



Comptroller General
of the United States

014132

Washington, D.C. 20548

Decision

Matter of: MicroTech Conversion Systems
File: B-258928
Date: February 15, 1995

Steven L. Shray for the protester.
Anthony L. Shaffstall for Shaffstall Corporation, an interested party.
Alden F. Abbott, Esq., and Lisa J. Obayashi, Esq., Department of Commerce, for the agency.
Daniel I. Gordon, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Proposal was properly found technically unacceptable where the agency reasonably interpreted the technical proposal as not satisfying a material solicitation requirement and where, as to several other material requirements, the offeror's best and final offer failed to furnish enough information to demonstrate the proposal's technical acceptability, notwithstanding discussion questions seeking further details concerning the proposed equipment.

DECISION

MicroTech Conversion Systems protests the award of a contract to Shaffstall Corporation under request for proposals (RFP) No. 52RANW400074, issued by the Department of Commerce for a tape duplication system. MicroTech contends that its proposal was not evaluated reasonably.

We deny the protest.

The Department of Commerce's Mountain Administrative Support Center issued the RFP to obtain fixed-price proposals for a system with the capability of creating multiple copies of tapes without operator intervention. The system, which will be used by the National Weather Service, is to consist of 21 drives, expandable to 28 drives, a personal computer, 4 tape controllers, tape duplication and conversion software, and installation of all hardware and software.

Section M of the RFP stated that the government was "more concerned with making award at the lowest overall cost to the government than with obtaining superior technical features." It also provided, however, that the agency would "not make an award based on a proposal with significantly inferior technical features in order to achieve a small savings in costs."

Section M set forth the evaluation criteria that would be applied in reviewing technical proposals. The breakdown of points that would be used in the technical evaluation was disclosed to offerors. The RFP stated, for example, that 200 of the 1,175 points available in the technical evaluation were for the operating system factor. Within the technical factors, further details relevant to this protest were disclosed. Thus, the RFP indicated that "tape duplication functions executable from MS-DOS" was assigned 40 points, which was more than any other component of the operating system factor. Similarly, offerors were advised that the requirement that equipment be available 98 percent of the time was one of the most important components of the "general requirements" factor.¹ Offerors were also informed that the central processor unit (CPU) architecture in the personal computer would be worth half of the points available for the proposed personal computer. In its discussion of the technical evaluation criteria, the RFP stated that the breakdown presented in section M "is not exhaustive; rather it is meant to convey the breadth of the examination and the intended approach [which] will be used to rate the proposals." The RFP instructed offerors that technical proposals were to contain a list of the proposed equipment, which "should include the pertinent technical characteristics of all of the proposed systems' components."

MicroTech and Shaffstall were the only firms that submitted proposals. MicroTech's proposed price was \$39,795; Shaffstall's was \$73,500. While Shaffstall submitted a detailed technical proposal, MicroTech submitted a technical proposal that was essentially three pages long (excluding the photocopied clauses from section K of the RFP). There was so little detail in the proposal that the evaluators were unable to assess its compliance with many of the technical requirements. For example, MicroTech's proposal did not address the requirement that tape duplication

¹Availability was defined in the statement of work in terms of the time when the system is functional, as opposed to "downtime" caused by hardware or software malfunctions. The percentage of availability was to be calculated, based on the offeror's or the manufacturer's testing, by dividing the total productive time by the sum of the total productive time and total downtime.

functions be executable from MS-DOS; instead, the proposal simply stated that the functions were accessible from a menu. The entire discussion of availability in the proposal was the statement that the proposed equipment "has an availability of 98% or better." Concerning the CPU architecture, the evaluators were unable to locate any information about the random access memory (RAM) speed, or cache size or speed.

Of the 1,175 points available for the technical proposal, the evaluators assigned Shaffstall's proposal 1,040 points; MicroTech's received 843 points. Based on the evaluators' assessment, the agency determined that MicroTech's proposal was technically unacceptable but capable of being made acceptable, while Shaffstall's proposal was acceptable as submitted. Both proposals were included in the competitive range, and discussion questions were sent to each offeror, together with a request for best and final offers (BAFO).

Among the questions sent to MicroTech were requests for further detail about the proposed operating system and equipment, and about equipment availability. MicroTech submitted four pages addressing technical issues in its BAFO. In those four pages was the following discussion relevant to the ability to access duplication functions from MS-DOS:

"All facets of the duplication system are accessible through menus. It is the ONLY way to normally perform many of the operations of the system. Due to the open nature of the software it is possible to bypass the built-in menus via custom programming. This is not required and is normally not done."

The BAFO did not address the 98-percent availability requirement at all. Concerning the CPU architecture of the proposed personal computer, virtually no further technical details provided; no information was provided concerning RAM speed or cache size or speed. Although the evaluators raised their assigned score for MicroTech's proposal from 843 to 902, they found that the proposal remained technically unacceptable.

At BAFO, MicroTech's proposed price remained \$39,795, while Shaffstall reduced its price to \$63,500. The agency selected Shaffstall for award because its proposal was the only acceptable one submitted, and its BAFO price was determined to be fair and reasonable.

MicroTech contends that the agency evaluation was unreasonable and reflects bias. Specifically, it argues that its BAFO demonstrated that the duplication functions

could be executed from MS-DOS; it alleges that further information regarding the CPU architecture did not need to be submitted, since it was irrelevant to the performance of the system in this procurement and was not specifically requested either in the RFP or the invitation for BAFOs.²

Our Office will not question an agency's evaluation of proposals unless the agency deviated from the solicitation evaluation criteria or the evaluation was otherwise unreasonable. Payco Am. Corp., B-253668, Oct. 8, 1993, 93-2 CPD ¶ 214. Here, we find reasonable the agency's determination that MicroTech's proposal was technically unacceptable.

MicroTech submitted an initial proposal which it admits was "very brief and left room for improvement." Yet even after the agency advised the protester that further detail was needed concerning the proposed operating system and other equipment, and the 98-percent availability requirement, MicroTech failed to furnish adequate information. It completely ignored the request that it address the availability requirement in further detail, and has provided no rationale for doing so in its protest.

MicroTech's BAFO also provided essentially no additional data about the proposed CPU architecture. Its protest ground in this area, challenging the relevance or need for information about the CPU architecture, amounts to no more than disagreement with the agency's technical judgment, which does not establish that the evaluation was unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. In the context of a solicitation which required offerors to identify the pertinent technical characteristics of the system components and which advised offerors that CPU architecture would account for half of all the points assessed for the personal computer, we find it reasonable for the agency to downgrade MicroTech's proposal for failure, notwithstanding the discussion questions relevant to this area, to provide basic details about the proposed CPU architecture.

MicroTech's BAFO did address the requirement that duplication functions be executable from MS-DOS by stating that the menus could be bypassed, but doing so was not normal and would require "custom programming." MicroTech contends that this language should be viewed as demonstrating compliance with that requirement, whose

²We need not address the additional aspects of the technical evaluation disputed by MicroTech, since the deficiencies discussed here justified the agency's finding the proposal technically unacceptable.

materiality the protester does not dispute.³ The agency interpreted this language to mean that effectively not all duplication functions would be available from MS-DOS, since the use of anything but the menus (that is, access from MS-DOS) was not "normal" and might be difficult for agency personnel to perform. While MicroTech contends that the RFP did not require a discussion of whether execution from MS-DOS would be easy or difficult, we find that the agency reasonably had concern that its personnel might be unable to execute at least some of the duplication functions from MS-DOS.

In the competitive procurement system, it is the responsibility of the offeror to submit a proposal that fully demonstrates the technical acceptability of the offered product. Where a proposal fails to clearly set forth information adequate to convince the procuring agency that the proposed product meets the agency's minimum needs, the agency may reasonably find the proposal technically unacceptable. Compressed Air Equip., B-246208, Feb. 24, 1992, 92-1 CPD ¶ 220. Here, MicroTech's initial technical proposal failed to provide the information needed to demonstrate that it met the RFP technical requirements, and the small amount of additional information provided at BAFO reinforced the agency's concern about the acceptability of the proposal.⁴

The protest is denied.

for *Paul Luserman*
 Robert P. Murphy
 General Counsel

³As noted above, the RFP disclosed to offerors that this feature was considered the most important component of the operating system factor.

⁴As to the allegation of bias, which MicroTech raised for the first time in its comments, we deny the allegation as unfounded. MicroTech has pointed to no support for its allegation other than its disagreement with the agency's evaluation. Our Office has reviewed the entire record, and that record is devoid of evidence suggesting that bias played any role in proposal evaluation or the award decision.