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DECISION



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

FILE: B-190279

DATE: May 12, 1978

MATTER OF: Practical Concepts, Inc.

DIGEST:

Protest that solicitation selection criteria excluded subcontractor's qualifications as an element to be evaluated is denied. Solicitation when read as a whole indicates that subcontractor participation was permitted and would be considered in evaluating the technical proposal.

Practical Concepts, Inc. (PCI) has protested the award of a contract to The Futures Group (Futures) under the Department of State, Agency for International Development's (AID) solicitation No. AID/pha - 50086. PCI's protest is that, although the procurement was set aside exclusively for small businesses, AID's allowing Futures to subcontract with General Electric - Tempo (G.E.) has the practical effect of awarding the contract to a large business, G.E.

PCI insists that the basis of its protest does not involve matters within the Small Business Administration's (SBA) jurisdiction. That is, PCI states it is not raising the issue of whether Futures, a small business, can or will perform a "significant portion" of the contract for services, because that would involve a matter within SBA's jurisdiction (47 Comp. Gen. 360 (1968)). Nor is PCI alleging that there is an affiliation between G.E. and Futures which would be cognizable under the size appeal procedures set out in the Federal Procurement Regulation (FPR) 41 C.F.R. § 1-1.703-2 (1977). Rather, the thrust of PCI's contention is that the solicitation set forth certain minimum experience and qualification requirements of the prospective contractor (as opposed to any subcontractors) which Futures had to meet with its own personnel. According to PCI, and there is no dispute on this point, Futures qualifications alone are insufficient, without also considering

those of G.E., to make Futures an eligible contractor under the terms of the solicitation. The issue to be decided is whether the solicitations excluded subcontractor's qualifications as an element to be evaluated in determining which of the proposals was most advantageous.

The solicitation requested proposals from small business firms to develop and put into operation a filing system for existing demographic and socio-economic data of at least 80 lesser developed countries. The interactive computer based system would include the capability to project the countries' needs in the areas of health, education, nutrition, manpower, housing and family planning. After developing the filing system, the firm would, through seminars and issue papers on the implications of population growth as it impacts on a given country's development, present these projections to AID personnel and officials of the foreign governments involved. The solicitation also set out "Selection Criteria" in Section II of the solicitation as follows:

Selection Criteria

"The prospective contractor should be an organization with experience in assisting LDC governments in analyzing development policies. Its staff should include demographic expertise. The contractor should have access to university or other library resources that furnish published census materials and demographic studies of development policies in the LDCs for which materials are to be prepared. It should also have access to a computer center capable of providing demographic projections and related analysis of development variables required for the proposed outputs.

<u>Selection Criteria:</u>	<u>Weight</u>
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1.	<u>Personnel:</u>	<u>30</u>
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Key personnel including the Director, Socio-econometrician, and instructors will be reviewed in consideration of their:

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| a. | Experience in analysis of public policy and resource allocation problems in developing countries | (10 points) |
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- b. Advisory experience to developing countries and ability to make technical presentations in French, Spanish and English (10 points)
 - c. Experience in small group and/or tutorial cross cultural educational exercises for executive level, administrative personnel (10 points)
2. Organization: 20
- a. Resources and facilities to backstop technical assistance and data compilation (5 points)
 - b. Competence in the design and use of simulation models for decision making processes (10 points)
 - c. Resources and facilities for custom computer hardware development and maintenance (5 points)
3. Others: 25
- a. Technical quality of proposal (10 points)
 - b. Responsiveness to the RFP in terms of providing innovative approaches to the identification of decision making thresholds and design of materials for various levels of technical and executive decision making requirements. (15 points)
- Total Points 75

Note: Please note that the proposed price has not been assigned a numerical weighting. The selection will be primarily made on the technical criteria stated above. However, reasonableness of costs, the amount of funding available to the Government and each bidder's proposed price will be carefully evaluated before an award is made."

Section V of the solicitation set out the instructions for preparing the technical proposal and contained the following language regarding preparation of the technical proposal:

"The following points are made for you to consider in preparing your technical proposal:

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4. Magnitude of subcontract effort shall be explained without pricing information. Indicate the nature of the subcontract, why it is required, and when it will be executed.

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8. The Evaluation and Source(s) Selection criteria set forth elsewhere in this Request for Proposal will indicate to you the basis upon which the Government will select offerors for consideration in the negotiation/award procedure. Be sure you are familiar with these criteria."

PCI's contention is that the language of the selection criteria, particularly the language in the preamble portion, specified that only the prospective contractor's employees' experience and capabilities would be evaluated against the selection criteria's standard.

We believe, however, that PCI takes too narrow a view of the solicitation and that a broader view compels a contrary conclusion. The solicitation clearly states that AID would be scoring the technical proposals and there is no indication that such proposal evaluation would be limited to the offeror's capabilities and qualifications. Moreover, the quoted portion of Section V clearly indicates that subcontractor participation was permitted and would be considered in evaluating the technical proposals. Thus, we cannot agree with PCI's contention that AID was precluded by the terms of the solicitation from evaluating subcontractor capabilities, personnel, and experience when scoring the proposals.

Accordingly, the protest is denied. We suggest, however, that in future procurements AID make it clear whether experience requirements may be met with subcontractor's qualifications or whether evaluation of experience is limited to the contractor's organization only.


Acting Comptroller General
of the United States