



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Integral Systems, Inc.

File: B-240511

Date: November 23, 1990

David A. Kadish, Esq., for the protester.
Albert W. Duffield, for PeopleSoft, an interested party.
Michael L. Willis, Esq., Tennessee Valley Authority, for the agency.
David Ashen, Esq., and John Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. General Accounting Office (GAO) will not consider allegation that agency acted improperly in relaxing solicitation experience requirement in order to broaden competition since GAO's role in reviewing bid protests is to ensure that the statutory requirements for full and open competition are met, not to protect a protester's interest in a more restrictive requirement.

2. Where protester argues awardee did not meet experience requirement that proposed software system, "without modifications, must have been implemented and operating" at one site for 6 months, but protester likewise proposed a system which was not in its entirety in use at any one site for 6 months, and agency has determined that awardee's system will satisfy its minimum needs, contracting officials have treated both offerors equally and there is no basis to sustain protest against award.

DECISION

Integral Systems, Inc. protests the Tennessee Valley Authority's (TVA) award of a contract to PeopleSoft, under request for proposals (RFP) No. YH-93492C, for human resources and payroll financial software. Integral challenges the evaluation of proposals and contends that PeopleSoft failed to meet a mandatory experience requirement in the solicitation.

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We deny the protest in part and dismiss it in part.^{1/}

TVA requested proposals for the supply of a human resources and payroll financial software system, including a time and attendance module, a payroll module, and a human resources module (covering employee personnel information, employment status, and employee benefits). The solicitation as amended stated that "the system being offered, without modifications, must have been implemented and operating in at least one (1) customer site for six full months." (As issued, the solicitation required that the system being offered have been implemented and operating at two customer sites.) The solicitation required offerors to furnish as verification of their compliance with the above requirement the names and telephone numbers of three customer contacts. In addition, the solicitation advised offerors of the possibility that TVA might require a live test demonstration (LTD) of the proposed software.

The solicitation provided for an initial pass/fail evaluation of proposals on the basis of whether they met all of the mandatory requirements in the specifications. Only those proposals meeting all of the mandatory requirements then would be subject to a further evaluation in which offerors would receive points based upon their offer of listed optional features and upon system costs. Award was to be made to the responsible offeror whose compliant offer received the most evaluation points.

TVA received three proposals in response to the solicitation; it conducted discussions with and required LTDs by all offerors, and then requested best and final offers (BAFOs) from all three. Based upon its evaluation of these BAFOs, TVA concluded that PeopleSoft's proposal was most advantageous to the government. Specifically, TVA found PeopleSoft had offered the required mandatory features and awarded the firm the highest overall point score, 1,764 points; this total score included 1,314 points, the highest technical score, for

^{1/} TVA contends our Office does not have jurisdiction to consider protests such as this against TVA procurement actions, but we have previously considered and rejected this contention. See Monarch Water Sys., Inc., 64 Comp. Gen. 756 (1985), 85-2 CPD ¶ 146. TVA is subject to the procurement procedures in the Federal Property and Administrative Services Act and the Federal Acquisition Regulation, absent a determination to the contrary by the TVA Board. Newport News Indus. Corp. et al., B-220364, Dec. 23, 1985, 85-2 CPD ¶ 705. There is no indication that such a determination was made here. See Schlumberger Indus., B-232608, Dec. 27, 1988, 88-2 CPD ¶ 626.

evaluated optional features, and 450 points for its evaluated cost of \$1,044,462. Integral received the second highest score, 1,555 points, including 1,184 technical points and 371 points for its evaluated cost of \$1,265,655. Upon learning of the ensuing award to PeopleSoft, Integral filed this protest.

Integral first contends that TVA acted arbitrarily and capriciously when it relaxed the RFP requirement that the proposed system be implemented and operating at only one customer site, rather than at two sites as specified in the solicitation as issued. According to Integral, the risks associated with the project justified greater, not lesser, scrutiny of offerors' ability to perform. Integral argues that, in any case, the customer referenced by PeopleSoft and contacted by TVA was not in fact using PeopleSoft's payroll software in the administration of the customer's payroll and that therefore PeopleSoft's proposal failed to satisfy either the relaxed specification or an additional specification requirement that an offeror have demonstrated the ability to complete a "comparable project."

TVA explains that it relaxed the experience requirement only after determining that none of the offerors could comply with the requirement as originally stated and in order to broaden competition. TVA reports that it determined that PeopleSoft met the requirements on the basis of information from both the referenced customer and PeopleSoft that the customer's system had been implemented and operating for 6 months, although "not in full production"; according to the agency, the contracting officer did not interpret the experience requirements as requiring that the system have been in full production such that every software module was processing useful work. The agency learned after award that PeopleSoft's referenced customer was not utilizing the entire PeopleSoft payroll module, although other customers were using this module (but not necessarily the other modules). While TVA believes PeopleSoft nevertheless met the experience requirements as properly interpreted by the contracting officer, it contends that, at the very least, PeopleSoft demonstrated a level of experience either equivalent to or in excess of that specified in the specification. In any case, TVA claims, and Integral does not deny, that Integral's two referenced customers also had not placed into full production and use the entire system proposed to TVA by Integral.

Our Bid Protest Regulations require that alleged improprieties incorporated into a solicitation by amendment be protested not later than the next closing date for receipt of proposals following the amendment. 4 C.F.R. § 21.2(a)(1) (1990). Integral's failure to protest TVA's amendment of the experience requirement, which accompanied the request for

BAFOs, until after award therefore rendered its protest of the relaxation of the requirement untimely. In addition, our role in reviewing bid protests is to ensure that the statutory requirements for full and open competition are met, not to consider a protester's assertion that the needs of the agency can only be satisfied under more restrictive specifications than the agency believes are necessary. Matonuska Maid, B-235607.2, June 30, 1989, 89-2 CPD ¶ 18; Gould Elecs., B-233947.2, Mar. 27, 1989, 89-1 CPD ¶ 310.

Integral's argument that PeopleSoft's proposal should have been rejected because of the alleged failure of PeopleSoft's referenced customer to fully utilize the entire payroll module is without merit. TVA reports that PeopleSoft's proposed system successfully passed the LTD and will satisfy its needs, and given that neither of Integral's referenced customers had placed in full use the entire system proposed to TVA, both offerors were treated equally. Under these circumstances, there is no basis for sustaining Integral's protest. O.V. Campbell & Sons Indus., Inc., B-236799 et al., Jan. 4, 1990, 90-1 CPD ¶ 13; Emulex Corp., B-236732, Dec. 27, 1989, 89-2 CPD ¶ 600.

Integral challenges the calculation of the technical point scores. It argues, first, that TVA acted improperly in evaluating compliance with the mandatory specifications on a pass/fail basis, without undertaking a relative ranking of offerors and, second, that TVA's calculation of the evaluation points awarded for proposal of various optional features was arbitrary and capricious.

We find that neither allegation provides a basis for overturning the award. The solicitation specifically advised offerors that calculation of evaluation scores would be based on proposed optional features and cost, and that compliance with mandatory requirements would be evaluated on a pass/fail basis. Likewise, the directions for the LTD, which were furnished to offerors, advised that evaluation of compliance with the mandatory specifications during the LTD would be on a pass/fail basis. Integral's failure to protest the evaluation scheme prior to the closing date for receipt of initial proposals renders its protest in this regard untimely. 4 C.F.R. § 21.2(a)(1). As for TVA's scoring of the proposed optional features, Integral questions the evaluation only in areas where Integral could have increased its score relative

to that of PeopleSoft by no more than of 192 points. Since an increase in Integral's score by this amount would have left PeopleSoft as the highest rated offeror, there is no need to address these allegations.

The protest is denied in part and dismissed in part.

for 
James F. Hinchman
General Counsel