

DECISION

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

*Westfall
P.L.II*

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FILE: B-217232

DATE: March 6, 1985

MATTER OF: Security and Fire Equipment
Corporation

DIGEST:

1. There is no statutory or regulatory requirement that agencies conducting negotiated procurements must request and evaluate technical proposals.
2. Whether awardee has actually performed the contract in accordance with its terms is a matter of contract administration which is not for GAO consideration.
3. Protester's argument that RFP delivery schedule was unfair, raised 3 months after the closing date for receipt of initial proposals, is dismissed as untimely.

Security and Fire Equipment Corporation (SAFECOR) protests the award by the Norfolk Naval Supply Center to Tri Tronics, Inc., of a contract for a closed circuit video surveillance system under request for proposals (RFP) No. N00189-84-R-0336. SAFECOR argues that it should have received the award since it was the only offeror to submit a detailed technical proposal in response to the RFP.

We deny the protest in part and dismiss it in part.

The RFP contained a detailed purchase description of the closed circuit surveillance system, and requested that offerors submit a single fixed price for furnishing and installing the entire system. The solicitation did not contain technical evaluation criteria nor did it require offerors to submit a technical proposal describing the system offered. Only SAFECOR of the six offerors included this detailed information.

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On October 31, 1984, the contracting officer made award to Tri Tronics, the low offeror at \$28,229, on the basis of its initial proposal. SAFECOR submitted the highest of the six offers at \$82,182. The agency reports that the system has been installed and inspected. It states that all of the components meet the requirements of the solicitation and that all aspects of the system are functioning properly.

SAFECOR argues that any offer which did not contain a technical proposal should have been rejected since without a technical proposal the contracting officer could not have properly evaluated the offers to assure compliance with the specifications. According to the protester, a technical proposal is always required in a negotiated procurement. We disagree.

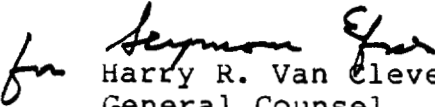
As noted above, the RFP did not require the submission of technical proposals nor did it provide for the evaluation of such proposals. There is no requirement either in statute or regulation that mandates agencies in conducting negotiated procurements request and evaluate separate technical proposals. Here, the RFP contained a detailed description of the system required. By signing the signature block in the RFP and filling in the blank provided for the price of the system, the offeror expressed its intent to bind itself to supply the system described in the RFP for the offered price. When the agency accepted the proposal, that offer became a binding agreement. Thus, the offer submitted by Tri Tronics was in the proper form to be accepted.

SAFECOR further argues that paragraph L31 in the RFP, which requested offerors to provide a copy of their current catalog or price list for the items offered, shows that the agency acted improperly by not evaluating the technical adequacy of the items proposed. The provision referred to by SAFECOR has nothing to do with the evaluation of the technical adequacy of the items proposed, but was a request for information either in the form of a catalog or price list or of a unit cost breakdown of the items offered for the stated purpose of determining price reasonableness.

SAFECOR also contends that two of the major components supplied by the awardee did not in fact meet the specifications set forth in the solicitation. As noted earlier, the agency has accepted and installed the systems. Whether the awardee did indeed perform in accordance with the terms of the RFP is a matter of contract administration which is not for our consideration. GMS Gesellschaft Fuer Metallverarbeitung mbH. & Co., B-197855, Jan. 6, 1981, 81-1 CPD ¶ 4.

SAFECOR argues that the RFP delivery schedule was unfair as it required delivery in less than 45 days while some of the items needed to make up the system had to be "made to order" and could not be delivered within the required timeframe. We will not consider this argument since it was not timely raised. Our bid protest procedures require that a protest based upon an alleged impropriety in a solicitation which is apparent prior to the closing date for receipt of initial proposals must be filed prior to the closing date. 4 C.F.R. § 21.2(b)(1) (1984). SAFECOR raised this ground of protest for the first time in its letter filed on January 31, 1985, commenting on the administrative report, more than 3 months after the closing date for receipt of initial proposals.

The protest is denied in part and dismissed in part.

for 
Harry R. Van Cleve
General Counsel