



The Comptroller General
of the United States

Washington, D.C. 20548

Spangenberg

Decision

Matter of: Electronet Information Systems, Inc.

File: B-233102

Date: January 24, 1989

DIGEST

1. Where offeror fails to furnish sufficient information in its proposal to determine its technical acceptability, an agency can reasonably conclude the offer is technically unacceptable and exclude it from the competitive range.
2. Agency violates no regulation or legal duty in not advising an offeror that its proposal was unacceptable, where subsequent to the evaluation of initial offers the request for proposals (RFP) was completely revised and new proposals were solicited and the RFP, both before and after revision, clearly identified the proposal requirements and evaluation criteria.

DECISION

Electronet Information Systems, Inc., protests the award of a firm, fixed-price contract to Eastman Kodak Company under request for proposals (RFP) No. MDA908-88-R-0078, issued by the Defense Intelligence Agency (DIA), Virginia Contracting Activity, for production and inventory management and control systems (PRIMACS).

We deny the protest.

This RFP was issued on February 25, 1988. Proposals were received by the closing date for receipt of proposals on April 29, from Electronet and QueTel Corporation. Both proposals were evaluated; QueTel received 560 out of a possible 700 technical points and Electronet 226 points. The technical evaluation team found Electronet's proposal was unacceptable in that it did not respond to numerous statement of work and other RFP requirements, such that Electronet would have to totally revise, rather than

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correct, its proposal to become acceptable.^{1/} Since the prices of both proposals were in excess of the government funding for PRIMACS, DIA completely revised the RFP (including the statement of work) through an amendment, and requested new proposals for the descoped work from all firms on the original bidders list. DIA did not then advise Electronet that its initial proposal was unacceptable or otherwise conduct discussions with the offerors.

Proposals on the revised RFP were received on August 18, from Electronet, QueTel, and Kodak. Kodak received a score of 620 out of 700 possible points, while QueTel received 538 points and Electronet 222 points. Only Kodak and QueTel were included in the competitive range; Electronet's proposal was found unacceptable and not susceptible of being made acceptable, primarily because it did not address numerous RFP and statement of work requirements. After discussions were conducted with the two offerors in the competitive range, Kodak received the award.

Electronet protests that its proposal was improperly evaluated and wrongfully excluded from the competitive range and that it should have received the highest technical score since it is a world leader in designing and developing PRIMACS. Electronet claims that therefore discussions were required to be conducted with it. Electronet also claims that Kodak's higher priced proposal was overrated since Kodak allegedly has less experience than Electronet and has not yet developed the system and software required by the RFP.

The evaluation of proposals and the resulting determination whether an offer 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 the best method of accommodating them. John W. Gracey, B-228540, Feb. 26, 1988, 88-1 CPD ¶ 199. Generally, offers that are unacceptable as submitted and would require major revisions are not for inclusion in the competitive range. Id.

^{1/} Electronet erroneously states the technical evaluation team concluded its proposal was susceptible of being made acceptable.

In this case, not only did Electronet receive by far the lowest point score, the record also shows that this point score was based upon Electronet's failure to respond to substantial portions of the statement of work and RFP, even though the RFP clearly required responses.

Specifically, the RFP, as amended, required: (1) "a detailed statement of how proposed items will satisfy specific requirements and which will disclose all operational limitations (speed, size, dimensions)" (emphasis in text); and (2) detailed hardware and software descriptions which systematically address each requirement of the statement of work. The evaluation criteria specifically listed and weighted the technical requirements contained in the statement of work and stated that offerors would be evaluated for compliance and understanding of each listed requirement.

Electronet's proposal, however, did not specifically address each statement of work requirement, but instead included various catalog pages without specifically addressing, much less demonstrating compliance with or understanding of, the vast majority of the statement of work requirements. DIA found that even assuming that it could pick out which items on the catalog pages were to be supplied, there were no disc drives or system consoles proposed. The DIA technical evaluation team also states that if Electronet had merely identified each requirement and stated that it would comply it would have received some credit, but the proposal did not even do this. DIA also found that Electronet's proposal did not offer compliance with the RFP's maintenance, training, documentation, and implementation plan requirements and did not furnish requested data concerning its corporate experience, stability or financial resources.

Electronet has not responded in detail to this evaluation, even though it was provided much of the documentation regarding DIA's evaluation after intervention by our Office in response to Electronet's request for documents pursuant to our Bid Protest Regulations, 4 C.F.R. § 21.3(f) (1988). See Unisys Corp., B-231704, Oct. 18, 1988, 88-2 CPD ¶ 360. Instead, Electronet focuses on, and takes out of context, a statement by the technical evaluation team that "Electronet's involvement in the industry indicates their technical qualifications are better than described in this proposal," as evidence that the evaluation was unreasonable. However, an offeror is responsible for preparing its proposal in a manner which establishes that what is offered will best meet the government's needs and that the offeror is the most qualified, and agencies are not obligated to

search out omitted information or to credit an offeror for information or qualifications that it may have omitted from its proposal. Campbell Engineering, Inc., B-231126, Aug. 11, 1988, 88-2 CPD ¶ 136.

Where, as here, an offeror fails to furnish sufficient information in its proposal to determine its technical acceptability, the agency can reasonably conclude the offer is technically unacceptable and exclude it from the competitive range. Union Natural Gas Co., B-231461, Sept. 13, 1988, 88-2 CPD ¶ 231. The fact that the price of Electronet's unacceptable proposal is the lowest does not require it to be included in the competitive range. John W. Gracey, B-228540, supra at 5. Consequently, we find DIA's evaluation of Electronet's proposal and Electronet's exclusion from the competitive range were reasonable. Therefore, DIA was not required to conduct discussions with Electronet. See Vista Videocassette Services, Inc., B-230699, July 15, 1988, 88-2 CPD ¶ 55.

With regard to Electronet's general assertion that Kodak could not be rated higher than Electronet, Kodak's proposal responded to the statement of work requirements and indicated how it would comply; thus, Kodak's proposal was reasonably rated acceptable. Consequently, this protest contention has no merit.

Electronet also claims that it was not promptly apprised of its elimination from the competitive range at the earliest practicable time as required by Federal Acquisition Regulation (FAR) § 15.609(c) (FAC 84-16). However, we have held that the failure to notify a firm promptly that it is no longer in consideration for award is only procedural in nature and does not affect the validity of an otherwise properly awarded contract. SITEK Research Laboratories, B-228084, Dec. 28, 1987, 87-2 CPD ¶ 630 at 4-5.

Finally, Electronet claims that DIA erred in not promptly advising it of the unacceptability of its initial proposal, submitted before the RFP was amended and the competition reopened, and that this "lulled" Electronet into submitting a similar proposal in response to the amended RFP.^{2/} Electronet asserts that DIA's failure to tell it of the

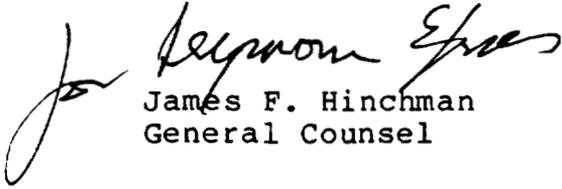
^{2/} This protest basis was based upon information divulged by DIA at the conference on this protest and was timely filed in our Office within 10 working days of the conference.

unacceptability of its initial proposal violated DIA's duty to promptly apprise it of its elimination from the competitive range and DIA's obligation to have "free and open" competition.

DIA explains that no discussions were conducted, even though QueTel's and Electronet's proposals had been evaluated, because the requirement, as descoped, needed to be resolicited since both proposals exceeded the government funding. The agency argues that no regulation required discussions on a procurement which, in effect, had been canceled.

Our review indicates that the initial RFP was amended and the competition reopened prior to Electronet's elimination from the competitive range and that Electronet then was afforded an opportunity to submit a new proposal in response to the RFP, which clearly identified the proposal requirements and evaluation criteria. Consequently, since we agree the initial RFP was, in effect, canceled, DIA violated no regulation or legal duty in not then apprising Electronet that its initial proposal was unacceptable; Electronet could reasonably have discerned from the RFP and its amendment what it must submit to have an acceptable proposal.

The protest is denied.


James F. Hinchman
General Counsel