

Arsenoff



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Triad Microsystems, Inc.

File: B-228574

Date: February 3, 1988

DIGEST

Absent a showing that an agency's evaluation is unreasonable, and not consistent with the solicitation's evaluation factors, exclusion of the protester's proposal from the competitive range is warranted where agency finds proposal unacceptable in two areas identified for evaluation in RFP as "critical", and finds that deficiencies are not susceptible to correction through discussions.

DECISION

Triad Microsystems, Inc., protests the award of a contract to Quintron Corp., under request for proposals (RFP) No. N61339-87-R-0041, issued by the Department of the Navy for a fixed-price contract for the modification of aircraft training devices. The protester questions the agency's evaluation of its proposal and alleges that the Navy improperly failed to conduct discussions with it or to request its best and final offer.

We deny the protest.

The RFP was issued on May 7, with a closing date of June 22. According to the RFP, technical proposals were to be evaluated under two major factors: Technical Design and Integrated Logistic Support. Within the Technical Design factor were 20 subfactors, 8 of which were designated by the RFP as critical. All of the 7 subfactors under the Integrated Logistic Support factor were weighted equally. The RFP provided that award would be made to the lowest priced offeror whose proposal was determined to be acceptable under the RFP's technical evaluation factors.

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Four proposals, including Triad's, were timely received. Each was evaluated and rated under the RFP subfactors as either acceptable, marginal or unsatisfactory. As a result of the evaluation, two offers, including Triad's, were determined to be technically unacceptable and rejected. Discussions were conducted with the two offerors remaining in the competitive range. After the submission of best and final offers, award was made to the Quintron Corporation on September 29.

Triad's two basic arguments, that the Navy acted improperly by failing to hold discussions with it and by not soliciting its best and final offer, are based on the assumption that Triad's offer was improperly evaluated and therefore should have been included within the competitive range.


The evaluation of proposals and determination of whether an offeror is in the competitive range are matters within the discretion of the contracting agency since it is responsible for defining its needs and must bear the burden of any difficulties resulting from a defective evaluation. The International Association of Fire Fighters, B-224324, Jan. 16, 1987, 87-1 CPD ¶ 64. Consequently, we will not conduct a de novo review of the proposals, but limit our review to determining whether the agency's evaluation was fair and reasonable and consistent with the stated evaluation factors. TIW Systems, Inc., B-222585.8, Feb. 10, 1987, 87-1 CPD 140. Generally, proposals which the agency concludes are unacceptable as submitted and which would require major revisions to become acceptable may be excluded from the competitive range. Twin City Construction Co., B-222455, July 25, 1986, 86-2 CPD ¶ 113. Where, as here, a proposal is found unacceptable and therefore outside the competitive range, the agency has no duty to hold discussions with the offeror. Aydin Corp., B-224354, Sept. 8, 1986, 86-2 CPD ¶ 274.

Based on the evaluation report, which the protester has chosen not to comment upon, we conclude that the agency's evaluation of the Triad proposal was reasonable and that the proposal was properly excluded from the competitive range.

The report of the agency evaluation indicates that Triad's proposal was rated marginal under 13 of the 20 Technical Design subfactors and under 2 of the 7 Integrated Logistic Support subfactors. Most importantly, Triad's proposal was rated unacceptable with respect to two critical Technical Design subfactors: system design and digital computer system. The narrative accompanying these ratings indicates that the basic problem underlying the unacceptability in both areas was a flawed design in Triad's proposed microprocessor control system. The report also concludes

that the redesign effort required to correct these deficiencies would be "beyond the scope of the clarification process." As stated above, since Triad has not disputed these conclusions, which on their face seem reasonable, we have no basis upon which to question the evaluation. Finally, we note that based on these conclusions, the agency excluded Triad from the competitive range and therefore did not conduct discussions with that firm or solicit a best and final offer from it. Again there is nothing in the record which provides a basis for us to object to the agency's actions in this regard.

Accordingly, the protest is denied.

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