DECISION

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

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FILE: B-215383 **DATE:** October 18, 1984

MATTER OF: High Plains Consultants

DIGEST:

1. The evaluation of proposals is primarily the responsibility of the procuring agency and not subject to objection unless shown to be unreasonable, arbitrary, or a violation of law. Where protester's proposal was determined to be technically unacceptable due to lack of historical expertise, evaluation was not unreasonable, arbitrary or violative of the law where three evaluators gave protester scores of zero, one and two, respectively, out of a possible score of five.

2. Determination of competitive range is primarily a matter of procurement discretion which will not be disturbed by our Office in the absence of a clear showing that such determination was an arbitrary abuse of discretion or in violation of procurement statutes or regulations.

High Plains Consultants (High Plains) protests the rejection of its proposal and the award of a contract to another offeror under request for proposals (RFP) R2-02-84-30, issued by the Forest Service, United States Department of Agriculture, for a cultural resource survey of portions of the Black Hills National Forest. The protester contends, essentially, that its proposal was not properly evaluated.

We deny the protest.

The RFP provided that award would be made to the offeror (1) whose proposal is technically acceptable and (2) whose technical/cost relationship is most advantageous to the government. The RFP also stated that while cost was a significant factor, award would not necessarily be made to the offeror submitting the lowest price. Further, the RFP provided that award would not necessarily be made for

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technical capabilities which appeared to exceed those needed for the successful performance of the work, and that award may be made on an initial proposal basis. The RFP contained the following technical evaluation criteria:

"CRITERIA	POINTS
(1) Qualifications of Principal Investigator(s) and project team.	10
(2) Experience in related work (archeological excavation and evaluative tests, experience, previous work in the general subject area, previous cultural resource management work).	10
(3) Organizational capabilities (available support staff and facilities, demonstrated project management capabilities).	5
(4) Understanding of problem and appropriateness and soundness of Technical Proposal (approach, methodology, time and manpower allotted to accomplish project objectives).	35
(5) Evaluation of reasonableness of overall cost.	40"

Nine proposals were received and evaluated by a technical proposal evaluation committee. According to a board of contract awards that reviewed the committee's evaluations, five of the proposals, including the proposal submitted by High Plains, demonstrated no historical expertise. The board recommended that these five proposals be considered as "nonresponsive." This recommendation was accepted and High Plains was notified that its proposal was "nonresponsive" due to lack of historical data. The Forest Service advises that the term "nonresponsive" was inadvertently used instead of the term "technically unacceptable."

According to the committee's evaluation, High Plains' proposal was deficient in five aspects other than lack of historical expertise. In this regard, the Forest Service advises that High Plains was told that it could have a debriefing to discuss the weaknesses of its proposal, but High Plains declined the offer. High Plains' proposal was ranked eighth technically and four proposals were priced lower than High Plains' proposal.

High Plains disagrees with the Forest Service's evaluation of its proposal--at least in regard to the area concerning historical expertise--arguing that it has key personnel with strong backgrounds in archeology and history. However, the determination of the desirability of proposals is largely subjective, primarily the responsibility of procuring agency, and not subject to objection by our Office unless shown to be unreasonable, arbitrary, or violative of the law. See Credit Bureau Reports, B-209780, June 20, 1983, 83-1 C.P.D. ¶ 670. In this regard, we note that in the history area, the three evaluators who evaluated High Plains' proposal gave High Plains scores of zero, one and two, respectively, out of a possible score of five. While perhaps this does not indicate a total lack of historical expertise, it indicates that High Plains was weak in this area. Therefore, we do not believe that it has been shown that the evaluation of High Plains' proposal in this respect was unreasonable, arbitrary, or violative of the law.

The Forest Service only considered for award those four offerors whose proposals were not rejected initially for lack of historical data.

In this regard, we have held that determination of competitive range is primarily a matter of procurement discretion which will not be disturbed by our Office in the absence of a clear showing that such determination was an arbitrary abuse of discretion or in violation of procurement statutes or regulations. See Systec, Inc., B-205107, May 28, 1982, 82-1 C.P.D. ¶ 502, and Art Anderson Associates, B-193054, Jan. 29, 1980, 80-1 C.P.D. ¶ 77. There is no such showing in the present case.

In light of the above, we are unable to conclude that the contracting officer acted unreasonably by not considering High Plains' proposal and awarding the contract without discussion to an offeror whose initial proposal was technically superior to High Plains' proposal and whose price was only slightly higher than High Plains' proposal price. See Mitek Systems, Inc.-Request for Reconsideration, B-208786.3, May 10, 1983, 83-1 C.P.D. ¶ 494.

The protest is denied.

For Comptroller General
of the United States