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**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: ICSD Corporation

File: B-222542

Date: July 23, 1986

DIGEST

Rejection of proposal as unacceptable under step one of a two-step sealed bid acquisition is reasonable where evaluation shows that proposal did not comply with solicitation's requirements and also failed to address several critical solicitation requirements and where additional changes and material required to make proposal competitive would constitute a major revision to the original proposal.

DECISION

ICSD Corporation protests the rejection of its technical proposal in response to the first step of a two-step sealed bid acquisition conducted by the United States Marine Corps under request for technical proposals (RFTP) No. M67004-86-B-0033. The RFTP was issued to obtain a Basic Electronics Maintenance Trainer which will support the electronic maintenance training requirements at the United States Army Intelligence School located at Fort Devens, Massachusetts. ICSD contends that the Marine Corps' evaluation of its proposal as technically unacceptable was improper.

We deny the protest.

Background

The two-step process is a hybrid method of procurement combining the benefits of sealed bids with the flexibility of negotiation. The step-one procedure is similar to a negotiated procurement in that the agency requests technical proposals and any needed clarifications, but no prices are submitted. After evaluation, discussions may be held, and revised proposals may be submitted. Step two is essentially a price competition conducted in accordance with sealed bid procedures, which is limited to those firms that submitted acceptable proposals under step one. See, e.g., Lockheed Cal. Co., B-218143, June 12, 1985, 85-1 CPD ¶ 676.

The RFTP was issued on October 25, 1985, and the closing date for step one was February 14, 1986. Offerors were advised to submit two separate volumes to respond to the RFTP's requirements. Volume I was to contain the offeror's proposed technical approach and in Volume II offerors were required to detail the logistical support to be provided the system. Each volume was further subdivided into seven chapters, with the

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RFTP specifying the minimum content requirements for each chapter. Offerors were requested to submit proposals that were fully and clearly acceptable without any additional explanation and were advised that failure to do so could result in the rejection of the proposal as unacceptable.

The Marine Corps received five proposals by the RFTP's closing date. After an initial evaluation, three proposals were rated marginal, but were considered susceptible of being made acceptable. The remaining two proposals, including ICSD's, were rated unacceptable and not susceptible of being made acceptable.

By letter dated April 7, the Marine Corps informed ICSD of the deficiencies in its proposal and advised ICSD that its offer would not be considered for award. Of the seven chapters in the technical approach volume, four chapters were rated unacceptable, two marginal and one acceptable. For example, under the chapter entitled system design, the Marine Corps indicated that ICSD's proposal was unacceptable because the firm proposed transmissive video disc technology rather than reflective video disc technology, offered a language driven authoring system rather than a menu driven system and failed to provide a discussion of station designation as required by the RFTP. In addition, under the trainer control center chapter, in which offerors were required to provide information concerning the hardware and software configuration applicable to the trainer system, ICSD's proposal was rated unacceptable for several reasons including the failure to provide a full description of the security system and failure to fully describe the functional aspects of necessary hardware and software.

ICSD's logistical support volume was also found deficient. Overall, three chapters of seven were rated unacceptable and the remaining four were considered marginal. The Marine Corps concluded that ICSD's discussion of the major program milestones was unacceptable because it failed to consider the changes made by RFTP amendments Nos. 0001 and 0002. In addition, ICSD's discussion of the functional characteristics of all software and how the software satisfied the RFTP's requirements was unacceptable. Overall, the Marine Corps concluded that ICSD's proposal failed to meet the RFTP's minimum technical requirements and was not reasonably susceptible of being made acceptable without major revisions to the proposal.

On April 14, ICSD requested the Marine Corps to reconsider its decision. ICSD alleged that the evaluation erred or overlooked portions of the proposal and submitted documentation which indicated where ICSD believed its proposal met or exceeded those areas the Marine Corps found unacceptable. The Marine Corps reviewed the information and found that the contracting officer's statement concerning the unacceptability of the transmissive video disc technology proposed by ICSD was in error. However, the Marine Corps otherwise reaffirmed its determination that there were serious deficiencies in ICSD's proposal which justified the rejection of the proposal. After being informed that the initial ranking would not be changed, ICSD protested to our Office.

Protest

ICSD alleges three obvious errors concerning the Marine Corps' evaluation and its interpretation of the RFTP's requirements. ICSD argue that it was improperly judged unacceptable for offering video disc technology, that there was no requirement for a menu controlled authoring system and that all milestone modifications made by amendment Nos. 0001 and 0002 were incorporated in its proposal. In its comments on the agency's administrative report, in which the Marine corps argued that the omissions not challenged by ICSD were by themselves sufficient to justify rejection, ICSD contends that it was only pointing out these areas as obvious errors and that it directly contests all areas judged unacceptable. ICSD has submitted its technical proposal for our review as well as the clarification information concerning its proposal furnished to the Marine Corps and argues that the Marine Corps' evaluation was unreasonable and arbitrary.

Reasonableness of Evaluation

Our review of an agency's technical evaluation under an RFTP is limited to the question of whether the evaluation is reasonable. Lockheed Cal. Co., supra. In making this assessment, we ordinarily will accept the considered judgment of the procuring activity unless it is shown to be erroneous, arbitrary or made in bad faith. Herblane Indus., Inc., B-215910, Feb. 8, 1985, 85-1 CPD ¶ 165. An agency need not consider further those offerors whose initial proposals are deemed unacceptable nor reasonably susceptible of being made acceptable through subsequent discussions; the burden is on the offeror to submit sufficient information with its initial proposal. Datron Sys., Inc., B-220423, et al., Mar. 18, 1986, 86-1 CPD ¶ 264; Anchor Conveyors, Inc., et al., B-215624, et al., Oct. 23, 1984, 84-2 CPD ¶ 451.

Based on the record, we find the Marine Corps' evaluation of ICSD's proposal to be reasonable.^{1/} With respect to ICSD's allegation that the RFTP did not require a menu driven authoring system, paragraph 3.7.2.9.3.3(d) required the authoring system to be "[c]ontrolled by menu driven commands." ICSD did indicate in its proposal that it had "selected a language over a menu driven authoring system," and since the RFTP required that the authoring system be menu driven, the Marine Corps acted properly in finding the authoring system proposed by ICSD to be unacceptable.

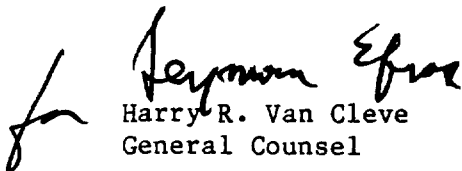
^{1/} We point out that the Marine Corps has conceded it erred when it advised ICSD that it was found unacceptable for offering transmissive video disc technology since the RFTP permitted this technology to be utilized. We agree, however, that the remaining deficiencies, as discussed above, provide adequate justification for rejecting the proposal.

Concerning ICSD's assertion that it complied with the major program milestone changes made by amendment Nos. 0001 and 0002, ICSD offered to deliver 10 line printers with the first scheduled delivery, when only a single line printer was required at that time and ICSD also failed to include the delivery of 10 headsets with the first delivery as required. In addition, ICSD failed to delete the delivery of 2 modems with the second scheduled delivery and failed to show a delivery of 210 headsets with the seventh scheduled delivery. The Marine Corps concluded that these omissions justified the agency's unacceptable rating of ICSD in this area and since our review of the record supports the agency's criticisms in this regard, we cannot find the Marine Corps' rating to be unreasonable.

Furthermore, we find that the record reasonably supports the agency's technical conclusions concerning the other areas of ICSD's proposal deemed unacceptable and the Marine Corps' assessment that there were extensive omissions throughout the proposal. For example, with respect to the security system requirements contained in the RFTP, the solicitation required offerors to discuss the four levels of access designed to safeguard the files, but ICSD failed to provide any discussion of these different levels. ICSD was also rated unacceptable for failing to discuss the functional characteristics of the software to be used and how that software satisfied the RFTP's requirements. Although ICSD asserts that it did provide this information in Volume I of its proposal, ICSD stated in its proposal that a complete description of all the software packages would require considerably more space than allowed here. We note, however, that no limitations were placed on the length of an offeror's proposal and to the extent ICSD argues that the descriptions were provided in Volume I rather than Volume II, the RFTP required that each volume of the proposal be prepared as independent, self-contained documents and ICSD's response clearly did not conform to this requirement. In addition, ICSD's proposal was found deficient because it failed to address the use of headsets and while ICSD contends that it did offer to provide a headset jack, ICSD acknowledges that the specific details may not have been provided.

Based on the deficiencies discussed above, the Marine Corps reasonably determined that the additional changes and material required to make ICSD's proposal competitive would constitute a major revision to the original proposal and acted properly in rejecting the proposal. See Lockheed Cal. Co., supra.

The protest is denied.


Harry R. Van Cleve
General Counsel