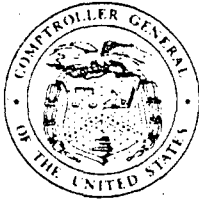


DECISION



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

FILE: B-184262

DATE: November 28, 1975

MATTER OF: Engineering, Incorporated

DIGEST:

Because record contains no evidence of unreasonableness on part of procuring activity in utilizing technical evaluation of protester's proposal to place proposal in unacceptable category (10th out of 12 or 19-2/3 points out of possible 40 points), no basis is found to object to award to lowest-priced acceptable proposer.

On January 10, 1975, request for proposals (RFP) No. N00189-75-R-0139 was issued by the Naval Supply Systems Command, Naval Supply Center, Norfolk, Virginia, to provide design engineering services to the Norfolk Naval Shipyard. The closing date for receipt of proposals as amended was March 27, 1975, and Engineering, Incorporated (EI), was one of 12 firms that submitted a proposal.

The technical proposals were to be evaluated in accordance with a predetermined evaluation plan which corresponded to the four evaluation factors set forth in the RFP. Each factor was worth a maximum of 10 points with a maximum score of 40 points. The four factors were (1) Company Experience - including capability and versatility in recently completed contracts in all types of naval design engineering work for all types of naval vessels with emphasis on carriers and submarines; (2) Quality and Number of Personnel - including personnel mix and depth of experience offered to meet the requirements of the contract of 2,500 man-hours per month; (3) Response Time - feasibility of a phase-in plan showing availability of personnel, facilities, etc., to reach full support of contract in short order (within 5 days, rated a full 10 points and in excess of 30 days, no points); and (4) Quality Assurance - an adequate quality assurance program as supported by submission of documented and auditable data, upon demand, to fully support contract requirements.

On March 28, 1975, the 12 technical proposals were forwarded to the Norfolk Naval Shipyard for evaluation by a three-man team of engineers. On May 5, 1975, the evaluation team concluded the results of the evaluation and each proposal was scored as follows:

<u>Proposer</u>	<u>Evaluated Scores</u>	<u>Rating</u>
M. Rosenblatt & Son, Inc.	38.3	Acceptable
J. J. Henry Company	34	Acceptable
National Designers, Inc.	33.6	Acceptable
Jakus Associates, Inc.	24.3	Unacceptable
George G. Sharp, Inc.	24.3	Unacceptable
The Stanwick Corporation	23	Unacceptable
Scientific Management Associates, Inc.	21.6	Unacceptable
Engineering Services, Inc.	17	Unacceptable
Marine Systems Corporation	16	Unacceptable
Engineering, Incorporated	13.6	Unacceptable
Unidyne Corporation	9.6	Unacceptable
Personnel Plus Engineering Services, Inc.	4.6	Unacceptable

By letter dated May 13, 1975, EI contacted the contracting officer and requested the status of its proposal. On May 29, 1975, all offerors were formally advised of the acceptability or unacceptability of their proposals. On the same day best and final offers were requested by a closing date of June 11, 1975, from the three technically acceptable firms. EI was advised by telephone on May 30, 1975, as to the reasons that its proposal was evaluated as unacceptable. On June 2, 1975, EI requested an immediate and complete debriefing to be provided the details as to its unacceptability.

On June 6, 1975, EI met with the contracting officer. During this debriefing conference, EI was repeatedly advised that the total score received by its proposal was not high enough to be considered in the acceptable range and that this score was not the result of any one deficiency but of an overall evaluation of the proposal. On June 9, 1975, EI provided detailed responses to the objections raised by the contracting activity and requested that its evaluation rating be changed to acceptable.

On June 12, 1975, the contracting officer noted that the evaluation team had erred in evaluating the category "Quality and Number of Personnel." As mentioned above, the RFP provided that an offeror's ability to provide 2,500 man-hours per month would be the requirement while the evaluators based the rating for all proposals on a standard of 7,500 man-hours per month. This information was relayed to the Norfolk Naval Shipyard and a reevaluation of all proposals was requested on June 16, 1975, by the contracting officer. The Norfolk

Naval Shipyard relayed the results of the reevaluation to the contracting officer on June 19, 1975. As a result of the reevaluation, EI received the maximum score of 10 points (from four points) for "Quality and Number of Personnel," raising its technical evaluation score to 19-2/3 points. The reevaluation did not result in any other firm being included in the competitive range.

Negotiations had closed on June 11, 1975, with the three firms in the competitive range submitting offers. The contracting activity, on June 23, 1975, denied the June 9 EI request that its evaluation score be changed. On June 26, 1975, the J. J. Henry Company was awarded the contract.

The protester has adopted the arguments raised in the June 9 letter and contends that its proposal (which it believes to be the lowest in price submitted) should have been rated higher and acceptable and that it should have received the award. EI asserts that (1) although, as a company, it had no previous naval design experience, all personnel to be used had had naval design experience; (2) the 7,500-man-hour per month work requirement was actually a 2,500-man-hour per month work requirement and it could provide the personnel to support the Navy's requirements; (3) it could respond to the contract in 5 days as required in the RFP and not in 20 days or more; and (4) its quality assurance program was adequate.

Since, as mentioned above, the reevaluation concerning the man-hours per month resulted in EI receiving the maximum number of points for the "Quality and Number of Personnel" rating, that contention need not be discussed.

It should be made clear that it is not the function of our Office to evaluate proposals or to substitute our judgment for that of the contracting officer by making an independent determination as to which offeror should receive an award. With regard to the relative desirability and technical adequacy of proposals received, it has been the position of this Office that such matters are within a reasonable degree of discretion of the procuring agency in the absence of clear evidence that the agency has acted arbitrarily. See Donald N. Humphries & Associates; Master Tax, Inc.; Innocept, Inc., B-183292, November 4, 1975; and Kirschner Associates, Inc., B-178887, April 10, 1974, 74-1 CPD 182.

Although EI's letter of June 9 discusses only four agency objections to its proposal raised at the debriefing conference,

the contracting officer states in the report on the protest to our Office that "it was the overall proposal in four general areas or categories which was evaluated and on which the overall score of 'Unacceptable' was based." EI concedes that, as a company, it has had no current or previous experience in performing the type of services required by the RFP. In the category "Company Experience," EI received only 1-2/3 points because of this lack of experience. The contracting officer states that all persons whose resumes appear in EI's proposal were evaluated under the category "Quality and Number of Personnel" for which EI received the maximum of 10 points after all the proposals were reevaluated. The report of the contracting officer continues:

"* * * The solicitation clearly stated that the experience of the firm, not of an individual employed or to be employed was to be the basis of evaluation under the category 'Company Experience.' All proposals received were evaluated and scored on this basis. The technical proposal submitted by Engineering Incorporated indicates that it was the firm's intent to establish a new division to perform the contract if awarded. While nothing in the solicitation precluded this, it was the evaluation team's judgment that the customer's needs could better be served by a company currently performing or having recently performed the same or similar services. Therefore, the pre-determined evaluation plan * * * was established on the basis of more points being awarded for recent similar experience."

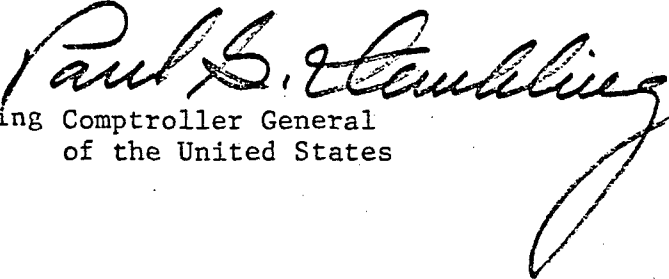
According to the contracting officer, in determining the score to be given EI under the category "Response Time," the evaluation team considered the feasibility of a plan to start work immediately following the award of a contract. Considered were such things as the phase-in plan to be used in moving personnel from existing projects to the new contract, the immediate availability of trained personnel and the facilities of the company. The facilities of EI were found to be satisfactory. However, in the judgment of the evaluation team, it would take EI longer than 5 days as claimed to be in full operation. While the company showed signed letters of intent to accept employment from qualified personnel to commence employment within 5 days of award, the evaluation team considered that it would take a number of additional days for such a large number of new employees to be fully oriented to the company, the contract and the customer. The technical evaluation in giving EI four points for

this category concluded "Only 4 of the people listed as available for work on this contract are currently employed by the company and one of these is the president. The company will require at least 20 days to get all 20 people on board. If all 20 people were on board, company still could not fully support contract."

The contracting officer reports that the quality assurance plan described by EI in its proposal received a score of four points based on the technical evaluation of the overall plan including the fact that the plan had not been utilized in performing similar services.

The record demonstrates that the procuring activity obtained and considered an independent technical evaluation pursuant to the factors for evaluation in the RFP. Based upon our review, the technical evaluation performed on EI, discussed above, which provided the basis for the firm's rating of "Unacceptable," contains no evidence of unreasonableness on the part of contracting or technical personnel of the procuring activity. The technical evaluation ranked EI's proposal 10th out of 12 proposals. Moreover, despite EI's belief to the contrary, its proposal price was not low but the third highest of the 12 proposals received and substantially higher than the contract price, the lowest price offered from the acceptable proposers.

In these circumstances, we find no basis to object to the award, and the protest is denied.


Acting Comptroller General
of the United States