFO's, the technical director recommended award to the highest technically evaluated offeror in the IP and DM areas: CUBRC and Dayton, respectively. He specifically noted that although SCEEE and Dayton had been previously ranked as substantially equal, Dayton's technical score was higher. Upon analyzing the proposals on the basis of the evaluation factors set forth in the RFP, the contracting officer, as source selection official, determined that CUBRC's and Dayton's technical superiority over SCEEE outweighed SCEEE lower cost and that awards to CUBRC and Dayton were in the best interest of the government.

SCEEE contends that since its proposals are the best possible in the subject areas and since it offers the lowest costs, it was entitled to award in the IP and DM areas. It denies that it was apprised of all the weaknesses observed by the Air Force and maintains that its proposals were not thoroughly or objectively evaluated.

SCEEE protests all aspects of the evaluation. In assessing the relative desirability of proposals and determining which offer should be accepted for award, the procuring agency has the discretion to select a more highly rated technical proposal if doing so is in the government's best interest and is consistent with the evaluation scheme set forth in the solicitation. Comarco, Inc., B-225504; B-225504.2, Mar. 18, 1987, 87-1 CPD ¶ 305. We will not reevaluate proposals and will not question such an agency determination unless there is a showing of unreasonableness, abuse of discretion, or a violation of the procurement statutes or regulations. Comarco, Inc., B-225504; B-225504.2, supra.

Such a showing is not made by the protester's mere disagreement with the evaluation or its good faith belief that its own proposal should have achieved a higher rating. Sigma Systems, Inc., B-225373, Feb. 24, 1987, 87-1 CPD ¶ 205.

In particular, SCEEE claims that its proposal should not have been downgraded in the area "Understanding the C3I Mission," since an objective reader would find it superior in this area. In this case, the technical evaluators who rated SCEEE's "Understanding" as "average" noted: "Even though SCEEE has demonstrated through past performance that they thoroughly understand [the Air Force's] mission and the C3I scenario, they did not provide an explicit discussion of these areas." SCEEE claims that its prior experience, as evidenced by the products of its prior contracts on file with the Air Force, establishes its understanding of the C3I mission. However, no matter how competent a contractor may be, a technical evaluation must be based on information in, or submitted with, the proposal. Barber-Nichols Engineering Co., B-216846, Mar. 25, 1985, 85-1 CPD ¶ 343. Thus, we find no duty on the Air Force to have conducted an independent review of SCEEE's past work product. Based on our review, the Air Force evaluation is reasonable.

SCEEE further criticizes the stated weakness that it did not directly control the experimental facilities, staff or laboratories on which it would rely, claiming that this is inherent to a consortium and in fact reduces costs. While the Air Force may have encouraged consortia to make proposals, we do not find unreasonable the Air Force determination that lack of such facilities is a weakness, especially in view of a contract requirement for rapid problem solution. Different offerors will not have the same relative strengths or weaknesses and a recognition of those differences does not constitute bias or indicate a flaw in the evaluation scheme. Moreover, we note that this weakness is relatively minor, since SCEEE received a "very good" rating for its soundness of approach.

SCEEE also criticizes the noted weakness that its proposal failed to align consortia members to their particular areas of technical strength claiming that the RFP did not require it to make the alignment. Our review of the evaluation factors reveals that, though the alignment was not specifically required, its absence would be fairly perceived as a weakness under the soundness of approach evaluation factor which required that offerors have a good grasp of the specific technical areas being addressed.

In general, SCEEE has disagreed with each area of the evaluation where it achieved less than perfection and suggested that an "objective" and "interested" reader of its

proposal would have given it a higher score. SCEEE's claim that the evaluation was not thorough or objective is merely a disagreement with the agency's determinations and is insufficient for us to question the contracting officer's decision. Sigma Systems, Inc., B-225373, supra. Moreover, contrary to SCEEE's allegations of the Air Force's failure to discern differences in the proposals or to appreciate SCEEE's prior experience, our review of the evaluation reports reveals that the Air Force discerned all pertinent differences in SCEEE's proposals and gave ample credit for prior experience.

The technical director and the contracting officer agreed that the technical superiority of CUBRC and Dayton (33 points and 11 points higher, respectively) outweighed SCEEE's lower costs (12 percent and 8 percent lower, respectively). Since this cost/technical tradeoff was consistent with the solicitation's evaluation factors, we find that the agency had a reasonable basis for selecting CUBRC and Dayton.

SCEEE also states that during discussions, it was apprised of only one of the noted weaknesses--that a further discussion of the Air Force mission was desired. Assuming, arguendo, SCEEE was not advised of the other weaknesses<sup>2/</sup>, SCEEE does not claim that it could or would have improved its proposal had it been made aware of the other evaluated weaknesses. Instead, SCEEE has only maintained that the weaknesses are not valid criticisms of its proposals, an argument which we rejected above. Therefore, SCEEE was not prejudiced, in any case, if there was any failure to point out all major weaknesses during discussions. Federal Acquisition Regulation (FAR) §§ 15.610(c)(2) and (5) (FAC 84-16).

Finally, SCEEE claims that it was excluded from post-BAFO discussions with other offerors. The Air Force acknowledges that on February 26, 1988, it requested an updated small business and small disadvantaged business subcontracting plan from Dayton, apparently after determining that Dayton would receive the award. The Air Force denies that it communicated with other offerors regarding technical matters.

In general, after BAFO's are submitted, if discussions are reopened, they must be reopened with all offerors in the competitive range. See Greenleaf Distribution Services, Inc., B-221335, Apr. 30, 1986, 86-1 CPD ¶ 422. However,

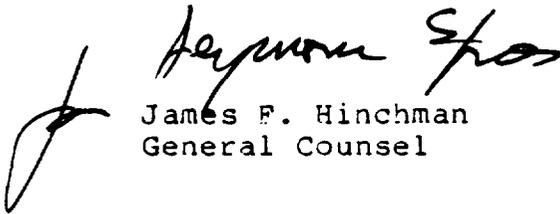
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<sup>2/</sup> The Air Force contract specialist's notes indicate she communicated to SCEEE its other weaknesses.

information requested from an offeror which does not affect the acceptability of the proposal, but relates to the offeror's responsibility, does not constitute improper discussions or require that revised proposals be solicited from all offerors. Sea-Land Service, Inc., B-219665; B-219665.2, Dec. 17, 1985, 85-2 CPD ¶ 677.

The requested subcontracting plan is a requirement under the contract and was requested in accordance with FAR § 19.702(a)(1) (FAC 84-12). We have held that this requirement relates to a bidder's responsibility, even where the solicitation requests the bidder to submit the plan with its bid. Southwest Mobile Systems Corporation, B-223940, Aug. 21, 1986, 86-2 CPD ¶ 213.

Accordingly, the protest is denied.



James F. Hinchman  
General Counsel