



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Contracting Programmers & Analysts, Inc.

File: B-233377.2

Date: February 22, 1989

DIGEST

Protest of exclusion of proposal from the competitive range is denied where the protester has not shown that the technical evaluation finding its proposal unacceptable was unreasonable.

DECISION

Contracting Programmers & Analysts, Inc. (CP&A), protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. F33600-88-R-0172, issued by the Department of the Air Force for information systems engineering, prototyping and development services in support of the Air Force Logistics Command (AFLC). CP&A is 1 of 16 firms responding to the RFP.

We deny the protest.

The Air Force rejected CP&A's proposal because it did not demonstrate the technical and management expertise necessary to perform the RFP's Statement of Work. Specifically, the Air Force determined that CP&A's proposal deficiencies included:

"a lack of understanding of AFLC development procedures; a lack of understanding of the basic relationship between DOD directives and Air Force Regulations; failure to propose adequate facilities; a demonstrated lack of experience in: (a) systems operation of a central computer system, (b) planning and development of telecommunications and long-haul communications, (c) configuration and data management, and (d) DOD software testing and audits."

CP&A protests the rejection of its proposal, alleging that the RFP was wired for a select group of companies, and questioning how its proposed team could lack technical and

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management expertise. CP&A questions why multiple deficiency reports were issued for the same item, speculating that the Air Force issues numerous deficiency reports to justify rejection of offerors not in the select group of companies for which the RFP was allegedly wired. CP&A specifically objects to receiving a deficiency report questioning whether its existing Dayton office was within 25 miles of Wright Patterson Air Force Base and if the local zoning allowed CP&A to operate at that address.

The evaluation of proposals and the resulting determination whether an offer is in the competitive range are matters within the discretion of the contracting activity, since it is responsible for defining its needs and for deciding the best method of accommodating them. Electronet Information Systems, Inc., B-233102, Jan. 24, 1989, 89-1 CPD ¶ _____. Since the evaluation of technical proposals is inherently a subjective process, in reviewing protests of allegedly improper evaluations, our Office will not substitute its judgment for that of the agency's evaluators, but rather will examine the record to determine whether the evaluator's judgments were reasonable and in accordance with the listed criteria and whether there were any violations of procurement statutes and regulations. Gary Bailey Engineering Consultants, B-229943.2, May 3, 1988, 88-1 CPD ¶ 430. In this regard, the protester bears the burden of proving that the agency's evaluation was unreasonable, and this burden is not met by the protester's mere disagreement with the agency's judgment. Wellington Assocs., Inc., B-228168.2, Jan. 28, 1988, 88-1 CPD ¶ 85.

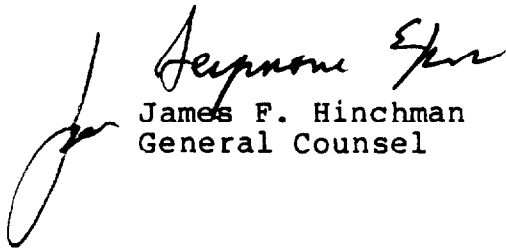
The Air Force responded to the protester's contention that its offer was technically acceptable in considerable detail in an attachment to its report, which was provided to CP&A. The Air Force also noted that clarification requests and deficiency reports are issued to give an offeror an opportunity to clarify its proposal or to correct its deficiencies. Multiple deficiency reports may be issued against an item because numerous factors are within each item of evaluation.

The Air Force explained that CP&A's proposal as originally submitted did not provide adequate information concerning facilities. The office location was not identified and evaluators were unable to determine if the Dayton office was within the 25-mile radius required by the RFP. The only address at the time the deficiency report was issued was on company letterhead which changed during the course of the evaluation, and both addresses were in areas zoned residential. According to the Air Force, the office location was clarified through the evaluation process.

CP&A's comments on the agency report merely express its disagreement with the agency's evaluation of the adequacy of its facilities. In our view, the protester's response neither disputes nor refutes the substance of the agency's rationale in the many other areas finding CP&A's offer technically unacceptable, i.e., CP&A's lack of technical and management expertise. Where an agency specifically addresses issues raised by the protester in its initial protest and the protester fails to rebut the agency response in its comments, we consider the issues to have been abandoned by the protester. Restrepo & Assocs., B-233095, Jan. 30, 1989, 89-1 CPD ¶ ____.

Further, we find that the protester has provided no proof in support of its allegation that the Air Force was biased in favor of a select group of companies, and there is no evidence of bias in the record. Since CP&A has not met its burden of proof, we regard its allegation as mere speculation. Sal Esparza, Inc., B-231097, Aug. 22, 1988, 88-2 CPD ¶ 168.

The protest is denied.



James F. Hinchman
General Counsel