



The Comptroller General
of the United States

Washington, D.C. 20548

Marrow

Decision

Matter of: Source AV, Inc.

File: B-234521

Date: June 20, 1989

DIGEST

Agency properly excluded proposal from the competitive range where there were material informational deficiencies which would have required major revisions in order to make the proposal acceptable.

DECISION

Source AV, Inc., protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DABT35-88-R-0020, issued by the Department of the Army, for the award of a contract for audiovisual services. The Army excluded Source AV's proposal because it did not contain sufficient technical information to substantiate Source AV's ability to accomplish the RFP requirements. Because it is a small business, Source AV contends that the Army should have referred the matter to the Small Business Administration for a de novo technical evaluation under the Certificate of Competency (COC) program.

We deny the protest.

The RFP was issued on September 13, 1988, for operation of the Training and Audiovisual Support Center located at Fort Dix and a satellite office located at Fort Hamilton, New York. The RFP required offerors to submit their proposals in a format to reflect major categories which were designated as "Technical Excellence, General Management Summary, Experience, and Contract Pricing Proposal and Supporting Data."

The RFP advised that proposals which do not conform to all requirements expressed in the RFP may be rejected without further evaluation or discussion and listed "Technical Excellence, General Management, and Price" as evaluation factors in descending order of importance, noting that technical excellence was worth twice as much as the other

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two factors. The RFP also advised that the government reserved the right to make award on the basis of initial proposals without discussions and that award would be made to the acceptable responsible offeror in the best interest of the government considering price and other technical factors.

By the November 14, 1988 closing date for the submission of initial proposals, Source AV and two other offerors had responded to the RFP. The lowest offeror, however, withdrew due to inadequate financial resources. In evaluating proposals, the Source Selection Evaluation Board (SSEB) rated Source AV's proposal at 340.5 points out of a possible 900 points and the other remaining offeror at 803.3 points. The SSEB determined that Source AV's proposal contained 58 specific weaknesses which resulted in the proposal's being rated unacceptable or marginally acceptable in 24 of the 34 evaluated technical areas. These weaknesses consisted of either omissions of information or inadequate information. Therefore, the SSEB determined that there was no basis upon which to conduct a meaningful and supportable evaluation and that the proposal would not achieve the RFP's requirements without major improvements.

In addition, the Cost and Price Analyst recommended that Source AV be eliminated from the competitive range because Source AV's proposal was only 1.7 percent lower in price than the other proposal. Because of the technical superiority of the other offeror it was extremely unlikely that Source AV had any chance of being selected for award. Further, the technical deficiencies would require major modifications/ revisions on Source AV's part in order to make the proposal acceptable. The Army, by letter dated February 15, 1989, informed Source AV that its proposal was not within the competitive range.

At the outset we dispose of the protester's argument that the Army should have referred the matter to the SBA for a de novo technical evaluation. When an agency determines a small business to be nonresponsible, the matter must be referred to the SBA, which makes the final determination as to the offeror's responsibility under the COC program. See 15 U.S.C. § 637(b)(7) (1982). Here, the Army rejected Source AV's proposal as technically unacceptable; it did not determine Source AV to be nonresponsible. Proposal evaluation results are not required to be referred to the SBA; Source AV's protest in this regard has no merit. See Cytec Corp., B-231786, Sept. 28, 1988, 88-2 CPD ¶ 294.

Source AV essentially argues that the weaknesses in its proposal were not egregious enough to have resulted in

rejection of its proposal from the competitive range without discussions, particularly since its proposal offered the lowest price and eliminating it resulted in only one other proposal remaining in the competitive range. Source AV contends that its proposal was eliminated from the competitive range not because of actual weaknesses, but due to an effort on the Army's part to limit competition.

In view of the importance of achieving full and open competition, we closely scrutinize agency decisions which result in a competitive range of one. StaffAll, B-233205, Feb. 23, 1989, 89-1 CPD ¶ 195. Nevertheless, the evaluation of proposals and the resulting determination as to whether an offeror is in the competitive range are matters primarily 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. Senior Communications Services, B-233173, Jan. 13, 1989, 89-1 CPD ¶ 37. Generally, an agency is not required to include an offeror in discussions or permit the offeror to revise an unacceptable initial proposal when the revisions required are of such a magnitude as to be tantamount to the submission of a new proposal. StaffAll, B-233205, supra; see also CSP Associates, Inc., B-228229, Jan. 29, 1988, 88-1 CPD ¶ 87. An agency may properly determine whether to include a proposal in the competitive range by comparing the initial proposal evaluation scores and the offeror's relative standing among its competition and this action is considered appropriate even where the result is a competitive range of one. StaffAll, B-233205, supra.

Based on our review of Source AV's proposal and the Army's technical evaluation, we find that the Army reasonably determined that Source AV's proposal was not within the competitive range. An offeror must submit an adequately written initial proposal, or run the risk of having its proposal rejected as technically unacceptable. See Fairfield Machine Co., B-228015, B-228015.2, Dec. 17, 1987, 87-2 CPD ¶ 562. In reviewing whether a proposal was properly rejected as technically unacceptable for informational deficiencies, this Office examines the record to determine, among other things, whether the RFP called for detailed information and the nature of the informational deficiencies, e.g., whether they tended to show that the offeror did not understand what it would be required to do under the contract. Id. Also, are to be considered whether the rejection of an informational deficient proposal would leave only one offeror in the competitive range and whether a deficient but correctable proposal represents a significant cost savings. An agency reasonably may reject a proposal for "informational" deficiencies that are so

material that major revisions and additions would be required to make the proposal acceptable. Boston Intertech Group, Ltd., B-220045, Dec. 13, 1985, 85-2 CPD ¶ 657; PRC Computer Center, Inc., et al., 55 Comp. Gen. 60 (1975), 75-2 CPD ¶ 35.

Here, the RFP, under Technical Excellence, specifically required offerors to explain in detail how each job would be accomplished in all the major functional areas, including details on the utilization of staff and the methods to be employed, and listed the following major functional areas: (1) Graphics; (2) Training Devices; (3) Photography; (4) Audiovisual Distribution and Maintenance; and (5) AV Library and Television and Audiovisual Production. Similarly, under General Management Summary, offerors again were advised to explain the managerial function presented by the proposal in complete detail.

The informational gaps contained in Source AV's proposal relate directly to these areas. For example, in regard to operating the Fort Hamilton satellite office, Source AV responded with only a general statement that it would operate the facility as per the terms and conditions of the contract. Also, Source AV did not address full length and official photography or ID photography which were requirements listed in the RFP under photography. In response to the accountability requirement in the General Management Summary category, Source AV only provided an organizational line flow chart with minimal explanation. We found many other examples of informational weaknesses of this nature in Source AV's proposal as well.

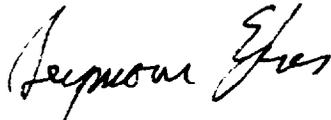
For the most part, it appears that Source AV responded to the RFP requirements very generally or with statements that simply parrot the language already contained in the RFP. This was not an acceptable approach given the degree of detail requested by the RFP and the specific warning contained in the RFP that proposals which did not contain the minimum specified content might be rejected without further discussion. See Senior Communications Services, B-233173, supra.

Source AV argues that the Army did not give sufficient weight to the extensive experience in operating audiovisual facilities presented in the proposal and its low price. The RFP, however, specifically advised offerors that experience was to be provided for informational purposes only and would not be rated or numerically scored. McElwain, Inc., B-225772, May 28, 1987, 87-1 CPD ¶ 545. In making its determination that Source AV's proposal was

outside the competitive range, the Army took into consideration that Source AV's proposal was 1.7 percent lower in price than the other proposal. The Army concluded that this minimal price advantage did not warrant inclusion of Source AV's proposal in view of the more than 100 percent technical point score superiority of the other proposal and the fact that Source AV's proposal had such significant informational deficiencies that it needed major revisions in order to be made acceptable. While the rejection of Source AV resulted in a competitive range of one, we find this result proper here given the vast technical discrepancy and the fact that Source AV had no reasonable chance for award.

Regarding Source AV's contention that the Army solicited the requirement in a manner designed to limit competition and evaluated its proposal unfairly, we note that unfair improper motives will not be attributed to government officials on the basis of inference or supposition. StaffAll, B-233205, supra. There is nothing in the record to support this contention. As discussed previously, Source AV's proposal was not included in the competitive range due to the technical superiority of the other proposal, which we find was justified based on our review of that proposal, and the fact that the proposal contained a large number of informational deficiencies necessitating a complete revision to the proposal.

The protest is denied.



James F. Hinchman
General Counsel