



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dynamics Research Corporation

File: B-240809

Date: December 10, 1990

Lola Dickerman, Esq., for the protester.
John R. Kancilia, Esq., Reinman, Harrell, Graham, Mitchell & Wattwood, for Software Productivity Solutions, Inc., an interested party.
Maj. William R. Medsger, Department of the Army, for the agency.
Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency did not properly justify award to higher priced offeror is denied where the solicitation made technical considerations more important than price and the agency reasonably concluded that the technical superiority of the awardee's proposal was worth the additional cost.

DECISION

Dynamics Research Corporation protests the award of a contract to Software Productivity Solutions, Inc. (SPS) under the Department of the Army request for proposals (RFP) No. DAAB07-89-R-B910. Dynamics asserts that the Army improperly awarded the contract to SPS at a price higher than that offered by Dynamics.

We deny the protest.

The RFP, which was issued on June 23, 1989, contemplated the award of a fixed-price, indefinite delivery/indefinite quantity time and materials contract for Executive Management Software Metrics (EMSM) technical support for 1 base year and two 2-year option periods.^{1/} The RFP required the submission of technical and cost proposals and provided that proposals

^{1/} The EMSM effort refers to the Army's need to monitor, assess, and control the acquisition, development, and support of software through the use of metrics that provide feedback to the management level.

would be evaluated based on the following factors listed in descending order of importance: technical, management, and cost. Subfactors for evaluation were listed following the technical and management factors. The RFP provided that in the evaluation of proposals the technical factor would be weighted more than the management and the cost factors combined, and the management factor would be weighted more than the cost factor. The RFP also stated that a rating of less than acceptable for the technical factor would result in rejection of the proposal. Finally, the RFP provided that the award would be made to the offeror that provided the best overall proposal considering technical, management, and cost factors.

On August 16, the closing date for the receipt of proposals, four offerors responded to the solicitation. The evaluation panel reviewed the offers and placed three offerors, including Dynamics, in the competitive range. The agency then held two rounds of discussions and requested best and final offers (BAFO) by May 4, 1990. The initial offers and BAFOs were evaluated using an adjectival system. SPS' BAFO received ratings of superior for the technical and management factors, while Dynamics's BAFO received ratings of acceptable for each of these factors. Regarding price, SPS submitted a BAFO of \$5,892,959, while Dynamics's final proposed price was \$2,484,542. The contracting officer reviewed the evaluation and determined that the proposal submitted by SPS was worth the additional cost and provided the best advantage to the government. A contract was awarded to SPS on August 9.

Dynamics protests that the Army did not have adequate justification to award the contract to SPS at a price more than twice that proposed by Dynamics. The Army responds that it made a proper technical/price trade-off and properly awarded the contract to SPS. We conclude that the Army's decision to award the contract to SPS was reasonable.

In a negotiated procurement the government is not required to make award to the lowest priced, technically acceptable offeror unless the RFP specifies that price will be the determinative factor for award. Thus, where, as here, the solicitation indicates that technical considerations are more important than cost considerations, award to a technically superior, higher priced offeror is proper where the record shows that the offeror's price premium was justified in light of its technical superiority. T.W. Hollopeter & Assocs., B-227804, July 30, 1987, 87-2 CPD ¶ 118. In this case, we find the record supports the contracting officer's decision to award the contract to SPS as the technically superior offeror even though SPS proposed a higher price than Dynamics.

In reaching his decision to award the contract to SPS, the contracting officer relied on the technical evaluations as well as a best value analysis that was performed by the technical evaluation panel. The best value analysis, which considered the proposals on a comparative basis without considering price, evaluated whether the risk associated with each offeror's proposal was high, moderate, or low for a number of factors, such as extended schedule and inadequacy of the first version of EMSM methodology. Based on this comparative risk assessment, the analysis concluded that SPS' proposal represented the best value to the government, even if its price was up to three times greater than the other proposals.

Regarding the technical evaluation, SPS received a superior rating for all four technical subfactors and two out of three management subfactors. The evaluators found that SPS used an innovative and state of the art technical approach with proven methods and techniques, so that the proposal represented a minimum degree of risk to the government. In addition, the panel noted that SPS submitted a very detailed technical proposal that clearly demonstrated a full understanding of the agency's needs; that SPS had impressive organizational and individual experience directly related to the government's requirements in management metrics; and that SPS had successfully performed on similar highly technical defense projects in the past, which indicated that SPS could perform in accordance with its proposal with little risk.

In evaluating Dynamics's proposal, the evaluators gave the firm acceptable ratings for all technical and management subfactors but found that the proposal was only minimally acceptable overall and represented a high degree of risk. The evaluators were concerned that Dynamics proposed a methodology which the Army was trying to replace. In addition, the evaluators found that Dynamics's corporate and personnel experience were deficient in the area of high level metrics, and that its proposed project manager was spread thinly over many projects. Finally, the evaluators found that Dynamics's proposal generally was lacking in detail and inadequately addressed many significant portions of the RFP.

In the comments it submitted following the conference held on the protest in our Office, Dynamics challenges the agency's evaluation of its own proposal. Specifically, Dynamics argues that the RFP did not preclude the use of the methodology that it proposed; that it does have high level metrics experience; that its proposed project manager is distinguished in the field and entirely dedicated to the EMSM effort; and that the RFP did not require the project manager to reside at or near the Army facility. Dynamics also disputes that it offered a high risk approach.

Dynamics was rated acceptable, not unacceptable, in these areas. Thus, in order to call into question the agency's decision to award to SPS as the technically superior offeror, Dynamics's scores would have to be raised to superior for at least some of the factors. We find no basis on which to question the Army's conclusion that Dynamics's proposal was acceptable rather than superior in the areas that Dynamics disputes.

First, Dynamics correctly asserts that the RFP did not exclude the methodology proposed by Dynamics. It was entirely proper, however, for the Army to compare the competitors' methodologies and conclude that the methodology proposed by SPS was better suited to meet the agency's current needs. Thus, we have no basis to conclude that the Army unreasonably failed to give Dynamics a superior rating when it concluded that Dynamics's proposed methodology was one which the Army was trying to replace. Second, the Army based its conclusion that Dynamics was lacking in high level metrics experience on the publications and past contracts that Dynamics listed in its initial proposal, as well as on the past deliverables Dynamics referred to in response to a clarification request asking Dynamics to expand on its cited publications to demonstrate metrics experience and leadership. Dynamics has not shown that its evaluation should be upgraded from acceptable to superior on this basis since, despite its current argument as to how the experience listed in its proposal should be interpreted, the proposal in fact generally references projects demonstrating low level, rather than high level, metrics experience.

Third, regarding Dynamics's proposed project manager, the Army did not question the individual's qualifications. While, as Dynamics states, there was no requirement that the project manager reside near the Army facility, the Army's concern was not primarily with where the project manager was located, but with the fact that he would be responsible for numerous other projects and thus might be unavailable when needed at the Army facility. Although Dynamics asserts that its proposed project manager will be fully dedicated to the Army project, it is clear from the firm's response to a discussion question on this subject that Dynamics proposed to share the manager's time among various projects. It was reasonable for the agency to have some question regarding the ability of a project manager located away from the facility and responsible for other projects to adequately manage the Army project, especially in dealing with emergencies as they arose.

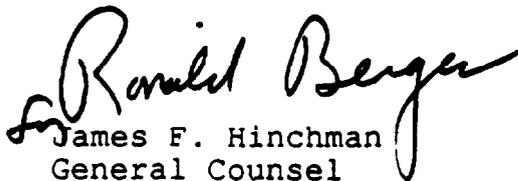
Finally, we see no basis to question the Army's conclusion that Dynamics offered a high risk approach, given our finding

that the agency's evaluation underlying this conclusion was reasonable.

In its conference comments, Dynamics also questions the Army's use of an adjectival rating system to evaluate the proposals. Adjectival scoring methods are valid if they give the selection official the opportunity to gain a clear understanding of the relative merit of proposals. Ferguson-Williams Inc., B-231827, Oct. 12, 1988, 88-2 CPD ¶ 344. Here, nothing in the record suggests to us that the contracting officer did not gain a clear understanding of the relative merits of the submitted proposals.

Given the technical superiority of SPS' proposal and the risk associated with Dynamics's approach, we have no basis to question the reasonableness of the agency's determination that SPS' proposal offered the best value to the government.

The protest is denied.


James F. Hinchman
General Counsel