

DIGEST - L-cent



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-176761

JAN 24 1973

Dear Mr. Secretary:

Enclosed is a copy of our decision of today, denying the protest of Sociometrics, Inc., under RFP No. NIH 72-4280(P), issued by the National Institutes of Health.

While we have denied the protest, your attention is invited to the following circumstances which, we believe, require some corrective action.

As noted in the decision, only ABT's proposal, which received a composite score of 83 out of a possible 100, was determined to be within the competitive range for the procurement, price and other factors considered. However, the record also shows that the Program Management Officer, by memorandum of June 14, 1972, to the Contract Staff, stated that he would be "very concerned if any organization other than one of the top four was awarded the contract."

In this regard, FFR 1-3.805-1(a) requires that written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered. Furthermore, it should be remembered that the primary consideration in negotiated procurements is discussions with all offerors within a competitive range, so as to obtain maximum practicable competition, and that borderline proposals should not be automatically excluded from consideration if they are reasonably susceptible of being made acceptable by additional or clarifying information. 50 Comp. Gen. 59/61 (1970).

While the determination of competitive range is primarily a matter for the procuring agency to make, the June 14 statement of the Program Management Officer, together with evidence of record that the second ranked proposal received a composite score of 73, suggest that this proposal, and perhaps others, may have been reasonably susceptible of being made acceptable by discussions, and that the proposal should, therefore, have been considered to be in the competitive range for the procurement.

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We therefore recommend that action be taken to ensure that borderline proposals in future procurements are not automatically excluded from consideration unless they are so inferior that meaningful negotiations would be precluded. See 49 Comp. Gen. 309, 311 (1969).

The protest was the subject of a report, dated September 22, 1972, from the Director of Procurement and Materiel Management. The file forwarded with the report is returned.

Sincerely yours,

Paul G. Dembling

For the Comptroller General  
of the United States

Enclosures

The Honorable  
The Secretary of Health,  
Education and Welfare