



Comptroller General
of the United States

1040271

Washington, D.C. 20548

REDACTED VERSION*

Decision

Matter of: Engineering & Computation, Inc.

File: B-258728

Date: January 31, 1995

Alan M. Grayson, Esq., Fred A. Cohen, Esq., and Hugh J. Hurwitz, Esq., Law Offices of Alan M. Grayson, for the protester.

Gregory H. Petkoff, Esq., and Mark J. Otto, Esq., Department of the Air Force, for the agency.

Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contracting agency's determination that protester's initial proposal was technically unacceptable and outside the competitive range was reasonable where the proposal contained [DELETED] deficiencies, [DELETED].

DECISION

Engineering & Computation, Inc. (ECI) protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. F33615-94-R-5601, issued by the Department of the Air Force, Wright Laboratory, Wright-Patterson Air Force Base, Ohio, for research and development services entitled "Quick Reaction Evaluation of Materials and Processes." ECI contends that the agency's

*The decision issued on January 31, 1995, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

The technical requirement of the agency is for an exploratory development program to perform failure analysis of metallic and composite structural parts and electrical and electronic components, to determine mechanical properties of alloys and composite materials, to determine the behavior and environmental resistance of protective coatings and corrosion resistant materials, and to assess the effects of environmentally compliant processes on the performance of aerospace materials and hardware.

determination to exclude the firm was arbitrary, capricious, and contrary to procurement law and regulation.

We deny the protest.

The solicitation requested proposals for a cost-plus-fixed-fee contract and provided that award would be made to the offeror whose proposal was determined to be the most advantageous to the government, considering technical excellence, and cost and other general considerations, in descending order of importance. The solicitation provided for the evaluation of proposals for technical excellence based on the following four subfactors, also listed in descending order of importance: (1) special technical factors; (2) understanding of the problem; (3) soundness of the approach; and (4) compliance with the requirements. Concerning cost, the RFP stated that while cost was not the most important criterion, it would be a relatively substantial factor, and that cost proposals would be evaluated to ensure realism, reasonableness, and completeness.

Proposals were received from ECI and the University of Dayton Research Institute (UDRI) in response to the solicitation. The results of the evaluation were as follows:

<u>Offeror</u>	<u>Technical</u>	<u>Cost</u>
UDRI	[DELETED]	[DELETED]
ECI	[DELETED]	[DELETED]

The contracting officer excluded ECI's proposal from the competitive range based on his determination that the ECI proposal was unacceptable in every major subfactor and contained [DELETED] deficiencies, [DELETED]; the contracting officer also found that, in light of the overall strength of the proposal submitted by UDRI, ECI's proposal did not have a reasonable chance for award. The contracting officer notified ECI of its elimination from the competitive

²In its initial protest, ECI made several additional allegations that have not been subsequently pursued in ECI's comments. We deem these initial arguments to have been abandoned. See Carter Chevrolet Agency, Inc., B-254813, Dec. 30, 1993, 94-1 CPD ¶ 5.

³We discuss below the relevant [DELETED] deficiencies of ECI's proposal that were identified by the agency during its evaluation.

range and provided the firm a debriefing at approximately the same time that he awarded the contract to UDRI. This protest followed.

As stated previously, the protester initially advanced several contentions in its original protest. In its comments, however, ECI states that the "central basis for ECI's protest is that the Air Force's exclusion of ECI from the competitive range was arbitrary, capricious, and contrary to procurement law and regulation." ECI states that had ECI not been excluded from the competitive range, it is "reasonably likely" that ECI would have been chosen for award. ECI argues that when there is doubt as to whether a proposal is in the competitive range, the proposal should be included, especially where, as here, the exclusion results in a competitive range of one firm. As relevant here, ECI states that the [DELETED] deficiencies contained in ECI's proposal could have been corrected by limited discussions.

An offeror must submit an initial proposal that is adequately written and that affirmatively states its merits, or run the risk of having its proposal rejected as technically unacceptable. Source AV, Inc., B-234521, June 20, 1989, 89-1 CPD ¶ 578. Generally, offers that are technically unacceptable as submitted and would require major revisions to become acceptable are not required to be included in the competitive range for discussion purposes. W.N. Hunter & Assocs.; Cajal Defense Support Co., B-237259; B-237259.2, Jan. 12, 1990, 90-1 CPD ¶ 52. In reviewing 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, for example, whether they tended to show that the offeror did not understand what it would be required to do under the contract. BioClean Medical Sys., Inc., B-239906, Aug. 17, 1990, 90-2 CPD ¶ 142; DRT Assocs., Inc., B-237070, Jan. 11, 1990, 90-1 CPD ¶ 47. We will not reevaluate a proposal but, rather, will consider only whether the agency's evaluation was reasonable and consistent with the evaluation scheme in the RFP. Communications Int'l, Inc., 69 Comp. Gen. 553 (1990), 90-2 CPD ¶ 3. Although we will closely scrutinize an agency's decision, such as this one, which results in a competitive range of one, we will not disturb such a determination absent a clear showing that it was unreasonable. Native Am. Consultants, Inc.; ACKCO, Inc., B-241531; B-241531.2, Feb. 6, 1991, 91-1 CPD ¶ 129.

We limit our discussion to some of the serious [DELETED] deficiencies found by the agency in ECI's proposal. The RFP, under special technical factors, required that the offerors demonstrate knowledge of and specific experience in mechanical testing; that they demonstrate their knowledge of and specific experience in both structural and electronic failure analysis; and that they demonstrate their knowledge of processing effects on the mechanical properties of aerospace materials. [DELETED].

The RFP, under the subfactor understanding the problem, required the offerors to demonstrate understanding of quick reaction evaluations and associated parameters for conducting certain tests, and an understanding of the areas of metals and composites as well as the effects of environmentally compliant processes on structural properties and performance of conventional and emerging materials. [DELETED].

ECI, in its comments, does not specifically dispute the [DELETED] deficiencies of its proposal. Rather, ECI argues that these [DELETED] deficiencies could have been corrected through discussions. However, as stated above, where a proposal requires a major rewrite to become acceptable, discussions are not required to be held with the firm submitting such a proposal. We think the record fairly shows that the agency reasonably regarded ECI's proposal as containing major [DELETED] deficiencies of sufficient magnitude that a major rewrite would be required to remedy the deficiencies. Therefore, under the circumstances of this case, we have no basis to disturb the agency's exclusion of ECI's proposal from the competitive range.

The protest is denied.

Robert P. Murphy
General Counsel