

# DECISION



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

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97275

FILE: B-182684

DATE: May 27, 1975

MATTER OF: Winslow Associates

## DIGEST:

1. Statements made by proposed contractor relative to another procurement which may indicate less-than-total commitment to technology relevant to instant procurement is no basis for questioning selection of proposed contractor, where record shows that all offerors' proposals were evaluated on the basis of weighted numerical ratings uniformly applied.
2. Protest against proposed affirmative determination of responsibility on bases not directly related to solicitation's evaluation criteria will not be reviewed by GAO in absence of allegation of fraud on the part of procuring officials.

Request for proposals N61339-75-R-0004 was issued by the Naval Training Equipment Center, Orlando, Florida for the design and manufacture of fixed-wire simulators for training use, together with appropriate data and support services.

Of the firms responding to the solicitation, three were ultimately included within a competitive range. Negotiations were conducted with each and following the submission of best and final offers, the three offerors were ranked according to the merit of their technical proposals, and also according to price.

By letter of February 21, 1975, unsuccessful offerors were advised that the apparent successful offeror was Educational Computer Corporation and were provided with the opportunity to challenge the small business size status of that firm since the procurement was a 100 percent small business set-aside.

Winslow Associates has objected to the selection of the proposed contractor on the basis that the firm has demonstrated a lack of understanding of the type of simulators required by the solicitation. The protester states that the proposed contractor's prior criticism of the type of simulation sought in this case indicates it possesses less than

a total commitment to the requisite innovative technology. It is claimed this will result in an inferior product and ultimately the Navy may erroneously conclude that a different type of simulator, currently manufactured by the proposed contractor, is superior. Winslow has referred to this situation as a possible variation of a "bait and switch" tactic. Moreover Winslow states that revisions to the solicitation's delivery schedule and elimination of the stand assembly made prior to receipt of best and final offers may have been effected in deference to the proposed contractor and may have placed the firm in a better competitive position.

The record shows that the selection in this case was made pursuant to a review of technical and price proposals as required by the solicitation. Insofar as is pertinent to the instant protest the solicitation required that proposals outline (1) a proposed technical approach to show, among other things, an understanding of the problem, and (2) an implementation plan to include a description of prior experience relative to any device produced by the offeror which required the essential skills in design and production required in the instant procurement. Our review shows that the proposals submitted by all offerors were evaluated on the basis of weighted numerical ratings which were uniformly applied to all proposals. The fact that the proposed contractor may have made statements in connection with another procurement to indicate a less-than-total commitment to the relevant technology, in our opinion, has no direct bearing on the adequacy of the firm's specific proposal in the instant case or upon the Navy's evaluation thereof. As to the specification changes, the Navy denies that they were made in deference to the proposed contractor and it reports that the firm's technical proposal was rated highest among all offerors even prior to the requested changes.

Winslow also contends that the prospective contractor may not be a responsible offeror since it may not have successfully and timely performed prior Navy contracts. Winslow also notes the absence of a liquidated damages clause in the instant procurement and contends this may facilitate changes in the Government's delivery requirements, presumably to accommodate the prospective contractor. Finally, the protester questions whether the financial status of the proposed contractor is satisfactory to insure performance.

These arguments clearly relate to the contracting officer's proposed affirmative determination of responsibility and are not directly relevant to the evaluation criteria established in the solicitation. Such matters are not reviewed by this Office in the absence of an allegation of fraud on the part of procuring officials. Central Metal Products, Inc., 54 Comp. Gen. 66 (1974).