



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

Decision

Matter of: Chant Engineering Co. Inc.

File: B-257125.2

Date: December 19, 1994

Philip Chant for the protester.
Diane M. Canzano, Esq., Bureau of Engraving and Printing,
Department of the Treasury, for the agency.
Jeanne W. Isrin, Esq., and John M. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Proposal was properly excluded from competitive range where agency reasonably concluded that protester's technical proposal contained informational deficiencies so numerous that it did not demonstrate that its offered equipment could perform as required, and thus had no reasonable chance for award; agency was not required to attempt to remedy deficiencies by means of clarifications or discussions, since the scope and range of deficiencies rendered proposal so materially deficient that major revisions and additions would be required to make it acceptable.

DECISION

Chant Engineering Co. Inc. protests the elimination of its proposal from the competitive range under request for proposals (RFP) No. BEP-93-52(N), issued by the Bureau of Engraving and Printing (BEP), Department of the Treasury, to furnish, deliver, and install a low-speed, high-torque shredding machine.

We deny the protest.

The RFP contemplated award of a firm, fixed-price contract and provided that award would be made to the offeror whose technically acceptable proposal offered the lowest overall evaluated cost to the government. Chant's proposal (one of six received) was found technically unacceptable, and thus eliminated from the competitive range, due to informational deficiencies deemed so substantial that correcting them essentially would necessitate a proposal rewrite.

Chant asserts generally that its proposal met the solicitation requirements and, more specifically, that it should have been given an opportunity to address the alleged deficiencies through clarifications.

The evaluation of proposals and the resulting determination of whether an offer is in the competitive range is a matter within the discretion of the contracting agency, since that agency is responsible for defining its needs and the best method of accommodating them. Laboratory Sys. Servs., Inc., B-256323, June 10, 1994, 94-1 CPD ¶ 359. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, the agency is not required to include the proposal in the competitive range. Defense Group, Inc., B-253795, Oct. 25, 1993, 94-1 CPD ¶ 196. We will review an evaluation and competitive range determination only to ensure that the agency's actions were reasonable and consistent with applicable procurement laws and regulations. EER Sys. Corp., B-256383 et al., June 7, 1994, 94-1 CPD ¶ 354.

The agency properly rejected Chant's proposal. Section L set forth extensive requirements regarding the information to be included in technical proposals. Paragraph L.10(b) of the RFP required offerors to demonstrate how they proposed to meet the stated requirements or goals, and to demonstrate the necessary understanding, expertise, facilities, personnel, and experience to successfully accomplish the proposed work. Paragraph L.10(d) required offerors to provide sufficient information and detail to permit the evaluators to evaluate the proposals on each of the six evaluation factors listed in section M. Paragraph L.10(d)(1) provided that:

"The proposal shall provide technical descriptions of the proposed equipment which demonstrate the offeror's compliance with the design/performance requirements, paragraph by paragraph. Supporting data, catalogue literature, and/or drawings shall be provided to add clarity to the technical descriptions provided."

Paragraph L.10(d)(1) further required proposals to address numerous specific areas, including such things as method of production for each shredder, names of subcontractors and types of work to be subcontracted, production schedule, installation requirements, maintenance plan(s) proposed for the equipment, a complete listing of all tools required for maintenance, and a schedule of the proposed activities necessary to complete the project. Paragraph L.10(d)(2) required a detailed discussion of management approach and procedures. Finally, paragraph L.5 warned that failure to furnish a complete proposal at the time of proposal

submission might result in the proposal being grossly deficient and require elimination from further consideration.¹

Chant's proposal was rated deficient in all technical areas--the consensus cited at least one major deficiency under each evaluation factor, and the proposal received a technical score that was within the lowest quarter of the evaluation scale. The most important evaluation factor, "Design and Construction of the Equipment" (30 of 100 available points), concerned "the specific present day technology, soundness of design concepts and adequacy of material and processes proposed." The evaluators were predominantly concerned about Chant's proposed equipment. While the RFP had contemplated a plate shredder, which can shred curved or straight plates, Chant had proposed a custom-designed, hydraulically powered shearer, which can only destroy flat plates. Since printing plates returned from BEP's printing section are curved, Chant proposed adding a plate flattener device, so that plates would first be flattened and then fed into Chant's shearer. Chant's proposal contained no detail on how the plates would be flattened and how much operator involvement would be required to flatten them. (The RFP specified that the machine was to require the labor of only one employee.) This concerned the evaluators because nickel printing plates which have been in the press for an extended period are fully hardened from cold working and as such are very difficult to flatten. The proposal also contained no discussion of how flat the plates must be or how the operator would be able to ensure that the plates would be flattened sufficiently for processing without the need for operator intervention for each plate. Further, no data were provided on the plate feeder mechanism.

Under the evaluation factor "Productivity of the Equipment" (20 points), the evaluators found that Chant's proposal met the minimum requirement for number of plates destroyed per hour, but did not provide any information concerning the time required to flatten plates, which would have to be included in the overall production rate. Under the evaluation factor "Maintainability of the Equipment" (20 points), the evaluators found that the design of the shear sections of the machine conformed with standard practice for such machinery, but were concerned because

¹In considering whether a proposal was properly rejected as technically unacceptable for informational deficiencies, we examine the record to determine, among other things, whether the RFP called for detailed information and the nature of the informational deficiencies. Defense Group, Inc., supra; Source AV, Inc., B-234521, June 20, 1989, 89-1 CPD ¶ 578.

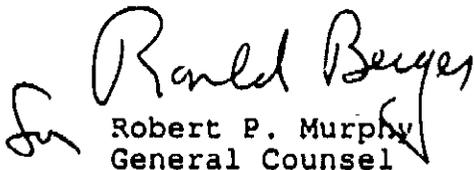
little information was provided concerning the plate feeder or flattener device and the hydraulic maintenance requirement. Under the factor "Project Administration" (10 points), the evaluators found that that proposal contained no delivery dates for the proposed equipment, training, testing, documentation, or spare parts; the proposal contained no information as to the available resources and Chant's plan for utilizing the resources to meet the delivery schedule; and did not include the required implementation plan. Under the "Qualifications" factor (10 points), the evaluators found no information on Chant's qualifications and experience in the design and manufacture of similar types of machinery, and no personnel data concerning the experience and qualifications of the key personnel to be assigned to the project. Under the final factor, "Reliability and Quality Control" (10 points), the proposal was found to contain no information on reliability; although this presumably was because the equipment was to be custom designed and manufactured, the proposal did not indicate, for example, whether Chant regularly produced this equipment.

Our review confirms that Chant's proposal reflects the informational deficiencies identified by the evaluators. Chant does not challenge any of the agency's specific evaluation conclusions, and its general assertion that its proposal was acceptable is inadequate to establish that the evaluation was improper. As indicated, Chant principally argues that it should have been permitted to cure any deficiencies through clarifications. This argument is without merit.

In a negotiated procurement, the clarification process is used to eliminate minor uncertainties or irregularities. RCA Serv. Co., B-219643, Nov. 18, 1985, 85-2 CPD ¶ 563. The informational omissions from Chant's proposal were extensive and significant, and thus clearly were not minor uncertainties or irregularities. Rather, the omissions constituted weaknesses and deficiencies that would have to be the subject of discussions. Chant was not required to be included in discussions, however, since BEP determined that the informational deficiencies rendered the proposal so deficient that it would require a major rewrite in order to be made acceptable. We find no basis for questioning this determination since Chant's proposal lacked significant information under every evaluation category and Chant has not established that the information in fact was not material. Agencies properly may eliminate a proposal from the competitive range for informational deficiencies so material that major revisions and additions would be required to correct the deficiencies. Source AV, Inc., supra.

Much of Chant's protest revolves around the fact that its proposal was initially rejected for offering a shearer instead of a shredder, but then, when BEP reevaluated the proposal (in response to a protest), for the first time was found deficient for the numerous reasons discussed above; the protester maintains that contracting officials were looking for justification for rejecting its proposal. BEP has explained that Chant's proposal was initially rejected on its face for not offering the specified type of machinery, and was not subjected to a detailed evaluation until the reevaluation was performed. We find nothing objectionable in the agency's actions. The determinative question for purposes of this protest is not when the agency made its determination, but whether that determination was reasonable; we have found that the agency's evaluation of Chant's proposal was reasonable. The record contains no support for Chant's suggestion that the agency proceeded in bad faith; prejudicial motives will not be attributed to contracting officials on the basis of unsupported allegations, inference, and supposition. Crown Logistics Servs., B-253740, Oct. 19, 1993, 93-2 CPD ¶ 228.

The protest is denied.


Robert P. Murphy
General Counsel