

Formica



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Avondale Technical Services, Inc.

File: B-243330

Date: July 18, 1991

Joseph J. Jarvis for the protester.
William F. Dalton, for E.L. Hamm & Associates, Inc., and
Robert W. Forster, for TGS Technology, Inc., interested
parties.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the
agency.
John Formica, Esq., and John Brosnan, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

1. Protest challenging the cost realism of the awardee's proposal by offeror not in line for award if the protest is sustained is dismissed since the protester lacks the direct and substantial interest with regard to the contract award to be considered an interested party.
2. Contracting agency reasonably included proposal in the competitive range given the proposal's technical acceptability and the agency's belief that significant cost reductions could be achieved through discussions.

DECISION

Avondale Technical Services, Inc. protests the award of a contract to TGS Technology, Inc. under request for proposals (RFP) No. DAKF48-90-R-0030, issued by the Department of the Army for visual information and training support at Fort Hood, Texas. Avondale states that TGS cannot properly perform at its low cost estimate and challenges the agency's cost realism analysis of the awardee's proposal. In the alternative, the protester questions the inclusion of its proposal in the competitive range.

We dismiss the protest in part and deny it in part.

The solicitation contemplated the award of a cost-plus-award-fee contract for a base period with four 1-year options. The solicitation provided that award would be made based on the

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best overall proposal with appropriate consideration given to the evaluation factors. The RFP set forth quality and cost as the primary evaluation factors and stated that quality was substantially more important than cost. Under the quality factor, the agency listed three principal subfactors: technical, quality control, and project management. With regard to cost, the RFP provided that cost would not be scored but would be evaluated using cost analysis techniques.

The Army received proposals from Avondale, TGS, and a third offeror, E.L. Hamm & Associates, Inc. The proposals were evaluated as to both quality and cost, and all three were included in the competitive range. The agency held discussions with all the offerors and requested and evaluated revised proposals. The Army then requested best and final offers (BAFO). The result of the BAFO evaluation was that TGS received the highest quality score of 93, with Hamm second at 84, and the protester ranked third at 80. TGS proposed a cost of \$4,964,868, which was adjusted to a most probable cost of \$4,997,217 in the analysis. The protester's proposed cost of \$7,016,537, which was not adjusted during the evaluation, was the highest of the three. Award was made to TGS as the offeror with the highest technical score and lowest evaluated cost.

Avondale first argues generally that the Army did not properly evaluate the realism of TGS' proposed cost. On the other hand, the agency argues that the protester is not an interested party to maintain this protest.

Under the Competition in Contracting Act of 1984, 31 U.S.C. § 3553(a) (1988), and our Bid Protest Regulations, 4 C.F.R. § 21.1(a), a protester must be an "interested party" before we will consider its protest. A protester is not an interested party if it would not be in line for award if its protest were sustained. Hawthorne Servs., Inc., B-222436, May 30, 1986, 86-1 CPD ¶ 513. Here, the protester received the lowest quality score and proposed the highest cost. Thus, even assuming that the evaluation of the TGS proposal was flawed and the selection of that firm improper, Hamm, the offeror with a quality score higher than the protester and a lower proposed cost, would be next in line for award. The protester has not challenged the Army's evaluation of Hamm's offer. Accordingly, because Hamm, and not the protester, would be in line for award if the protest were sustained, the protester lacks the requisite direct and substantial interest with regard to the award to be considered an interested party to protest the evaluation. Id. We therefore dismiss this aspect of the protest.

In any event, we have reviewed the record of the agency's quality and cost evaluation, and in view of our rule that we

do not engage in an independent evaluation of proposals but examine the evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria, Anamet Laboratories, B-241002, Jan. 14, 1991, 91-1 CPD ¶ 31, we find no legal basis upon which to object to the evaluation and the selection made.

The protester also argues in the alternative that its proposal should not have been included in the competitive range if it had no reasonable chance for award.

The purpose of a competitive range determination in a negotiated procurement is to select those offerors with which the contracting agency will hold written or oral discussions. Federal Acquisition Regulation (FAR) § 15.609(a); Kaiserslauten Maintenance Group, B-240067, Oct. 12, 1990, 90-2 CPD ¶ 288. The competitive range consists of all proposals that have a reasonable chance of being selected for award, that is, those proposals which are technically acceptable as submitted or which are reasonably susceptible of being made acceptable through discussions. Kaiserslauten Maintenance Group, B-240067, *supra*. FAR § 15.609(a) provides that if doubt exists as to whether a proposal is in the competitive range, the proposal should be included. As a general rule, an agency should endeavor to broaden the competitive range since this will maximize the competition and provide fairness to the various offerors. *Id.*

As noted previously, the solicitation had two primary evaluation factors--quality and cost. With regard to quality, while Avondale's initial proposal received the lowest quality score of the three proposals submitted, its score of 80 was relatively close to the second-ranked offeror's initial score of 82. With regard to cost, while Avondale's proposed costs were substantially higher than the proposed costs of the other offerors, the agency concluded that significant cost reductions could be achieved through discussions. As such, given Avondale's quality score and the agency's belief that significant cost reductions in Avondale's proposal could be achieved through discussions, we think that the agency, in the interest of full and open competition, reasonably included Avondale's proposal within the competitive range.

The protest is dismissed in part and denied in part.


for James F. Hinchman
General Counsel