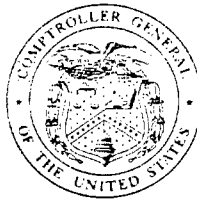


DECISION



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

9419

FILE: B-193090

DATE: March 9, 1979

MATTER OF: Environmental Enterprises Incorporated

DIGEST:

[Protest of Contract Award By EPA]

DLG01168

Protest is denied where there is nothing in record to substantiate protester's allegations that required man-hours were arbitrary or that it was required to increase its level of effort so that award could be made to another offeror.

The Environmental Protection Agency (EPA) issued request for proposals (RFP) CI-78-0016 for a cost-plus-fixed-fee contract which was to cover a 17-month base contract period with two 1-year options. The RFP was divided into two parts. Part "A" encompassed the maintenance, operation, and monitoring of 18 experimental sanitary landfills located in Cincinnati, Ohio. Part "B" embodied the assessing of the effect of moisture regimen, temperature and addition of selected sludges on gas and leachate production from sanitary municipal solid waste.

Several proposals were received. None of the proposals was found to be in the competitive range for part "B," and only Environmental Enterprises Incorporated (EEI) and SCS Engineers (SCS) were considered to be in the competitive range for part "A." Award was subsequently made to SCS.

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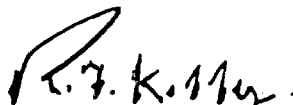
The protester, EEI, contends that the procuring activity required it to increase its level of effort for part "A" so that award could be made to SCS. With regard to the protest, EPA has refused to furnish EEI certain parts of the procurement record and technical evaluation documents it requested under the Freedom of Information Act, 5 U.S.C. § 552 (1976). EPA has furnished the record and documents to us and the contents have been considered in arriving at our decision. However, our discussion of the information in the record and documents is limited, since it has not been disclosed

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publicly by EPA. EPSCO Incorporated, B-183816, November 31, 1975, 75-2 CPD 338. Suffice it to say that we have reviewed the record and there is nothing to indicate that the required man-hours for part "A" were arbitrary or that EEI was required to increase its level of effort so that an award could be made to SCS.

The following are the pertinent facts in the case. Because of the elapsed time between submission of proposals and the technical evaluation, the procuring activity reduced the base contract period from 17 to 13 months. The procuring activity also determined that revised up-to-date cost estimates were required. Therefore, both offerors in the competitive range were requested to submit best and final offers on this basis for part "A." Subsequently, it appeared to the procuring activity that the offerors did not fully understand the manning level required for the proper performance of part "A." The solicitation contained a manning level for part "A" and part "B" combined. Since no offers were within the competitive range for part "B," negotiations were reopened to obtain best and final offers based upon EPA's estimate of man-hours for part "A" alone. EEI was requested to increase its level of effort and travel costs and to include a cost estimate for the repair of Government-owned equipment. SCS was requested to decrease its level of effort because it was over-estimated. SCS was selected for award despite the fact that it received a lower rating than EEI, and discussions were again held with that firm. We cannot fault EPA for conducting discussions with SCS again, since SCS had already been selected for award, and the purpose of the discussions was only to obtain a slight reduction in the offered price. After the discussions, the procuring activity awarded SCS the contract on September 20, 1978.

Accordingly, in the circumstances, the protest is denied.



Deputy Comptroller General
of the United States