



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: S.T. Research Corporation
File: B-232264
Date: November 3, 1988

DIGEST

1. Agency determination that protester's proposal was technically unacceptable and not in the competitive range is reasonable where request for proposals called for the overhaul of existing equipment while the protester offered to redesign the system and make fundamental changes in the existing equipment.
2. A technically unacceptable proposal need not be included in the competitive range, irrespective of its low price, where the proposal could not be made acceptable without major revisions.

DECISION

S.T. Research Corporation (STRC) protests the award of a contract to Ford Aerospace under request for proposals (RFP) No. N00123-88-R-0801, issued by the Naval Regional Contracting Center, Long Beach, California, for the overhaul and modernization of AN/SPH-1 Radar Video Recorders. The Navy determined that STRC's proposal was technically unacceptable and awarded a contract, on the basis of initial proposals, to Ford Aerospace as the lowest priced, technically acceptable offeror. STRC contends that it is entitled to the award and that the Navy improperly made award on the basis of initial proposals without conducting discussions.

We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract for the overhaul and modernization of 12 radar video recorders. These units consist of basically "off-the-shelf" commercial hardware which is integrated into a system which provides training for shipboard Combat Information Center personnel while their ship is in port. The RFP informed offerors that the Navy planned to procure

043757 / 137222

"state-of-the-art" replacement trainers in the future but until the Navy could design and procure the future system, the Navy wished to extend the life of the present radar video recorders.

The RFP provided that technical proposals would be evaluated on an acceptable/unacceptable basis, with award being made to the lowest priced, technically acceptable offeror. Offerors were informed that award might be made on the basis of initial proposals without discussions. Three proposals were received by the Navy and submitted to the requiring activity for technical evaluation. The Navy determined that STRC's proposal was technically unacceptable and should not be included in the competitive range because it did not have a reasonable chance of being selected for award.

The Navy states that while the RFP sought overhaul services to extend the life of their current radar video recorders until a new system was designed and procured, STRC offered to furnish the Navy with a new, redesigned system. For example, the RFP requires the contractor to repair or replace the existing Drive Servo Signal Processing module and Drive Servo module boards. STRC proposed "to totally redesign and replace this section of the system with new and more updated units." The RFP also requires the replating of all connectors on plug-in boards which marry with cabinet connectors. STRC, however, proposed to replace the existing connectors with phenophalic automatic-mate cabinet connectors, which STRC specifically stated might not work, but which STRC indicated it planned to use as a "starting point" in its design effort.

The Navy states that STRC's technical approach was unacceptable because STRC did not offer to perform what the RFP sought, the overhaul of the existing equipment. The Navy states that accepting STRC's approach would require changes to the Navy's spare parts inventory, maintenance and operations manuals, maintenance procedures and operating training. Furthermore, the Navy in its training effort is currently using 17 radar video recorders, of which only 12 units are the subject of this solicitation. Thus, STRC's proposed redesign of the 12 trainers would result in these units being different than the remaining 5 radar video recorders, and would result in a lack of consistency in the maintenance and operation of the 17 training units. STRC concedes that it proposes to replace the Navy's current

training system with "state-of-the-art" equipment which will require changes in certain support areas. STRC argues, however, that its technical approach would ultimately reduce the Navy's support costs.

In reviewing protests concerning the evaluation of proposals and competitive range determinations, we do not reevaluate the proposal and make determinations about its merits. This is the responsibility of the contracting agency, which is most familiar with its needs and must bear the burden of any difficulties resulting from a defective evaluation. Tiernay Turbines Inc., B-226185, June 2, 1987, 87-1 CPD ¶ 563. Our review of an agency's evaluation is limited to considering whether that evaluation was reasonable and consistent with the evaluation criteria set forth in the RFP. Ametek, Straza Division, B-220384, Feb. 11, 1986, 86-1 CPD ¶ 149. Further, our Office will not disturb a determination to exclude a proposal from the competitive range unless the determination is shown to be unreasonable or in violation of procurement law or regulation. Metric Systems Corp., B-218275, June 13, 1985, 85-1 CPD ¶ 682.

In this case, we do not find that the Navy's determination lacked a reasonable basis. The services which STRC proposed to furnish are fundamentally different than the services sought by the RFP. While STRC apparently believes that its proposed system redesign exceeds the RFP requirements and, therefore, should be acceptable, it is the Navy which is responsible for determining its needs and the best method for accommodating them. See Harbert International, Inc., B-222472, July 15, 1986, 86-2 CPD ¶ 67. We find the Navy acted reasonably in view of the changes that STRC's proposed system would require in inventory, maintenance and training procedures and the fact that it would result in two types of trainers being utilized. Also, STRC concedes that some of its redesign may not work but it would use this effort as a "starting point."

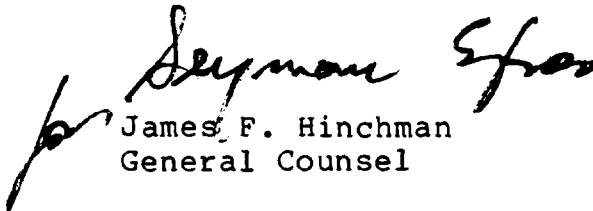
STRC also argues that its lower-priced proposal should have been included in the competitive range as reasonably susceptible of being made acceptable. STRC contends that the Navy should have conducted discussions to resolve uncertainties in its proposal and its approach.

The Competition in Contracting Act of 1984 requires that if an agency conducts discussions it must do so with all responsible offerors within the competitive range. 10 U.S.C. § 2305(b)(4)(B) (Supp. IV 1986). The Federal Acquisition Regulation (FAR) provides that the competitive range must include all proposals that have a "reasonable chance of being selected for award," and that when there is

doubt as to whether a proposal is in the competitive range, the proposal should be included. FAR § 15.609(a) (FAC 84-16). Contracting agencies, however, are not required to permit an offeror to revise a technically unacceptable initial proposal where the deficiencies are so material that major revisions would be required to make the proposal acceptable. DBA Systems, Inc., B-228509, Jan. 26, 1988, 88-1 CPD ¶ 78.

Here, the record indicates that STRC's technically unacceptable proposal could not have been made acceptable without major revisions. The RFP sought the overhaul of existing equipment while STRC offered to provide a new design. STRC would have to substantially revise its proposal to offer the services sought by the RFP and to have a reasonable chance for award. Accordingly, the Navy was not required to include STRC's proposal in the competitive range. Furthermore, we have consistently held that a technically unacceptable offer can be excluded from the competitive range irrespective of its low offered price. See Data Resources, B-228494, Feb. 1, 1988, 88-1 CPD ¶ 94.

The protest is denied.


James F. Hinchman
General Counsel