



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Economic Consulting Services, Inc.

File: B-229895

Date: April 8, 1988

DIGEST

1. Protest that awardee's low firm, fixed-price proposal should have been rejected as technically unacceptable because the firm's proposed level of effort was substantially less than the government's estimate is denied where the protester has not demonstrated that the contracting agency unreasonably awarded the maximum possible score based on a proposal which emphasized recent relevant experience.
2. Award on the basis of initial proposals without discussions is proper where solicitation gives notice of that possibility and the award will result in the lowest overall cost to the government.

DECISION

Economic Consulting Services, Inc. (ECS), protests the award of a contract to Quick, Finan and Associates under request for proposals (RFP) No. 52-SATA-7-18793/HAL issued by the Department of Commerce. ECS contends that Quick, Finan's proposal should have been rejected as technically unacceptable because the firm's proposal reflected a level of effort substantially below the government's estimate.

We deny the protest.

The solicitation contemplated the award of a firm, fixed-price contract for consulting services to develop and apply a methodology to assist the Office of Foreign Availability in assessing the economic impact of decontrol of various controlled products. The contractor is to submit a draft report and, following government review, a final report containing the contractor's findings and recommendations. The level of effort necessary to perform the work was estimated by Commerce as 1 man-year (2,080 hours) of professional effort. Offerors were advised in the RFP that this figure was not "firm" but "is intended to reflect the order of magnitude at which the project was appraised" and

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that they "may depart from this estimate as the offeror believes appropriate for the work to be accomplished, and as suited to the characteristics and capabilities of the offeror's organization."

The RFP further advised that the contract resulting from the RFP would be awarded to the responsible offeror whose proposal conformed to the RFP and was determined to be the most advantageous to the government, cost and other factors considered. Specifically, the solicitation set forth three equally-weighted technical evaluation criteria, and provided that these technical criteria--all of which related to an offeror's understanding of the subject matter and experience--would be worth a total of 60 percent, and price would be worth 40 percent of the overall evaluation. Section L.4(c) and Attachment B of the RFP provided that award could be made on the basis of initial offers received without discussions.

Five proposals were received in response to the solicitation but only the proposals of Quick, Finan and ECS were determined to be technically acceptable. Quick, Finan's technical proposal was awarded the maximum of 60 points; ECS' proposal received 50 points, the second highest rating. The remaining technical scores ranged from 30 to 0. Quick, Finan submitted the lowest total price of \$68,150; ECS' proposed price was \$92,194.

The contracting officer determined that Quick, Finan's initial offer--which received the highest technical score and was the lowest priced--represented the most advantageous offer to the government. Therefore, Commerce awarded the contract to Quick, Finan. Upon learning of the award, attending a debriefing, and obtaining a copy of Quick, Finan's proposal, ECS protested to our Office.

ECS questions Commerce's evaluation of Quick, Finan's proposal on the grounds that Quick, Finan's proposal indicated an unjustified level of effort substantially less than the government's estimate. ECS notes that Quick, Finan's proposed 1,180 man-hours represent a 43 percent reduction in the government's estimate of 2,080 man-hours. This reduction in the proposed level of effort becomes significant, according to ECS, when it is compared to Quick, Finan's total cost of \$64,900 (excluding fee or profit). The protester states that the awardee's proposed hourly cost is therefore \$55 and is higher than ECS' proposed hourly cost

of \$41.00.^{1/} Thus, had Quick, Finan proposed a level of effort based on the 2,080 man-hours estimated in the solicitation, ECS argues that it would have been the lowest priced offeror by a "significant amount."

ECS also contends that discussions should have been held and best and final offers (BAFOs) requested due to the wide disparity between the levels of effort estimated in the solicitation and that proposed by the awardee.

As we indicated above, technical proposals were evaluated against evaluation criteria which related to the offeror's understanding of the government's export administration program; its "experience in analyzing the economic impact of government programs, especially in programs similar to export administration"; and experience in the use of economic data in analytical studies and in the application of economic methods to the analysis of practical program-related questions.

In its proposal, Quick, Finan claimed "extensive experience in evaluating the economic effects of U.S. export controls on the operations of U.S. businesses," the most significant of which was the preparation of two reports for the Panel on the Impact of National Security Controls on International Technology Transfer of the Committee on Science, Engineering and Public Policy of the National Academies of Sciences and Engineering (the "NAS Panel") in conjunction with the NAS Panel's 1987 report entitled "Balancing the National Interest." Among the benefits which accrued to it as a result of this experience, Quick, Finan said, was that it was "well down the learning curve for understanding" the complex export licensing system, as a result of which it would be "able to bear down on seeking to select and apply appropriate methodologies to analyze economic effects from modifying the level of [export] restrictions." Throughout its technical proposal, Quick, Finan proposed to build upon or make use of the work it had done for the NAS Panel.

From their examination of the proposals received, the evaluators concluded that Quick, Finan's work was the most thorough effort at estimating the economic effect of export

^{1/} ECS proposed to expend on the contract the exact number of man-hours estimated by the government--2,080--at a total cost of \$85,365, excluding fee.

controls made to date.^{2/} In contrast, the evaluators stated that although the protester's proposal was well-conceived, most of its prior work had been in market research/trade promotion studies and not in "analyzing the impact of government programs," the second evaluation criterion. Quick, Finan therefore outscored the protester as to this criterion.

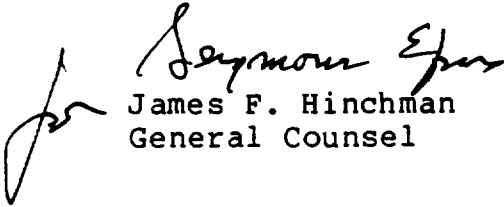
We think there was enough in Quick, Finan's proposal from which the agency could conclude that the offeror could perform the work called for by the RFP with the man-hours proposed. Obviously, Quick, Finan presented a strong background and experience level in the relevant area and, as the proposal put it, Quick, Finan as a result was "well down the learning curve." We note that although ECS has been debriefed and provided with a copy of Quick, Finan's proposal, it has not presented any specific analysis of it or explained why what Quick, Finan presented was not sufficient to support a conclusion that the proposed man-hours were adequate for Quick, Finan. The protester simply argues in general terms that Quick, Finan did not justify its proposed expenditure of less effort than the solicitation "called for." On the basis of this record, we find that ECS has not demonstrated that the agency's acceptance of Quick, Finan's proposal was unreasonable.

As to ECS' contention that the contracting officer should have held discussions and requested BAFOs, we point out that contracting officers may make an award without holding discussions or requesting BAFOs, provided that the solicitation advises offerors of this possibility and there has been adequate competition to demonstrate that the award will result in the lowest overall cost to the government at fair and reasonable prices. See FAR § 15.610(a)(3); Pacific Consolidated Industries, B-228724, B-228724.2, Dec. 3, 1987, 87-2 CPD ¶ 548. Here, the solicitation contained the required notice, and the receipt of five proposals demonstrates that adequate competition existed. Accordingly, we find no impropriety in the contracting officer's decision to

^{2/} The evaluators noted that in their proposals the protester and one other offeror specifically referred to the work which Quick, Finan did for the NAS Panel. Although the protester's proposal criticized Quick, Finan's earlier work as methodologically flawed, it did refer to the NAS report, "Balancing the National Interest," as a "major study . . . published under the auspices of the [NAS] by a panel of prominent military, scientific and industrial leaders. . . ."

make award on the basis of initial proposals since he correctly determined that award to Quick, Finan would result in the lowest overall cost to the government. Id.

The protest is denied.

James F. Hinchman
General Counsel