



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Interworld Maritime Corporation

File: B-232305

Date: November 29, 1988

DIGEST

After conducting one round of discussions with offeror, agency's determination that offeror's proposal was not in the competitive range was proper where the firm's proposal's technical rating was low, the record shows the rating was reasonable and supported by the evaluation, and offeror's proposed cost was substantially higher than all other offerors.

DECISION

Interworld Maritime Corporation protests the Department of the Navy's exclusion of its proposal from the competitive range under request for proposals (RFP) No. N00024-87-R-4256 (Q). We deny the protest in part and dismiss it in part.

The RFP contemplated the award of an indefinite quantity contract and a cost-plus-award-fee contract to one offeror for services to maintain emergency ship salvage material (ESSM) bases in California and Virginia and three ESSM equipment complexes in Scotland, Singapore, and Italy. The contracts include the maintenance, repair and refurbishment or replacement of ESSM equipment and the conducting of oil and other hazardous material spill control operations for 1 base year plus 4 option years of service. The contracts are to supplement the Navy's diving salvage, pollution abatement and search and recovery capabilities.

The solicitation basically provided that awards would be made to that responsible offeror whose offer, conforming to the solicitation, would be most advantageous to the government, considering both technical and cost factors. Technical factors were to weigh more heavily than cost in the evaluation. The solicitation listed the technical evaluation factors in categories and subcategories in

descending order of importance, and indicated their relative weight. The two major evaluation categories were ESSM management, maintenance and operation, and pollution control operations. Under the ESSM category, the factors to be considered were corporate management, experience and organization, and personnel. Under pollution control operations, the factors to be evaluated were personnel, response to a technical problem, and corporate management, experience and organization. Under the corporate category, management plans and approach regarding, for example, a quality assurance program and subcontractor management procedures, were to be evaluated. Also experience, in terms of how it related to required services such as warehousing and inventory management, was to be evaluated.

On July 10, 1987, the Navy received timely offers from seven firms, including Interworld. A technical evaluation review panel (TERP) reviewed the technical proposals and scored them for each of the categories. A contract award review panel then reviewed the TERP's technical evaluation and applied the pre-established weights to the raw technical scores and to the cost proposals based on the importance of the category as stated in the RFP. The agency's evaluators found that Interworld's initial proposal was too general and deficient in numerous technical evaluation areas. The agency also concluded that Interworld had submitted fewer personnel resumes than were required, and that many of these lacked specific details regarding experience. In addition, the Navy found that many of the submitted resumes were for areas not covered in the contract, while others did not identify the position for which they were intended. In this initial evaluation, Interworld's proposal received the lowest weighted score total among the seven competing proposals.

The agency decided to hold discussions with all seven offerors. By letter dated May 19, 1988, offerors were sent a statement of deficiencies found in their offers. The agency requested responses to these deficiencies in their best and final offers (BAFOs) to be submitted by June 3, 1988.

The revised technical offers were again evaluated by the TERP. Interworld was able to increase its score slightly but its proposal scored significantly lower than any of the others submitted. The TERP found that while the protester gained points in personnel categories, it had presented very little new information in other areas and was still technically weak. In addition, Interworld's proposed cost was higher than the other offerors, by a substantial margin. When the revised weighted technical scores were

added to the cost scores, Interworld's weighted score total again was significantly lower in comparison to the others.

The contracting officer concluded that Interworld did not have a reasonable chance of being selected for award. The contracting officer decided to request a second round of BAFOs, and determined that only the four highest-scoring offerors would be included in the competitive range. Interworld was advised of its proposal's exclusion from further consideration, and this protest followed.

The protester contends that it had in fact proposed a much higher level of technical expertise than required by the RFP, and a higher level than was proposed by other offerors. The protester argues that its own capabilities are outstanding and it generally disagrees with the Navy's conclusion that its proposal was not within the competitive range.

Since the evaluation of technical proposals is inherently a subjective process, in reviewing protests of allegedly improper evaluations our Office will not substitute its judgment for that of the agency's evaluators but will examine the record to determine whether the evaluators' judgments were reasonable and in accordance with the listed criteria, and whether there were any violations of procurement statutes and regulations. Data Resources, B-228494, Feb. 1, 1988, 88-1 CPD ¶ 94. In this regard, the protester bears the burden of proving that the agency's evaluation was unreasonable, and this burden is not met by the protester's mere disagreement with the evaluation or its good faith belief that its own proposal should have achieved a higher rating.

We find that the Navy's technical evaluation of Interworld's proposal and its exclusion from the competitive range were reasonable. The protester was found deficient for not providing detailed information concerning warehousing, a quality assurance plan, and other specific RFP requirements. The protester concedes in its BAFO that Interworld and Texas A&M which have entered into a cooperative arrangement to seek this contract, have modest warehousing experience and propose to deal with this by "employing capable personnel and employing appropriate consultants." Responding to the agency's request for further details concerning inventory management, Interworld merely stated that it "plans to utilize appropriate established inventory techniques, as specified in the RFP." In response to the requirement to discuss in detail Interworld's quality assurance program, Interworld generally described its objectives for quality control, but stated that it expected to develop effective programs including the development of its own quality

assurance plan and related manual. In addition to generalizations such as these, the BAFO contains many general promises of superior performance but, as the Navy reasonably concluded, not very much detailed or specific information to support its general statements which would warrant a higher rating than it received.

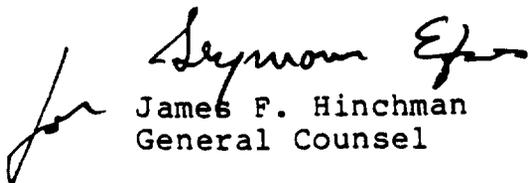
In addition, we note that several of the other proposals received significantly higher scores. An agency properly may determine whether or not to include a proposal in the competitive range by comparing the proposal evaluation scores and the offeror's relative standing among its competitors. Joule Engineering Corp.--Reconsideration, 64 Comp. Gen. 540 (1985), 85-1 CPD ¶ 589. Here, Interworld's technical rating was the lowest among the seven offerors, and its price was the highest by a substantial amount. In these circumstances, we think the agency properly concluded that Interworld's offer had no reasonable chance of being selected for award.

Interworld argues that its own capabilities are outstanding and thus warranted further consideration by the Navy. However, while we have no reason to question Interworld's corporate capabilities, an offeror in a negotiated procurement must demonstrate within the four corners of its proposal that it is capable of performing the work upon terms most advantageous to the government. Here, Interworld failed to show this in its proposal. Its outstanding company expertise and capability is therefore not material. Auto Paint Specialist Inc., dba K & K Truck Painting, B-205513, June 21, 1982, 82-1 CPD ¶ 609. Accordingly, we find that the agency reasonably excluded Interworld's proposal from the competitive range. This portion of the protest is therefore denied.

Interworld also alleges that the RFP process was defective. This portion of the protest, raised for the first time in Interworld's comments on the agency report, is untimely. Specifically, the protester alleges that the process was improper because the RFP required an offer acceptance period of 90 days, but BAFOs were not requested within that time. This type of protest must be filed within 10 working days of when the basis of protest was known (or should have been known) to be timely. Bid Protest Regulations, 4 C.F.R. § 21.2 (a)(2) (1988). The protester knew this basis for protest when BAFOs were first requested in May 1988, but this protest issue was not raised until October 1988. With regard to Interworld's protest of alleged defects contained in the RFP scope of work and pricing formats, this protest issue involves an alleged impropriety that was apparent from the face of the solicitation, and, therefore, had to be

filed prior to the closing date for receipt of initial proposals. See 4 C.F.R. § 21.2 (a)(1). The closing date for receipt of initial offers was July 10, 1987. This portion of the protest is dismissed.

The protest is denied in part and dismissed in part.

A handwritten signature in cursive script, appearing to read "for Seymour Egan".

James F. Hinchman
General Counsel