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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Senior Communications Services

File: B-233173

Date: January 13, 1989

DIGEST

1. Allegation that debriefing was inadequate concerns a procedural matter that does not affect the competitive standing of offerors or the validity of the award.

2. Protest alleging that the solicitation contained ambiguities, which were known to protester prior to the closing date for submission of proposals, is untimely where protester failed to raise the issue until after contract award.

3. Where request for proposals (RFP) clearly sets forth all requirements and evaluation factors, protest that certain provisions are "ambiguous," because they were not stressed in the RFP, is denied. Agency is not required to explain every proposal component in such detail so as to ensure an offeror a high score on the evaluation.

4. Proposal is properly rejected from the competitive range as technically unacceptable for failure to demonstrate an understanding of the project where it fails to provide sufficient detail regarding how the offeror will perform contract calling for preparation of an extensive historical manuscript; fails to include certain items highlighted in the primary evaluation factor; and otherwise merely restates the solicitation requirements.

DECISION

Senior Communications Services (SCS) protests its exclusion from the competitive range and the subsequent award of a contract to R&D Associates under request for proposals (RFP) No. DACA72-88-R-0007, issued by the Army Corps of Engineers, Humphreys Engineer Support Activity, Fort Belvoir, Virginia.

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The RFP was for preparation of a history of the Europe Division, United States Army Corps of Engineers and its predecessor agencies, 1945-1986. SCS alleges that the RFP was ambiguous, its proposal was improperly evaluated, and its debriefing was inadequate.

We dismiss the protest in part and deny it in part.

The RFP sought proposals for an extensive historical research and narrative presentation of the history of the Europe Division (Division) including appropriate illustrations, footnotes, bibliography, and appendices. The history was to address such significant issues as the historical background of Army Engineering in Europe; relationships between the Division and foreign government agencies; major projects and significant lessons learned by the Division; changes in the Division's mission and reorganization; significant contributions made by individual members; and unique roles that the Division or its predecessors have played in United States defense policy in Europe.

Offerors were advised that "at a minimum" material would be gathered from various government archive centers in the United States, and from files maintained at Fort Belvoir, Virginia; Division, Area, and Resident Offices of the Europe Division; the Office of the Chief of Engineers, and, where possible, from the personal possession of current and retired personnel. The RFP explained that most of these records are located in Frankfurt, Germany. In addition, the contractor was expected to conduct 50 to 75 interviews of current and former Division personnel at various levels as well as retired and active civilian personnel. Approximately two thirds of the interviews were anticipated to require transcribing. Preparation of the history from research to finished product was scheduled to cover 3 years.

The RFP listed the following evaluation factors in descending order of importance:

> "(a) Detailed Proposal - Evaluation will be based upon assessment of a detailed proposal on the history that must be submitted by all applicants. This proposal will describe the offeror's research plans and priorities and will provide a preliminary conceptual outline of the manuscript along with a basic bibliography of source materials. [40 points]

(b) Subject Matter Specialty-Based on field of study and expertise in history as it relates to the military construction functions of the Corps of Engineers. Knowledge of post-World War II European history and the U.S. Army activities in the area of responsibility of the Europe Division is mandatory. Knowledge of international affairs is of use but not mandatory. [15 points]

(c) Writing Skills-Based on demonstrated skills shown by the number and quality of historical publications completed, including articles, reviews, books, edited collections, special studies, and staff projects. Offerors must include a writing sample. [15 points]

(d) Availability to Accept Contract - Based on current employment, projected workload and obligations, and the time to be devoted to this contract. [10 points]

(e) Educational Background - Based on level of education and degree in history or closely related field, with a master's degree at a minimum and a doctoral degree preferred. [5 points]."

The RFP explained that since technical factors were more important than "cost,"1/ award could be made to other than the lowest offeror. Offerors were specifically advised that "[e]xcessively high or low cost may be deemed to indicate lack of understanding of the scope of work." Offerors also were advised that "unsupported promises to comply with the contractual requirements will not be sufficient" and that they "must not merely parrot back the contractual specifications."

Thirty-five copies of the RFP were distributed and two proposals were submitted. A technical evaluation panel, composed of the Chief of the Office of History, Army Corps of Engineers, and three members of the History Office holding Ph.D.s in history, reviewed the proposals and agreed that R&D's proposal was technically superior and SCS's proposal was technically unacceptable.

With regard to the first, and most important, evaluation factor--the requirement for a detailed proposal--the evaluation panel noted that SCS had "simply parroted back the terms of the RFP" and had not provided either research

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1/ This is a firm, fixed-price contract.

plans and priorities, a conceptual outline, or a basic bibliography as required by the RFP. The panel expressed concern over SCS's lack of the requisite knowledge of European affairs or the Corps. The panel also found that SCS had little experience in conducting scholarly historical research and publishing scholarly manuscripts and noted that the SCS team leader did not possess the minimum educational degree required by evaluation factor (e). Although SCS demonstrated editing skills and above average writing, the panel found the writing not to be of the scholarly nature required by the solicitation. SCS's offer, 81 percent lower than the government estimate, raised doubt whether SCS understood the minimum requirements of the project. The three evaluators scored SCS at 45, 26, and 22 points out of the possible 100. The panel concluded that SCS's proposal was unacceptable, without correction potential.

After receiving notice that it was not within the competitive range, SCS requested and received a debriefing. At its debriefing, SCS was informed of the primary deficiencies in its proposal as reported by the evaluation panel. After its debriefing, SCS filed its protest with our Office.

In its protest, SCS claimed that it had received an inadequate debriefing; that the Corps had failed to clarify certain solicitation ambiguities prior to the receipt of proposals; and that the evaluators apparently had disregarded materials submitted by SCS which reflected SCS's understanding of the requirements.2/

With regard to the adequacy of the protester's debriefing, we note that the contracting agency maintains that SCS received a complete debriefing in compliance with the criteria set forth in Federal Acquisition Regulation (FAR) § 15.1003(b) (FAC 84-12). Our review of the record indicates that SCS received an adequate debriefing. In any event, the adequacy of a debriefing is a procedural matter which has no effect on the evaluation of proposals or the validity of the award to R&D. See BDM Management Services Co., B-228287, Feb. 1, 1988, 88-1 CPD ¶ 93.

SCS alleges that the solicitation was "ambiguous" and "vague" because it failed to stress the importance of certain evaluation factors: the knowledge of Europe and

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2/ SCS also protested on the basis that the agency had refused to identify the number of proposals submitted. Since that information has been released to SCS, this protest "basis" is academic and will not be considered.

engineer activities requirements under "Subject Matter Specialty"; the bibliography and conceptual outline requirements under "Detailed Proposal"; the advanced degree requirement under "Educational Background"; the importance of footnotes, bibliographies, etc. under "Writing Skills"; and the failure to make plain both the volume of material to be researched and the availability of personnel to be interviewed. As evidence of the existence of such ambiguities, SCS points to the disparity between its offer of $45,821 and the award to R&D in the amount of $253,791 (6 percent more than the government estimate). The protester states that this suggests the two offerors had very different interpretations of the solicitation requirements. SCS also emphasizes that it relied upon a separate solicitation provision--warning against lengthy proposals and unduly elaborate presentations--in preparing its proposal and that, when this provision is read in conjunction with the "Detailed Proposal" evaluation factor, there is an ambiguity as to the level of detail required of offerors. SCS also states that it had requested a preproposal conference to resolve ambiguities in the RFP, but was told that there was "not enough interest" to hold a conference.

SCS has not made clear which of these alleged ambiguities were known to it prior to the closing date for receipt of proposals and could have been resolved at a preproposal conference and which were not apparent until its debriefing. We note that preproposal conferences are held at the discretion of the contracting officer to brief prospective offerors in complex negotiated acquisitions to explain or clarify complicated specifications and requirements. See FAR § 15.409 (FAC 84-16). Since of 35 potential offerors apparently only one requested a preproposal conference, we do not find unreasonable the contracting officer's decision to deny SCS's request. To the extent that prior to the submission of its proposal SCS considered any RFP provisions objectionably ambiguous or vague, it should have protested them and the Corps' refusal to clarify them through a conference, prior to the closing date for receipt of proposals. Its failure to do so makes those protest bases now untimely. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1988).

On the other hand, where an offeror is reasonably unaware of any interpretation other than its own, a firm cannot be charged with knowledge of an ambiguity that had to be protested before the closing date. See Window Systems Engineering, B-222599, Aug. 27, 1986, 86-2 CPD ¶ 230. Thus, to the extent SCS claims that these alleged ambiguities were not apparent at the time it submitted its proposal, it may protest them after the closing date upon learning of the

government's differing interpretation. However, the mere allegation that a solicitation is ambiguous does not make it so. Telelect, Inc., B-224474, Sept. 25, 1986, 86-2 CPD ¶ 355.

The protester's claims of ambiguity essentially are that it responded to the RFP as it understood the provisions and that any shortcomings in its proposal are attributable to ambiguity and vagueness in the RFP, and the agency's failure to stress in it certain requirements. Our review of the solicitation's evaluation factors and SCS's proposal discloses no ambiguity. The evaluation factors plainly required a conceptual outline and bibliography and it was SCS's decision not to furnish these items that resulted in a low score on that factor, not any ambiguity in the RFP. While the RFP did not place special emphasis on the importance of footnotes, bibliographies, and other indicia of scholarly writing, we do not find the solicitation ambiguous as to the desirability of these attributes in view of the nature of the project, or that it was unreasonable for the agency to downgrade SCS for the dearth of those indicia in its writing samples. Likewise, the failure to indicate the exact volume of material to be researched and the availability of personnel for interviews does not demonstrate any ambiguity or vagueness. The RFP indicated the substantial volume of material through an extensive list of record sites and the fact that the records spanned more than 40 years. The relative availability of interviewees was also indicated by the span of years and their designation as both retired and current personnel. A reasonable offeror should have recognized the inherent difficulty in locating such personnel and make its offer accordingly.3/ An agency need not "spoon feed" offerors by explaining in minute detail every task, potential difficulty, or proposal component necessary to ensure a high score in the evaluation. See John W. Gracey, B-228540, Feb. 26, 1988, 88-1 CPD ¶ 199.

With regard to the disparity in prices, we find reasonable the agency's assessment that SCS's low offer is attributable to a lack of understanding of the scope of the contract

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3/ SCS claims that R&D must have had access to specific information regarding the scope of research. However, it submits no evidence of any such access and our review of the record does not indicate access to inside information. As such, SCS's claim amounts to speculation, which is insufficient alone to provide the basis for sustaining a protest. Independent Metal Strap Co., Inc., B-231756, Sept. 21, 1988, 88-2 CPD ¶ 275.

rather than any ambiguity in the RFP. The RFP clearly called for a scholarly history, a minimum of 400 pages in length, drawn from 40 years of records and personal experiences, to be researched and written over a 3-year period. R&D's proposal was consistent with such an effort while the protester's appeared not to be.

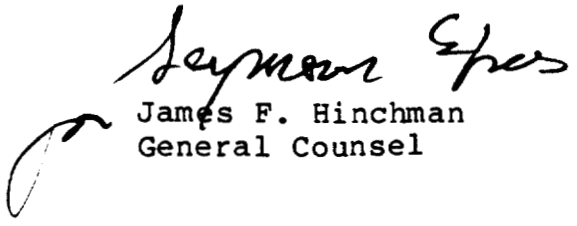
SCS also claims that the agency's evaluators failed to consider all of its proposal submission and that discussions could have resolved any questions the agency may have had. The evaluation of proposals and the resulting determination as to whether an offeror is in the competitive range are matters within the discretion of the contracting activity, since it is responsible for defining its needs and for deciding on the best methods of accommodating them. Harbert International, Inc., B-222472, July 15, 1986, 86-2 CPD ¶ 67. Generally, offers that are unacceptable as submitted and would require major revisions to become acceptable are not for inclusion in the competitive range. Essex Electro Engineers, Inc. et al., B-211053.2 et al., Jan. 17, 1984, 84-1 CPD ¶ 74. While we will not reevaluate the technical proposals, where, as here, the evaluation results in only one offeror in the competitive range, we will closely scrutinize that determination. See Forecasting International Ltd., B-220622.3, Apr. 1, 1986, 86-1 CPD ¶ 306.

We have reviewed SCS's proposal and the agency's evaluation and find the agency reasonably determined that the proposal was technically unacceptable. Although the RFP clearly warned against "parroting back" the specifications and requirements, SCS's proposal does just that. We are not persuaded that the protester's alleged reliance on a provision of the RFP which cautioned against unduly elaborate proposals justified its submission of a proposal lacking in substantive detail. Indeed, we have held that the caution against submitting "unduly elaborate" proposals cannot reasonably be interpreted as eliminating the need for information specifically required by the RFP. Global Valuation Service, B-230753, June 23, 1988, 88-1 CPD ¶ 604.

Although discussions would have provided SCS an opportunity to explain the shortcomings in its proposal, a contracting agency has no obligation to conduct discussions with an

offeror whose technical proposal is so deficient that it is excluded from the competitive range. Forecasting International Ltd., B-220622.3, supra.

The protest is dismissed in part and denied in part.



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