

DECISION

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

FILE: B-222468 **DATE:** June 10, 1986
MATTER OF: Nickum & Spaulding Associates, Inc.

DIGEST:

1. Protest is denied where there is no indication that an error in calculating protester's total offered price adversely affected the protester's competitive standing.
2. Protester has the burden of proving its case and GAO does not conduct investigations for the purpose of establishing whether a protester may have a valid basis for protest.

Nickum & Spaulding Associates, Inc. (Nickum), protests the award of a contract to Glosten Associates, Inc. (Glosten), under request for quotations (RFQ) No. 32-1278, issued by Sandia National Laboratories (SNL), under the authority of the Department of Energy's (DOE) Albuquerque Operations Office. The RFQ is for work related to the conceptual design and cost analyses of transportation/emplacement and retrieval/recovery ships for the feasibility phase of DOE's subseabed disposal project, for fiscal years 1986, 1987, and 1988. Nickum contends that errors must have occurred in the evaluation process and requests that it be paid its proposal preparation costs and the costs associated with filing its protest.

We deny the protest in part, dismiss the protest in part, and deny the claim for costs.

The RFQ was issued on September 20, 1985, by Sandia Corporation, which operates and manages SNL on behalf of DOE. Nickum, Glosten, and two other firms submitted technical and cost proposals on a cost-plus-fixed-fee basis. By letter dated November 5, SNL requested alternative cost proposals based on a time and material approach. Revised cost proposals from the four offerors were received by the due date of November 18.

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The RFQ required offerors to submit separate cost and technical proposals. The cost proposals were to be prepared based on the tasks required to be performed in each of the 3 years of the contract and with a total figure combining the costs of the 3 years.

The RFQ stated that those contractors which met or surpassed the stated minimum technical capabilities would have their technical proposals scored on six technical criteria: background of key personnel (10 percent); and corporate experience and capabilities in the fields of specialized ship design (35 percent), salvage in deep oceans and coastal waters (25 percent), radioactive material handling (15 percent), ship accident analysis (10 percent), and radiological risk assessment (5 percent). The RFQ stated that the cost proposals would not be numerically scored as an evaluation criterion for award selection, but would be analyzed for reasonableness.

The SNL technical evaluation panel, composed of members of SNL subseabed programs division, met and evaluated and ranked the technical proposals received. Glosten, with the highest ranked technical proposal, received an overall technical score of 90 (out of 100) as compared to Nickum's technical score of 78. Glosten's proposal was evaluated as meeting all of the program and capability requirements. Nickum's proposal, in contrast, was evaluated as being somewhat weak in the areas of salvaging and radioactive material handling experience. Award was made to Glosten on January 21, 1986, based on its highest technical score and lowest evaluated total cost.

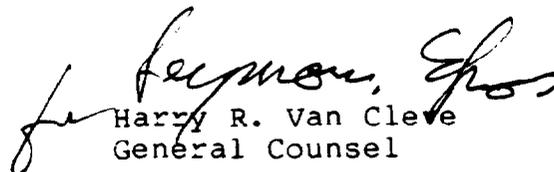
Nickum's protest, filed with GAO on April 8, 1986, within 10 days of the denial of its agency-level protest, contained only the general allegation that "the application of evaluation factors and cost realism may not have received proper consideration" and stated that Nickum's historical review of the actions of SNL provided the impetus for Nickum's protest. Nickum's comments on the agency report on the protest, filed after Nickum received information in response to its Freedom of Information Act request to DOE, provide the only specific protest allegation. Nickum points out that its proposed total cost was shown in the report as being \$1,789,278 when, in actuality, Nickum states, the correct figure is \$1,281,978. Nickum argues that this disparity may have adversely affected the evaluation of its proposal.

Our review of the record indicates that Nickum was not prejudiced by the error concerning its cost proposal. Glosten's quoted total price was approximately one-half million dollars--in other words, less than half of Nickum's "corrected" figure. Moreover, while Glosten's price remains substantially lower than Nickum's, Glosten's technical proposal was evaluated as being stronger than Nickum's. Therefore, we deny the protest on this basis since there is no indication that the alleged error adversely affected the protester's competitive standing. See William A. Stiles, Jr.; Piazza Construction, Inc., B-215922; B-215922.2, Dec. 12, 1984, 84-2 C.P.D. ¶ 658, aff'd, 85-1 C.P.D. ¶ 208; Pitney Bowes, B-213691, Apr. 24, 1984, 84-1 C.P.D. ¶ 472.

Finally, in support of its statement in its initial protest to GAO that past practices of SNL created the impetus of Nickum's protest, Nickum refers to events which occurred in 1983, 1984, and 1985. Nickum states that since it felt it was denied an opportunity to compete in the past, it may have again been denied an opportunity to be awarded this contract. Nickum requests that GAO investigate the past practices of SNL.

Nickum's allegation concerning events which occurred in 1983, 1984 and 1985, raised now, for the first time in 1986, are untimely and not for consideration under our Bid Protest Regulations. See 4 C.F.R. § 21.2 (a)(2) (1985); Swager Communications, Inc.--Reconsideration, B-220000.4, Dec. 23, 1985, 85-2 C.P.D. ¶ 702. Moreover, the protester has the burden of proving its case, and we will not conduct investigations for the purpose of establishing whether a protester may have a valid basis for protest. See Swager Communications, Inc.--Reconsideration, B-220000.4, supra.

Therefore, Nickum's protest is denied in part and dismissed in part. Since we find the protest to be without merit, the claim for costs is denied. TSCO, Inc., B-221306, Feb. 26, 1986, 65 Comp. Gen. _____, 86-1 C.P.D. ¶ 198.


Harry R. Van Cleve
General Counsel