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DECISION



D. Mirisch PL I

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

FILE: B-191245

DATE: June 30, 1978

MATTER OF: Littleton Research and Engineering Corp.

DIGEST:

1. Protest alleging improper evaluation of technical proposal is denied where protester fails to present clear evidence of arbitrary agency action or abuse of authority.
2. Use of evaluation criterion not specified in RFP is not improper where factor is sufficiently related to general RFP criteria to put offerors on notice of bases for evaluation.

Littleton Research and Engineering Corp. (Littleton) protests the award of a contract by the National Aeronautics and Space Administration, Ames Research Center (NASA), to its competitor, Schumacher and Associates, Inc. (Schumacher), under request for proposals (RFP) 2-26882 (BR). The subject RFP solicited proposals to perform a stress analysis on NASA's vertical motion simulator and motion generator.

The RFP was issued on August 19, 1977, with a closing date for receipt of proposals of September 13, 1977. Six proposals were received, of which three, including Littleton's, were determined to be in the competitive range. The contracting officer elected to negotiate with all three offerors. As a result, Littleton submitted a best and final offer on January 13, 1978. Upon completion of the final technical evaluations, Littleton was informed by letter dated February 1, 1978, that award was made to Schumacher. Although Littleton declined to be debriefed on the evaluation, it learned orally on February 6, 1978, that one of the bases for downgrading its proposal was the proposed use of engineering students to perform portions of the

work. Littleton's protest to this Office was received on February 7, 1978. The protest questions NASA's evaluation of Littleton's proposal.

The initial technical evaluation, conducted in accordance with standards set out in the RFP, found Schumacher's proposal outstanding, and it recommended that negotiations be conducted only with that firm. However, the contracting officer decided to negotiate also with Littleton and a third company, both of whose proposals had been rated "satisfactory."

The initial evaluation did not downgrade Littleton for use of students, because this element was only disclosed during subsequent negotiations. The first evaluation faulted Littleton's proposed level of effort, which was considerably below the Government estimate based on similar in-house work, Littleton's perception of the critical areas to be studied (§ IV(A)(2) of the RFP), and Littleton's proposed level of computer usage and cost, which was considered excessive based upon NASA's belief that significant parts of the work could not be performed by a computer.

After Littleton was informed of these problems, it submitted a best and final offer, which did not alter its prior submission in the areas of concern, except to add the services of an expert consultant. Because of the delay in awarding the contract, Littleton also changed the type of student assistance.

In the final evaluation, Littleton was further downgraded because the panel believed that the critical nature of the work required the services of experienced engineers rather than students. Schumacher's rating did not change. It is clear from the record that even if Littleton had not been downgraded for proposed student use, Schumacher's rating would still have been higher. Further, the price difference between Schumacher and Littleton was only 3 percent.

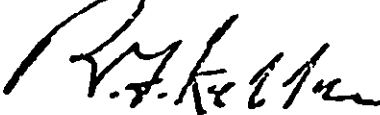
The contracting officer concluded in her report on this protest that Littleton was improperly downgraded for student use, since the evaluation criteria did not provide a specific factor for personnel qualifications. However, NASA argues, and we agree, that the evaluation factors listed in the RFP were sufficiently broad to put all offerors on notice that the level of experience of proposed personnel could be assessed as part of the overall evaluation of proposals. In this connection, section IV(A)(1) of the RFP provided that the evaluation would include scope and level of effort, as well as the proposed technical approach, and section IV(A)(3) required submission of resumes for key personnel. Section V(A) stated that:

"A very important objective of this procurement is securing a contractor who is able to perform the job effectively and properly * * * "

As we held in 51 Comp. Gen. 397 (1972), use of additional evaluation criteria not specifically referenced in an RFP is not improper where there is sufficient correlation between the new factors and generalized criteria in the RFP to put offerors on reasonable notice of the evaluation criteria to be applied to their proposals. In that case, as here, there was no evidence of nonuniform application of criteria, and the use of additional criteria did not change the ranking of the offerors.

We will not question an agency's evaluation of a technical proposal absent clear evidence of fraud, abuse of authority or arbitrary agency action. Blakeslee Prestress, Inc., Formigli Corporation, and Dow-Mac Concrete, Ltd., B-190776, April 17, 1978, 78-1 CPD 297. We do not find such evidence in this case.

Accordingly, the protest is denied.



Deputy Comptroller General
of the United States