



The Comptroller General
of the United States

Washington, D.C. 20548

McBride

Decision

Matter of: Systems Associates, Inc.

File: B-234116

Date: April 6, 1989

DIGEST

1. In assessing the relative desirability of proposals and determining which offer should be accepted for award, contracting agency enjoys a reasonable range of discretion, and we will not question a determination of the technical merit of proposals unless there is a clear showing of unreasonableness or abuse of discretion.
2. Contracting agency may properly award contract to a higher priced, higher technically rated offeror where doing so is reasonable and consistent with the solicitation's evaluation criteria.

DECISION

Systems Associates, Inc., protests the award of a contract to Federal Technology Corporation under request for proposals (RFP) No. DAAD05-88-R-0660, issued by the Department of the Army for repair services for Zenith automatic data processing equipment located at Aberdeen Proving Ground, Maryland. The protester challenges as unfair the agency's evaluation of its proposal and contends that Systems Associates should have received the award as the lowest cost, technically acceptable offeror.

We deny the protest.

The RFP, issued on August 15, 1988, contemplated the award of a fixed-price requirements contract for per call repair services for approximately 650 Zenith personal computers (models identified) and related equipment for a period of 1 year, with two 1-year options. Section "M" of the RFP listed the major evaluation areas (technical, management/past performance and cost) in descending order of importance and provided that award would be made to the responsible offeror that submitted the "best overall

045133/138389

response," which the RFP defined as "the response that is evaluated as the most superior technically with a realistic estimated cost." Offerors were further instructed that cost would only be important in the event that two or more proposals were determined to be substantially equal.

Under the major evaluation areas, the specific evaluation criteria in the RFP included the firm's personnel qualifications and experience, its responsiveness to terms and conditions, and the adequacy of the contractor's parts and inventory. Other evaluation criteria included past performance on related/similar contracts and organization and management techniques. Price was listed as the least important evaluation factor.

Twelve proposals were evaluated by the technical evaluation board, which forwarded its assessment of the proposals and a list of proposed clarifications for each offeror to the contracting officer. The technical evaluation board found the Systems Associates proposal to be technically unacceptable, but capable of being made acceptable through discussions. By letter of October 25, 1988, the contracting officer requested additional information from Systems Associates so that its proposal could be made technically acceptable and thus be considered for award. Specifically, Systems Associates was requested to provide the following additional information which was requested in the RFP: resumes of its repair personnel evidencing at least 1-year experience "repairing the types of equipment listed in this solicitation;" information regarding the handling of spare parts; a confirmation that the offeror meets the specifications in section C of the RFP (which describe personnel requirements and various rights and liabilities of the parties); and information about Systems Associates' "past performance on repair of personal computers."

In response, Systems Associates, in its revised proposal, submitted: copies of the same resumes it had included in its initial proposal; a brief statement of the monetary net worth of its inventory and parts on hand; another copy of its initial response to section C of the solicitation; and a list of references' names and telephone numbers, which the protester represented would provide information on "the company's past performance on repair of personal computers." In this regard, Systems Associates also identified its "best contact" among its references.

Best and final offers (BAFOs) were submitted by December 9, 1988. After evaluating BAFOs, the agency ranked the Systems Associates proposal, which offered the lowest cost, as 8th lowest of 10 technically. Specifically, in its BAFO,

Systems Associates offered a price of \$187,176, while the awardee offered a price of \$327,325. On December 22, the agency notified the protester that award had been made to Federal Technology, which the agency concluded had submitted a technically superior proposal at a reasonable price. After a debriefing, Systems Associates filed this protest with our Office on January 11, 1989.

Concerning the protester's challenge to the Army's evaluation of its proposal, it is not our function to rescore proposals or make independent judgments concerning the scores which should have been assigned. Tichenor & Eiche, B-228325, Dec. 28, 1987, 87-2 CPD ¶ 631. Our review of allegedly improper technical evaluations is limited to a determination of whether the evaluation was fair and reasonable and consistent with the evaluation criteria. We will question a contracting agency's determination of the technical merit of proposals only upon a clear showing of unreasonableness or abuse of discretion. Jones & Company, Natural Resource Engineers, B-228971, Dec. 4, 1987, 87-2 CPD ¶ 555. 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. See Sigma Systems, Inc., B-225373, Feb. 24, 1987, 87-1 CPD ¶ 205. For the reasons that follow, we think that the Army's evaluation was fair, reasonable and consistent with the evaluation criteria.

The protester first contends that the agency failed to give appropriate favorable weight to qualifications of its personnel. In this regard, the RFP required evidence that the offeror's repair personnel have "at least a minimum of one (1) year experience on repairing the type of equipment" listed in the solicitation. In response to this requirement, Systems Associates submitted the resumes of four individuals which listed only general computer and other machine repair or maintenance experience. Two of the resumes failed to indicate whether the individuals were presently employed by Systems Associates or what position they held with the firm. The third resume was that of a field service manager and it was unclear if that individual

would be doing the actual repair work. Finally, not one of the four resumes indicated, as required, any repair experience with the particular Zenith products or similar types of products listed in the RFP.1/

In contrast, the awardee's proposal contained detailed information of the repair experience of the firm's personnel, including experience with the identical equipment referenced in the RFP. Given the differences in the proposals and the lack of specificity in the protester's submission, which reasonably caused the agency to question the firm's understanding of, and ability to meet, the RFP's requirement, we cannot object to the reasonableness of the agency's evaluation of the qualifications of the firm's repair personnel.2/

Systems Associates also challenges the agency's evaluation of its past performance in light of an alleged misunderstanding involving one of its references. Section "L" of the solicitation explicitly required offerors to provide a synopsis of "similar or related work" performed during the past three years, including information regarding location, contract type, price and performance. The protester failed to comply with this requirement, but instead listed in its revised proposal several references' names and telephone numbers. The "best contact" listed was described by the protester in its revised proposal as an individual who had

1/ The protester also alleges that the Army failed to consider the resume of a recently hired employee, Ellen M. Howe. The resume of this individual also fails to list any specific experience with the referenced Zenith computer equipment, and the Army reports that the protester submitted this resume in response to a different solicitation so that it was not a part of its present proposal.

2/ The protester also claims it interpreted the RFP's requirement for similar experience with the "type" of equipment listed in the RFP to mean repair experience with all brands of personal computers. We think that while general computer repair experience may be favorably considered, it was obvious from the RFP's listing of specific Zenith models that experience with this type of equipment would be regarded as the most relevant. Moreover, in addition to the protester's failure to specify Zenith computer repair experience, Systems Associates listed only general personal computer repair experience which was found to be limited and vague, and which, in our view, caused its proposal to be reasonably downgraded.

no knowledge of the firm's personal computer repair ability, but who would "demonstrate the company's response to service calls and experience of service technicians." The agency discounted this reference as "irrelevant." Moreover, the two other references who were contacted stated that they simply had no knowledge of the protester's past performance in Zenith or compatible personal computer repairs.

The protester contends, however, that one of these references misunderstood the identity of the firm when called as a reference and, thus, provided inaccurate information. The protester asserts it notified the agency by letter of this perceived misunderstanding, but that the notification apparently was not received prior to the conclusion of the Army's review of the revised proposals.

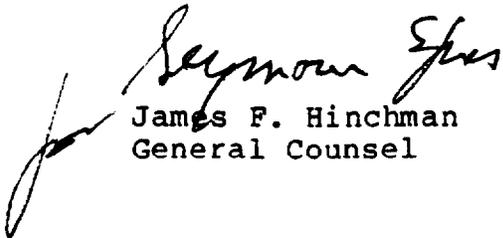
In view of the inadequacy of the other references, the record establishes that this alleged misunderstanding did not significantly affect the evaluation and did not deprive the firm of an award to which it was otherwise entitled. See Employment Perspective, B-218338, June 24, 1985, 85-1 CPD ¶ 715; Lingtec, Inc., B-208777, Aug. 30, 1983, 83-2 CPD ¶ 279. We also note that the awardee submitted detailed information identifying its current and past related projects. Given the differences in technical merit of the two proposals, we again cannot find the agency's evaluation unreasonable.

Finally, in response to the protester's contention that it should have received the award since its proposal was priced lower than the awardee's, the agency points out that the solicitation provided for award to other than the lowest cost offeror and, in fact, made cost the least important of three major evaluation areas. The agency argues that, under these circumstances, it was not obligated to make award to the lowest cost offeror but had the discretion to select a more highly rated technical proposal if it was in the government's best interest. We agree.

In a negotiated procurement, the government is not required to award to the lowest cost offeror unless the RFP specifies that cost will be determinative. Kings Craft, Inc.; Halter Marine, Inc., B-231912; B-231912.2, Nov. 7, 1988, 88-2 CPD ¶ 447. Here, price was the least important factor in the RFP and would only become determinative if two or more

proposals were substantially equal technically. Since the Army reasonably evaluated the awardee's proposal as technically superior, we find no basis to object to the Army's selection of Federal Technology. Id.

The protest is denied.



James F. Hinchman
General Counsel