



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Benton Corporation
File: B-249091
Date: October 21, 1992

Anton Bouvier for the protester,
P. Alan Luthy, Esq., and Col. John C. Thornton, Department
of the Air Force, for the agency,
Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Agency properly found protester's proposal unacceptable
where the proposal had so many deficiencies that it could
only be made acceptable with major revisions.

DECISION

Benton Corporation protests the rejection of its proposal,
and the award of a contract to Carco Electronics
Corporation, under request for proposals (RFP) No. F08635-
92-R-0036, issued by the Air Force Development Test Center,
Eglin Air Force Base (AFB), Florida, for a flight motion
simulator for the Guided Missile Evaluation Facility.
Benton asserts that the Air Force unfairly evaluated its
proposal.

We deny the protest.

The Air Force issued the RFP on March 13, 1992. The RFP
provided detailed Statement of Work (SOW) specifications and
instructions for preparing a proposal. The RFP emphasized
that proposals must specifically describe the offeror's
approach to performing each requirement of the SOW and
warned offerors that repeating the SOW without sufficient
elaboration would be unacceptable. Award was to be made to
the offeror that could satisfy the RFP requirements in the
manner most advantageous to the government. The specific
areas of evaluation, listed in descending order of impor-
tance, were technical, management, and cost/price. The
technical area was comprised of the following equally weigh-
ted criteria: (1) understanding the problem, (2) soundness
of approach, and (3) compliance with requirements. The RFP
reserved the government's right to award to other than the
lowest priced offeror. The RFP further advised offerors

that the evaluation of proposals and award of a contract was intended to be performed without discussions so that initial offers should contain the offeror's best terms from a cost or price and technical standpoint.¹

The Air Force received two proposals in response to the RFP. Benton offered the apparent low total price of \$1,297,595² for the base contract and options, while Carco offered a total price of \$1,476,119. The technical evaluation team noted 53 significant weaknesses in Benton's proposal, including numerous instances of noncompliance with the RFP requirements (33 specific instances noted) and various failures to demonstrate an understanding of problems associated with the contract or to present a sound approach to these problems. Based on this evaluation, the Air Force determined that Benton's proposal was unacceptable and would require a major revision to be made acceptable. In contrast, Carco's proposal was found acceptable in all areas of the evaluation; the technical evaluation team noted few and readily correctable weaknesses in Carco's proposal and found that its proposal demonstrated an exceptional understanding of problems and soundness of approach. The technical evaluation team concluded that it was technically feasible to make award to Carco without discussions.

The contracting officer concurred that Carco's proposal was technically acceptable when judged against the evaluation criteria, and that Benton's proposal was unacceptable and in need of major revisions to be made acceptable. The contracting officer concluded that the technical superiority of Carco's proposal outweighed the 12 percent price difference and justified an award to Carco without discussions. The Air Force awarded the contract to Carco on June 11, 1992.

Benton protested on June 17. It alleges that the Air Force unfairly and improperly evaluated its proposal and found it unacceptable in order to justify award to Carco.

In reviewing protests of allegedly improper evaluations, we will not reevaluate proposals; the evaluation of proposals

¹Federal Acquisition Regulation (FAR) § 52.215-16 Alternate III (FAC 90-7), which provided for award without discussions, was incorporated into the RFP. This provision also reserved the agency's right to conduct discussions if it was determined to be necessary.

²The sum of the individual line items comprising the total price in Benton's cost proposal totaled \$1,697,595, but the total price printed in Benton's proposal was \$1,297,595. The Air Force was not certain which price was intended, but assumed the lower price for evaluation purposes.

is within the discretion of the contracting agency, since it is responsible for defining its needs and for deciding on the best method of accommodating these needs. Engineering Mgmt. Resources, Inc., B-248866, Sept. 29, 1992, 92-2 CPD ¶ ____; TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37. However, we will examine the record to determine whether the evaluators' judgments were reasonable and in accord with the listed criteria. Id. An agency may reasonably find a proposal technically unacceptable where the proposal contains so many deficiencies that it could only be made acceptable with major revisions. TLC Sys., supra.

The Air Force noted numerous deviations from the RFP's technical specifications in Benton's proposal. Our review has confirmed the existence of the following examples of apparent material deviations from the RFP requirements.³ The RFP specified a number of controls which were required to be physically located on the control console front panel; Benton proposed a computer-based approach that did not physically locate the controls as specified. The RFP also specified that a VME-based computer interface card be provided; Benton instead proposed an interface card compatible with a different computer system. In addition, Benton proposed a warranty with a different effective date than specified in the RFP and did not offer a required 1-year extended warranty on parts found defective during the warranty period. The RFP also specified that the contractor must test the system after installation for compliance with all of the SOW requirements; Benton excluded several apparently material test requirements from the post-installation test.⁴

Benton's proposal contained numerous other deviations that may not be considered material, in themselves, but which, in their totality, evidence the need for major proposal revisions. For example, the RFP specified that the 100 dB isolation of Room 210 (the room containing the flight simulator) from the outside environment must be maintained where electrical and hydraulic lines enter the room, whereas Benton's proposed method of shielding these lines did not specifically provide for maintaining the room's isolation from the outside environment. Also, while the RFP specified that "Lemo coax connectors" be used for input and output connectors, Benton proposed alternative connectors.

³We do not disclose the specifics of Benton's proposal since Benton has labeled this material as proprietary.

⁴Benton's proposal contains a number of other material deviations that we need not identify.

In addition, Benton's proposal did not provide a variety of required information. For example, Benton did not provide engineering data, which was required by paragraph Nos. L.11.b(1)(d) and M.2.c(2)(b) of the RFP to show that the required drive source could generate enough torque to meet the performance requirements, even though the RFP explicitly advised offerors that the Air Force required this data in order to evaluate the technical proposal. The data is needed to determine whether the proposed flight simulator is technically capable of meeting the Air Force's requirements.

While Benton asserts that the general statements of compliance in its proposal that appeared as a table in Benton's proposal evidence compliance with each requirement of the SOW,⁵ paragraph L.11.b of the RFP states:

"The proposal shall not merely offer to conduct an investigation or perform work in accordance with the [SOW], but shall outline the actual investigation or method proposed as specifically as possible. Repeating the [SOW] without sufficient elaboration will not be acceptable." (Emphasis in original.)

Under the circumstances, Benton's failures to provide the required information provides the agency with a reasonable basis to find Benton noncompliant with each of the unaddressed requirements; numerous instances of what are only general offers to comply support a determination of technical unacceptability. See TLC Sys., supra.

Benton acknowledges all the foregoing (and other) deviations, but asserts they are not material and/or should be accepted. However, the RFP specifications were clear and were said to represent the Air Force's actual, material requirements,⁶ and the record shows that the Air Force

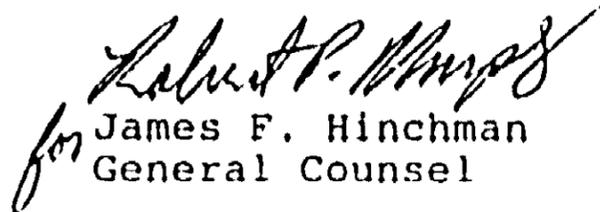
⁵Benton's table presented a summary of each requirement of the SOW followed by the letter "Y," which Benton asserts shows compliance with the respective requirements.

⁶Benton asserts that its alternatives to the SOW requirements should be acceptable under the specifications. This contention is essentially that the specifications are overly restrictive, which should have been protested prior to the date for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1). To the extent Benton asserts that the deviations could have been corrected during discussions, the RFP specified that no discussions would be held and that the Air Force intended to evaluate and make award based on initial

(continued...)

conducted the evaluation in accord with the listed criteria and reasonably found numerous deficiencies and failures to provide needed information in Benton's proposal as detailed above. Thus, we conclude that the agency had a reasonable basis to determine Benton's proposal unacceptable and in need of major revisions. Accordingly, the award to Carco was proper.⁸

The protest is denied.


for James F. Hinchman
General Counsel

⁶(...continued)

proposals; correction of such deviations during discussions was not to be expected here.

⁷Our review did reveal a limited number of instances where Benton's proposal may have satisfied the RFP requirements but did not receive credit from the evaluators. However, the instances of Benton's failure to address minimum information requested by the RFP are so numerous that the reasonableness of the Air Force's unacceptable determination is not in doubt. See Engineering Mgmt. Resources, Inc., supra.

⁸Benton also alleges that the Air Force is biased in favor of Carco because it has a history of rejecting the proposals of Carco's competitors and awarding contracts for flight simulators at Eglin AFB to Carco. Any contention that the government acted with prejudice in excluding a protester from a contract award must be supported by evidence that agency procurement officers had an intent to harm the protester, since they are presumed to act in good faith. Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371. Benton's assertion that prior awards to Carco demonstrate Air Force bias is based solely on inference and supposition, which is insufficient to show bias. Furthermore, we have reviewed Carco's proposal and the Air Force's evaluation and find nothing to question the reasonableness of the evaluation and determination of technical acceptability.