



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Defense Technologies, Inc.

File: B-237242

Date: December 28, 1989

DIGEST

When, in its comments on the agency report, the protester does not rebut the agency's explanation for its elimination of the protester from the competitive range, which appears to be reasonable, the General Accounting Office has no basis to overturn the agency's decision.

DECISION

General Technical Services, Inc., and its parent company, Defense Technologies, Inc., protest the award of the National Assessment of Educational Progress (NAEP) contract by the Department of Education to Educational Testing Service (ETS) under request for proposals (RFP) No. 89-019. Defense Technologies contends that the contracting agency did not follow applicable procedures requiring that discussions be held and that best and final offers (BAFOs) be requested, and that the award to ETS was at an unreasonably high estimated cost.

The protest is denied.

The RFP solicited offers to administer the NAEP in 1990 and 1992. The purpose of the NAEP is to collect and assess data to report on the achievement of our nation's students in reading, writing, mathematics, science, history/geography, and other areas.

The solicitation indicated that each proposal should include business and technical parts and contained a 97-page Statement of Work (SOW) which divided the contract elements into 24 core, or required, tasks and 10 optional tasks. Instructions for the technical proposals advised each offeror: (1) to submit a detailed work plan indicating how each aspect of the SOW was to be accomplished; (2) to give as much detail as considered necessary to fully explain the technical approach or method; and, (3) to prepare separate SOW sections for the core and option tasks. Each of these

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SOW sections was to expand on each task outlined in the solicitation and discuss procedural issues related to completing each task. The offerors were to describe the plan for carrying out each task and list the names of staff members who would play a major role in the completion of each task.

Section M of the solicitation set forth the evaluation factors for award of the contract. This section indicated that the government would award to the offeror whose offer was most advantageous to the government, cost or price and other factors considered. Technical quality, however, was more important than cost or price. A maximum score of 100 points was possible on the technical evaluation. The two proposals submitted were given to a panel of eight reviewers, who independently evaluated each proposal.

The Department of Education pointed out in its report to our Office that the GTS proposal consisted of only 36 substantive pages, of which only three specifically addressed the SOW, and that, in spite of specific instructions to provide a detailed presentation for each of the 24 core tasks and the optional tasks, GTS addressed the core tasks "only generally and superficially in one paragraph" The reviewers' scores for the GTS proposal averaged six points out of the 100 points possible, reflecting their conclusion that the GTS technical proposal was "fatally weak in each evaluation area." Scores for the ETS proposal averaged 88 points.

The two business proposals were also evaluated. For the core tasks, GTS proposed total costs of \$13,385,503 and ETS proposed total costs of \$62,162,180.

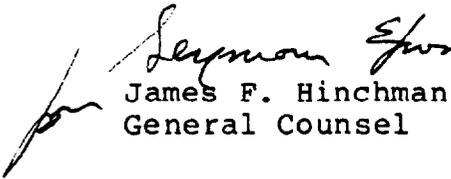
Because of GTS' extremely low and unacceptable technical rating and because the review panel unanimously believed its proposal could not be made acceptable, the firm was determined to be outside the competitive range. Negotiations were conducted only with ETS and the contract was awarded to it at a total estimated cost of \$58,511,803.

The protester argues that it should have been included in oral discussions and given an opportunity to submit a BAFO, and that the contract was awarded at an unreasonably high cost.

The agency has submitted to our Office a report which fully documents its rationale for the evaluation of the proposals, its reasons for excluding GTS from the competitive range, and its determination that ETS' proposed cost was reasonable.

In a brief response, Defense Technologies reiterates the "bottom line" bases of its protest, without specifically rebutting the agency's contentions concerning the technical evaluation of the protester's proposal or the agency's argument that ETS' price is fair and reasonable. The protester has not supplied any evidence that the agency acted unreasonably or violated federal procurement laws or regulations. Further, our review of the record provides no basis to conclude that the Department of Education's exclusion of GTS' proposal from the competitive range was arbitrary or unreasonable. Personnel Decisions Research Inst., B-225357.2, Mar. 10, 1987, 87-1 CPD ¶ 270. Under these circumstances, we have no basis to overturn the agency's decision.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel