



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Automation Management Consultants, Inc.

File: B-231540

Date: August 12, 1988

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### DIGEST

1. Requirement for meaningful discussions does not obligate agencies to identify every aspect of a technically acceptable proposal that receives less than a maximum score.
2. Award to higher priced, higher technically rated offeror is not objectionable where technical considerations substantially outweighed cost in solicitation award criteria and the agency reasonably concluded that the awardee's superior proposal provided the best overall value.
3. Protest that agency did not comply with regulation concerning preaward notice to unsuccessful offerors in small business set-aside provides no basis for disturbing the award where protester was not prejudiced by this procedural deficiency.

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### DECISION

Automation Management Consultants, Inc. (AMCI), protests the award of a contract to Systems Engineering International, Inc., under request for proposals (RFP) No. MDA903-87-R-0169, issued by the Department of the Army for maintenance services for automated data processing equipment. AMCI alleges that it submitted the most favorable proposal, considering both technical and price factors, and that it is therefore entitled to the award. AMCI also asserts a lack of meaningful discussions and failure to receive preaward notice of the proposed award.

We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract with a 5-month base period and three option years. The RFP advised offerors that award would be based on price and other factors identified. The RFP further provided that proposals would be evaluated in accordance with the following factors, listed in descending order of relative importance: experience with maintaining like DOD equipment as

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specified in the RFP; demonstrated capability for on-site maintenance and/or replacement within specified time; technical skills; corporate stability; cost; and response time from initial call from the government. The first two technical factors were to equal approximately 50 percent of the total evaluation points possible; cost was weighted 10 percent of the total points possible.

The agency received 22 initial proposals. A technical review panel evaluated the proposals and sent technical clarification questions to the offerors concerning weaknesses identified in their proposals. In addition, the offerors were also given an opportunity to request oral discussions. The protester did not do so. After receiving the technical revisions, the agency requested best and final offers (BAFOs). A second round of BAFOs was also requested and received. The contract was awarded on May 4, 1988 to Systems Engineering, which, although higher priced than AMCI, was rated the technically superior offeror. Notification of the award was mailed on May 9.

AMCI protests that the agency failed to conduct meaningful discussions because it allegedly did not alert the protester of a deficiency in its proposal. The protester notes that each of the review panel's narrative worksheets identify a lack of details regarding security clearances as a weakness in AMCI's proposal. AMCI contends that it should have been informed of this deficiency during discussions, and alleges that this deficiency "subsequently formed the basis for [the agency's] decision not to make award to AMCI."

The requirement for discussions with all responsible offerors whose proposals are in the competitive range includes advising them of deficiencies in their proposals and affording them the opportunity to satisfy the government's requirements through the submission of revised proposals. FAR §§ 15.610(c)(2) and (5) (FAC 84-16); Furuno U.S.A., Inc., B-221814, Apr. 24, 1986, 86-1 CPD ¶ 400. Agencies are not, however, obligated to afford offerors all-encompassing discussions, Training and Management Resources, Inc., B-220965, Mar. 12, 1986, 86-1 CPD ¶ 244, or to discuss every element of a technically acceptable, competitive range proposal that has received less than the maximum possible score, Bauer of America Corp. & Raymond International Builders, Inc.; A Joint Venture, B-219343.3, Oct. 4, 1985, 85-2 CPD ¶ 380, but generally must lead offerors into the areas of their proposals that require amplification. Furuno U.S.A., Inc., B-221814, supra.

Concerning discussions, as indicated above, we note that the agency sent AMCI a list of clarification questions which reflected the evaluators' concerns regarding AMCI's

proposal. The contracting officer also sent AMCI a letter offering the firm an opportunity for oral discussion of its proposal, but AMCI declined this invitation. AMCI submitted a BAFO responding to the technical questions and another responding to a second request for BAFOs which was subsequently made. The record further shows that AMCI increased its technical score approximately 14 points in the final evaluation as a result of discussions.

Here, the protester's complaint appears to rest on its erroneous assumption that the question about its security clearances was considered a deficiency in its proposal and that it ultimately was the reason AMCI did not receive the award. There is no indication in the record, however, that this perceived "weakness" affected AMCI's technical score at all. The technical score sheets reflect numerical point scores for each of the six evaluation factors listed in the RFP, none of which relates to security clearances for personnel. A narrative summation of the review panel's evaluation notes that "many of the proposals did not provide security clearances of proposed technicians they intend on assigning to this project." In addition, the review panel also criticized the awardee's proposal for a lack of clarity regarding security clearances. However, the record indicates that this particular criticism did not affect an offeror's chance for award.

Furthermore, we note that each of the technical review panel members rated AMCI's proposal "acceptable," notwithstanding the question of security clearances. AMCI did not fail to receive the award because its proposal was perceived to be deficient; it failed to receive it because System Engineering's proposal was rated "consistently superior in all aspects relevant to the evaluation criteria." In these circumstances, we have no basis to object to the extent of discussions that were held. This portion of the protest is therefore denied.

AMCI also objects to the agency decision to award to Systems Engineering at a price approximately double its price. AMCI's price is \$88,752<sup>1</sup>/<sub>2</sub>; the awardee's price is \$171,774.

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<sup>1</sup>/ The agency contends in its report that the protester's price may be unbalanced. The agency advises that the base year cost for AMCI's offer is \$62,726.40; the awardee's offer is \$18,396.20. The protester's base year offer is thus 340 percent greater than the awardee's offer and assuming the agency exercised the options, it would not be until the 5th month of the second option year than AMCI's cost equaled that of the awardee. Since we deny the protest on other grounds we need not address the issue.

AMCI has not shown that the awardee's higher price was not justified by its technical superiority. In a negotiated procurement, award to a higher priced, higher technically rated offeror is not objectionable where, as here, the solicitation award criteria made technical considerations substantially more important than cost and the agency reasonably concluded that the awardee's superior proposal provided the best overall value. See BDM Management Services Co., B-229287, Feb. 1, 1988, 88-1 CPD ¶ 93. Here, cost accounted for only 10 percent of the total evaluation score; technical considerations were of paramount importance, and Systems Engineering had the highest technical score.

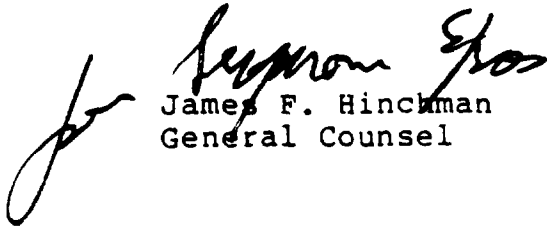
The record supports the agency's determination regarding Systems Engineering's technical superiority. In this connection, unlike other offers, the agency found that the awardee's proposal addressed virtually all aspects of the RFP clearly and specifically. The agency rated Systems Engineering highest in the two most heavily weighted technical categories, experience with like equipment and on-site maintenance capability. It specifically noted the firm's high overall experience level, especially its extensive experience with maintaining like DOD equipment. The agency also found that the awardee's replacement equipment was clearly compatible with on-site equipment and demonstrated on-site maintenance capability. The agency also found Systems Engineering's company "well structured and organized" for the work. Finally, the awardee was scored high because of its proposed preventative maintenance program which was detailed and included preventative maintenance checklists. The record shows that no other company was rated as high in the technical categories or overall technically. We find that the Army's evaluation was reasonable and in conformance with the evaluation scheme set forth in the RFP.

Finally AMCI protests that the agency's post-award notification of the award violated the Federal Acquisition Regulation (FAR) § 15.1001(b)(2) (FAC 84-13), which requires the contracting officer to inform unsuccessful offerors in small business set-asides of the name and address of the apparent successful offeror prior to award.

The contracting officer admits that he failed to comply with this FAR provision. However, we find no prejudice to AMCI, since the purpose of the notice requirement is to permit timely size status protests, and AMCI does not allege that it had any basis before award for protesting the size status of Systems Engineering. See Strategica, Inc., B-227921, Oct. 27, 1987, 87-2 CPD ¶ 399. We will not sustain protests involving alleged procedural deficiencies such as this one,

where the protester suffers no competitive disadvantage or prejudice. See A.S.K. Associates, B-228367, Nov. 30, 1987, 87-2 CPD ¶ 539. Here, we find that the agency's actions with respect to announcing the award provide no basis for disturbing the award.

The protest is denied.



James F. Hinchman  
General Counsel