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DECISION



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

60592

FILE: B-184924

DATE: March 2, 1976

MATTER OF: Automated Datatron, Inc.

U98531 / 98531

DIGEST:

1. Cancellation of small business set-aside RFP and resolicitation under unrestricted RFP was proper where all six small business proposals were found to be technically unacceptable.
2. GAO disagrees with contention by protester that because of manner in which Statement of Work in RFP was drawn, it was only possible to restate requirements with blanket promise to comply since RFP required detailed description of approach of offeror, and mere restatement of requirements was not sufficient response, and proposal was, therefore, properly rejected.

On May 9, 1975, the Department of Health, Education, and Welfare (HEW), issued request for proposals (RFP) No. RFP-134-75-HEW-OS for the operation and maintenance of a computer output microfilm (COM) facility for HEW's Data Management Center. The RFP was a 100-percent small business set-aside.

Following the receipt of proposals on June 6, 1975, HEW determined that none of the six proposals were technically acceptable. Therefore, the contracting officer determined to cancel the RFP and resolicit the requirement under an unrestricted solicitation and so advised the six offerors by letters dated August 11, 1975.

On August 13, 1975, a debriefing was held with Automated Datatron, Inc. (ADI), and following this debriefing, at which time ADI was advised of the reasons HEW found its proposal to be unacceptable, ADI filed a protest against the cancellation of the RFP with the contracting officer. On September 3, 1975, the contracting officer denied ADI's protest and resolicited the requirement by issuing RFP No. RFP-12-76-HEW-OS. On September 15, 1975, ADI protested the above actions to our Office.

"B. Content of Technical Proposals

As a minimum technical proposals must contain the following data:

- "(1) Understanding of the problem and technical approach.
 - "(a) Statement and discussion of the requirements as analyzed by the offeror.
 - "(b) Prospective contractor's proposed definitive Scope of Work, with explanation of technical approaches, and a detailed outline of the proposed program for executing the requirements of the technical scope and achieving the objectives of the project.
 - "(c) Preliminary layouts, sketches, diagrams, other graphic representation, calculations, curves, and other data which may be necessary for presentation, substantiation, justification, or understanding of the proposed approaches and program.
 - "(d) Statement and discussion of anticipated major difficulties and problem areas, together with potential of recommended approaches for their resolution.
 - "(e) Specific statement of any interpretations, qualifications, limitations, deviations, or exceptions to the technical scope.
 - "(f) Statement of the extent to which the proposed approach and program can be expected to meet or exceed requirements and specifications of the technical scope.

"A differentiation shall be made among areas of assured compliance, possible but not assured compliance, and non-compliance. If, in the opinion of the offeror, a requirement or specification of the technical scope cannot be satisfied, offeror shall so state, and shall indicate its reasons for the conclusions, and may suggest or recommend an alternative or compromise for tentative consideration.

"(g) An outline of the phases or segments into which the proposed program can logically be divided and performed, if for some substantive reason they are different from the phases or segments shown in the technical scope.

"(h) Schedule for the completion of the work and delivery of items specified in the technical scope. Performance or delivery schedules shall be indicated for phases or segments, as applicable, as well as for the overall program. Schedules shall be shown in terms of calendar days from the date of authorization to proceed, (such as oral notice of contract execution) or, where applicable, from the date of a stated event, as for example, receipt of a required approval from the Contracting Officer. Unless the request for proposal indicates that the stipulated schedules are mandatory, they shall be treated as desired or recommended schedules. In that event, proposals based upon the offeror's best alternative schedule, involving no overtime, extra shift, or other premium, will be accepted for consideration."

We must disagree with ADI's contention that the tightly drawn Statement of Work and the failure of HEW to furnish information rendered it impossible for offerors to develop new approaches to comply with the above requirements. A specific example from ADI's proposal is helpful in understanding the deficiency of the content of its proposal.

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Section D of the Statement of Work in the RFP reads as follows:

"D. Additional Items Work Included in Contract

The contractor shall provide:

- (a) Job Scheduling - Establish procedures for use by the Production Control and Scheduling Branch of the Division of Data Processing for the scheduling and processing of microfilm jobs.
- (b) Inventory Control - Establish procedures for the periodic ordering of supplies. Determine reorder levels on all supplies used.
- (c) Operations Documentation - Establish standard procedures for the operation of the COM facility and establish written documentation of these procedures.
- (d) Equipment Maintenance - Establish standard procedures for the periodic preventative maintenance of equipment in the COM facility. This maintenance would be performed by the operations personnel and is not maintenance provided by the contractor supplying the equipment. This would be defined as general cleaning of all pieces of equipment to keep the equipment in good operating condition.
- (e) Personnel Training - Establish procedures for the training of COM operators.
- (f) Quality Control - Establish quality control procedures for the COM facility."

In its proposal, ADI treated this requirement as follows:

"In addition, the Request for Proposal expects the contractor to develop procedures in job

scheduling, inventory control, operation documentation, equipment maintenance, personnel training and quality control."

This sentence was followed by an asterisk which referred the reader to the section of the proposal entitled "Problem Areas," which stated:

"PROBLEM AREAS

"ADI is willing and able to perform the required functions described in the Request for Proposal; however, some areas should be examined closely before final implementation. There was some unavailable information:

- ° Total Number of users served.
- ° Peak workload periods by week, by month, by quarter, etc.
- ° Work schedules
- ° Control logs
- ° Job run sheets and equipment logs.

"ADI's existing procedures and documents may not fit neatly into the DHEW COM Facility Operation. Careful examination of all areas of management and control should be made before implementation of procedures.

"The policy of accommodating users on a 'first come, first serve' basis affects job scheduling and may result in disservice to the users as well as reduce the efficiency of the COM facility. An analysis of user needs, coordination of all jobs and the facility's capacity's

may indicate a need for a priority scheduling system which will better serve the needs of all users.

"General guidelines in this and other areas should be set forth to permit a proper transition of facility management and production and reduce or eliminate production interruption."

The foregoing quotes constitute the technical response of ADI to this section of the Statement of Work.

Our Office has held that a blanket promise to comply with the requirements of an RFP is not an adequate response to an RFP which requires an affirmative response by means of a narrative or other descriptive information. B-174597(2), April 21, 1972, and Comten-Comress, B-183379, June 30, 1975, 75-1 CPD 400. We believe the instant RFP required such a response and the proposal of ADI failed to meet this standard.

While ADI contends that it could not prepare a more detailed proposal because HEW did not furnish certain information regarding the past work loads of the COM facility, we are of the opinion that such information was not necessary to adequately detail the steps that would be taken to furnish the above six items of work. ADI only discussed the job scheduling requirement. It only submitted a blanket promise to comply with the other five items.

All six items in section D of the Statement of Work required that procedures in the various areas be established. We believe an offeror could have discussed in its proposal the procedures it would have used or the normal procedures it employs, with a notation that the procedures could be changed to overcome any problems peculiar to the HEW COM facility. With this basic information, discussions could have been held with an offeror to point out any deficiencies in the procedures outlined in its proposal.

Our Office has recognized that the determination whether a proposal falls within the competitive range or is technically acceptable is primarily a matter of administrative discretion which we will not question unless it is clear that discretion was exercised without a reasonable basis. 48 Comp. Gen. 314 (1968).

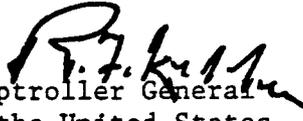
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A contracting agency may exclude a proposal as submitted from the competitive range for "informational" deficiencies so material as to preclude any possibility of upgrading the proposal, except through major revisions and additions, which would be tantamount to the submission of a new proposal. 52 Comp. Gen. 865 (1973); 52 Comp. Gen. 382 (1972); and Comten-Comress, supra.

Upon our review of the ADI proposal, we cannot say that HEW acted without a reasonable basis in finding the proposal technically unacceptable.

Because of the above holding, we find nothing improper in the cancellation of the RFP and subsequent resolicitation. Moreover, the Federal Procurement Regulations (FPR) recognize that a set-aside may be withdrawn by the contracting officer when he determines such award not to be in the Government's best interest. FPR § 1-1.706-3(b) (1964 ed. amend. 10).

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States