



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Runyan Machine and Boiler Work, Inc.
File: B-227069
Date: August 19, 1987

DIGEST

1. Alleged change in basis for evaluation does not warrant questioning contract award where protester was not in line for award under the original basis and therefore was not prejudiced.

2. Challenge to conduct of discussions provides no basis for questioning contract award where: (1) protester was advised of areas where its initial proposal was deficient, except for one area where weakness was inherent in the proposed approach; (2) discussions with awardee show no signs of improper coaching; and (3) protester's technical score after discussions improved by more than twice as many points as the awardee's, suggesting that protester was not evaluated unfairly in relation to awardee.

DECISION

Runyan Machine and Boiler Works, Inc. protests the award of a contract to Alabama Drydock and Shipbuilding Corporation under request for proposals (RFP) No. DTCG29-87-R-02117, issued by the United States Coast Guard for the renovation, refurbishment and overhaul of the Coast Guard icebreaker Westwind. Runyan objects that the agency departed from the evaluation factors set forth in the solicitation. Runyan also alleges that the Coast Guard failed adequately to advise offerors of proposal deficiencies and engaged in technical leveling during discussions.

We deny the protest.

The solicitation stated that evaluation would be based on three equally weighted factors -- technical capability, experience and capability to perform additional work (growth capacity) -- and on two less important factors -- accessibility of the place of performance to Coast Guard personnel and equipment, and cost. Under the undisclosed evaluation plan, the former three factors were worth 30

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points each and the latter two were worth 5 points each. Although the RFP provided for a firm, fixed-price contract, it advised that the Coast Guard would evaluate certain government costs incidental to offered performance outside of the homeport area or the area of the contracting officer's technical representative.

Four offers were received in response to the solicitation. After affording all four offerors an opportunity to inspect the Westwind and conducting written discussions with them, the Coast Guard requested best and final offers (BAFOs). The technical and cost evaluations resulted in the awardee's receiving the highest cumulative score of 99.1 and the protester's receiving the second highest score of 91.3. While the protester's offered price (\$473,769) was approximately 9 percent lower than the awardee's (\$523,896), this resulted in a scoring advantage of less than a point under the cost factor, leaving the awardee's proposal with a technical advantage of 7.7 points under the other factors. Runyan's proposal was rated weaker than the awardee's primarily regarding the capability to perform additional work and the accessibility of the place of performance.

The protester alleges that the Coast Guard changed the basis for evaluation based on the fact that after the submission of BAFOs and the evaluation discussed above, the Coast Guard considered the costs of items that were not specified in the RFP. The Coast Guard increased the estimated usage of a crane, for which the RFP required a unit hourly price, because unanticipated delays under another contract prevented the icebreaker from staying in the homeport long enough for the agency to load stores and refit the vessel; the crane was needed for this purpose. The agency also increased the amount of the administrative expenses added for evaluation purposes to offers proposing performance outside the home-port area. For example, the RFP had stated that the costs of family separation allowances for 24 men would be added to such offers, but the Coast Guard considered family separation allowances for 70 men in order to accurately reflect an increase in the size of the crew since the RFP was issued. The result was to increase Runyan's total evaluated cost by \$378,557.00 and Alabama's total cost by \$282,597.68, displacing Runyan as the least costly offeror.

Where there are significant or substantial changes in the agency's requirements or evaluation factors, the agency should issue a written amendment and afford prospective contractors an opportunity to submit new offers. I.E. Levick and Assocs., B-214648, Dec. 26, 1984, 84-2 CPD ¶ 695; Joint Action In Community Service, Inc., B-214564, Aug. 27, 1984, 84-2 CPD ¶ 228. Our Office will not sustain a protest

based on the government's failure to amend the RFP, however, absent evidence that the protester somehow was prejudiced by the failure. See AT&T Communications, 65 Comp. Gen. 412 (1986), 86-1 CPD ¶ 247. Here, since Runyan was not in line for the award before the agency evaluated the impact of the changed requirements and there is no indication that the changes would have caused Runyan to revise its price structure, the failure to issue an amendment had no practical effect on the award decision and thus did not prejudice Runyan.

Runyan's challenge to the discussions is based on a Coast Guard memorandum from the engineering branch (which performed the technical evaluation) to the procurement branch, stating that the discussions omitted areas where the scores showed deficiencies but where the evaluators provided no narrative comment, and that "coaching" in the discussions appears to have resulted in some "technical leveling."

Our review indicates that the discussions with Runyan were adequate and that no improper coaching of the awardee took place. The record contains a copy of the Coast Guard's letter requesting Runyan to clarify or amplify areas of its proposal. The specified areas included the areas where Runyan's initial proposal was deficient except the proposed place of performance. It does not appear that this deficiency was correctable through discussions, and, in this regard, the protester does not allege it could perform the required services at another place. The agency therefore was not obligated to point out this deficiency during discussions. See Advanced Technologies Sys., B-221068, Mar. 17, 1986, 86-1 CPD ¶ 260. As a result of discussions, Runyan was able to make revisions in its BAFO that improved its technical ranking from 69.4 points, third low, to 87 points, second low. Finally, the Coast Guard's letter requesting information from the awardee contains less detail than the letter to Runyan and shows no sign of improper coaching.

The protest is denied.

for Seymour Eps
Harry R. Van Cleve
General Counsel