

D. O'Callaghan



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Halifax Engineering, Inc.
File: B-236412
Date: October 26, 1989

DIGEST

1. Protest that contracting agency failed to conduct meaningful discussions of protester's proposed staffing plan, which allegedly included more staff than needed due to the failure, is denied where record indicates that the agency sufficiently explained the solicitation's staffing requirements to the protester in the course of discussions, and reasonably determined that the number of proposed staff was not too high, and thus was not a deficiency that had to be raised in discussions.

2. Where protester initially alleges improprieties in evaluation of proposals, but subsequently does not attempt to rebut agency's explanation (not contradicted by the record) that the evaluation was proper, the General Accounting Office considers allegations to have been abandoned and not for consideration.

DECISION

Halifax Engineering, Inc., protests the award of a contract to Telos Corporation, under request for proposals (RFP) No. DAAH03-88-R-F070, issued by the U.S. Army Missile Command for maintenance services for computers and related equipment. Halifax asserts that the agency failed to conduct meaningful discussions regarding its proposed staffing plans, and that its proposal was not evaluated in accordance with the stated evaluation criteria.

We deny the protest.

The solicitation provided for three major evaluation areas, and stated that the first, technical and management, would be given substantially more weight in the evaluation of proposals than the second area, cost. Cost, in turn, would be given slightly more weight than the third area, experience and past performance. In May 1989, the Army held oral discussions with those firms found to be in the competitive

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range, including Halifax. On June 2, the agency closed discussions and requested best and final offers (BAFOs). On the basis of the BAFOs submitted, Telos was rated "excellent" in both technical areas, while Halifax was rated "excellent" in the first and only "good" in the second. Telos' proposed cost was approximately \$40 million, or approximately \$3 million lower than Halifax's. Thus, the Army awarded the contract to Telos on the basis of its technically superior, lower cost proposal.

Lack of Meaningful Discussions

According to Halifax, in the course of discussions the Army improperly failed to alert the firm to a deficiency in its proposal that resulted in the firm's proposing more staff than needed. Had the agency advised the firm of this deficiency, Halifax asserts, it could have reduced its proposed staff accordingly; the reduction in staff, in turn, would have allowed it to price its proposal lower than the awardee's. Thus, according to Halifax, the Army's failure to conduct meaningful discussions with the firm resulted in actual prejudice to the firm in the evaluation of its proposal.

Specifically, Halifax states that it understood the RFP to require two entirely separate groups of maintenance personnel. One group, it believed, was required to work on equipment located at specific sites designated in the RFP (dedicated staff), and another group, to work on all items of equipment listed in the RFP in a so-called "density list" (non-dedicated staff). According to the protester, when it proposed a dedicated staff of 27 in addition to a non-dedicated staff, it indicated to the Army that its proposal was based on its understanding that, under the terms of the RFP, dedicated staff could not be used to work on density list equipment, and vice versa. Having received this clear indication of the firm's interpretation of the RFP, and knowing that Halifax's proposal was based on that understanding, the Army, according to the protester, nonetheless failed to identify the premise as a deficiency and to discuss the deficiency with the firm. As a result of this failure, Halifax asserts, its final proposal included staff who were not actually needed, thereby artificially inflating the cost of its proposal relative to the awardee's.

As a general matter, the requirement for discussions with all responsible offerors whose proposals are in the competitive range includes advising them of deficiencies in their proposals and affording them the opportunity to satisfy the government's requirements through the submission of revised proposals. FAR §§ 15.610(c)(2) and (5);

Automation Management Consultants, Inc., B-231540, Aug. 12, 1988, 88-2 CPD ¶ 145. Agencies are not, however, obligated to afford offerors all-encompassing discussions, or to discuss every element of a technically acceptable, competitive-range proposal that has received less than the maximum possible score. Automation Management Consultants, Inc., B-231540, supra. Moreover, the actual content and extent of discussions are matters of judgment primarily for determination by the contracting agency; we will review such judgments only to determine if they are reasonable. Addsco Indus., Inc., B-233693, Mar. 8, 1989, 89-1 CPD ¶ 317.

Here, the record indicates that Halifax's understanding that dedicated staff could not perform other maintenance work was correct; that is, dedicated staff were in fact required to work only at the designated sites. Thus, with regard to that premise, Halifax's proposal was not deficient and there was nothing for the Army to raise in discussions. The record also shows that the Army clearly explained to Halifax that the converse was not the case; that is, that it was permissible for offerors to propose using non-dedicated staff to work on density list equipment. In particular, during discussions with Halifax, the Army explained that the density list was coded by location so that proposers could estimate whether or not non-dedicated maintenance personnel would be needed to supplement the required dedicated maintenance personnel for any location. Indeed, in its comments on the Army's report on the protest, with regard to oral discussions, Halifax concedes that "the Government then stated for the first time that dedicated personnel could work on the density list equipment." Thus, we find no basis for the firm's allegation that the Army did not correct any misunderstanding that Halifax may have had that the two staffs, dedicated and non-dedicated, were required to be mutually exclusive.

Halifax asserts, however, that after receiving the above explanation, it responded that, because its proposal was predicated on the exclusive nature of dedicated personnel, the proposal was overstated by approximately 27 dedicated people. When the Army responded that it had no problem with Halifax's proposed staffing, however, the firm asserts that it concluded that it was not overstaffed; it argues, therefore, that it was misled into believing that its original interpretation was correct, and that two entirely separate staffs were required.

We find no basis for Halifax's position. The record shows that Halifax repeatedly asked the Army whether it should reduce its staff, and that the Army responded that, while it

could not advise the firm how to propose, it had no problem with its proposed staffing.

In this regard, the record shows that the agency's evaluators determined that Halifax's staffing plans were adequate, with no major advantages or disadvantages. In fact, Halifax proposed the smallest number of in-house technicians, which it augmented with original equipment manufacturer (OEM) subcontract support staff. On the other hand, the firm proposed a large number of management personnel, which the agency's evaluators considered necessary in light of Halifax's heavy reliance on subcontractors. While evaluators considered Halifax's proposal technically inferior to Telos', that assessment was based on Halifax's overall approach to meeting the RFP's requirements, not on any overstaffing. Thus, whether or not Halifax precisely understood the evaluators' position, the fact is that its proposal was not deemed overstaffed, and overstaffing thus was not in proper subject for discussions.

EVALUATION

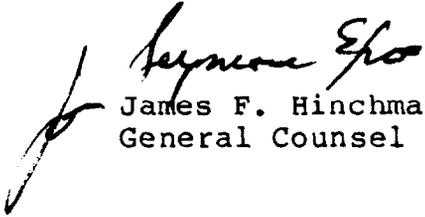
Halifax also asserts that its proposal was evaluated on the basis of factors (not specified by the protester) that were not set forth in the solicitation, and that its proposal in fact was substantially superior to Telos' in the Technical and Management area. Consequently, Halifax concludes, the Army's award to Telos must have been made, contrary to the RFP's evaluation scheme, solely on the basis of Telos' lower proposed cost. In addition, Halifax states that the award to Telos was erroneously based on Telos' representations that it had subcontract commitments from OEMs that would enable it to maintain various equipment, when in fact no such commitments existed.

In its administrative report on the protest, the Army responds that, contrary to Halifax's assertions, all proposals were evaluated strictly in accordance with the evaluation scheme set forth in the solicitation. Further, the Army points out, as we have noted above, that both Telos and Halifax were rated excellent in the Technical and Management area, but that while Telos was rated excellent in the Experience and Past Performance area as well, Halifax was rated only good in that area; consequently, the award to Telos was based on Telos' technical superiority as well as its lower proposed cost. Finally, the Army states that, contrary to Halifax's assertion, its evaluation of the adequacy of Telos' staffing did not rest solely on subcontractor agreements with several OEMs but, rather, was based on the firm's overall proposed mix of in-house and

contract personnel, which was determined more than sufficient to meet the agency's needs.

In its comments on the agency's report, Halifax has not attempted to rebut the Army's statements concerning these allegations; we therefore deem them abandoned. Universal Hydraulics, Inc., B-235006, June 21, 1989, 89-1 CPD ¶ 585. In any event, our review of the record discloses nothing to indicate that the Army's explanations are incorrect.

The protest is denied.



James F. Hinchman
General Counsel