

Ahearn



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Kay and Associates, Inc.

File: B-234509

Date: June 16, 1989

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### DIGEST

Where protester's step-one technical proposal was properly rejected as technically unacceptable for failure to furnish required detailed quality assurance documentation for aircraft maintenance, there is no basis for concluding that agency acted improperly to assure award to only remaining offeror, the incumbent, from the outset.

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### DECISION

Kay and Associates, Inc., protests the rejection of its technical proposal under step one of a two-step sealed bid procurement<sup>1/</sup> conducted by the Department of the Air Force, under request for technical proposals (RFTP) No. F04606-89-R-41006, for maintenance and logistics support for C-12J aircraft, a commercial commuter-type aircraft. Kay contends that the agency improperly evaluated its proposal and conducted a de facto sole-source procurement.

We deny the protest.

The RFTP, as amended, included numerous work requirements, including quality assurance provisions, which were to be

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<sup>1/</sup> The two-step process is a hybrid method of procurement under which the step-one procedure is similar to a negotiated procurement in that the agency requests technical proposals and may hold discussions and request revised proposals, and step two is conducted by sealed bidding among those firms that submitted acceptable proposals under step one. See Datron Systems, Inc., B-220423, B-220423.2, Mar. 18, 1986, 86-1 CPD ¶ 264.

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accomplished in accordance with various military specifications and standards. Of particular relevance here, the solicitation instructions for proposal preparation required offerors to submit a quality assurance program plan, including an inspection system, which was to incorporate a clear and complete set of work documents for all maintenance, including preflight and postflight inspections, and which would assure specific, uniform, step-by-step procedures for accomplishing work accurately, economically and safely.

The RFTP advised that proposals would be evaluated as acceptable, marginal (reasonably susceptible to being made acceptable with additional information not basically changing the proposal as submitted), and unacceptable; the solicitation stated that in order to be acceptable a proposal must meet all requirements in the solicitation instructions for preparation of proposals and demonstrate a thorough understanding of the statement of work. In addition, the solicitation provided that evaluation of technical acceptability would be based on the offeror's specific approach to the technical, support, facilities, quality assurance, and data requirements of the statement of work, and on the offeror's experience, management, and current facilities.

Technical proposals were submitted by Kay and Beech Aerospace Services, Inc., the incumbent contractor, by the October 4, 1988, closing date. Both proposals were found unacceptable as submitted, and deficiency notices were sent to the firms. After evaluating the additional information submitted by Kay, the Navy found its proposal to be technically unacceptable and, accordingly, excluded the firm from further consideration. The evaluation board determined that the inspection system proposed by Kay as part of its quality assurance program failed to meet the solicitation requirement for compliance with military specifications MIL-I-45208A "Inspection System Requirements," and MIL-Q-9858A, "Quality Program Requirements." The agency found Beech's proposal acceptable.

In its protest, Kay argues that its quality assurance program fully complied with the cited military specifications and, in any case, that undue weight was placed on quality assurance in the evaluation. In this regard, Kay contends that quality assurance should have been given a lesser weight in the evaluation because it was set forth towards the end of the listing in the solicitation of the evaluation factors and the agency, in a written answer to a question at the preproposal conference, subsequently indicated that the evaluation criteria were listed in order

of priority. Kay asserts that the agency in fact intended to award the contract to Beech all along, concluding that this was a de facto sole-source procurement.

Our review of an agency's technical evaluation under an RFTP is limited to the question of whether the evaluation was reasonable. Where technical supplies or services are involved, the contracting agency's technical judgments are entitled to great weight; we will not substitute our judgment for the contracting agency's unless its conclusions are shown to be arbitrary or otherwise unreasonable. Chemical Waste Management, Inc., B-232276, Dec. 13, 1988, 88-2 CPD ¶ 590. Although an agency should seek to qualify as many step-one technical proposals as possible, Sytek, Inc., B-231789.2, Dec. 7, 1988, 88-2 CPD ¶ 568, it may reject any proposal that fails to meet essential requirements. Gichner Iron Works, Inc., B-230009, May 16, 1988, 88-1 CPD ¶ 459; see Federal Acquisition Regulation (FAR) § 14.503-1(e)(2). In particular, where a solicitation requires detailed information, it is the responsibility of an offeror to submit an adequately written proposal, and it fails to do so at its own risk. See Midcoast Aviation, Inc., B-223103, June 23, 1986, 86-1 CPD ¶ 577.

We find that the Air Force reasonably determined that substantial and significant information concerning Kay's quality assurance plan was either omitted or not clearly set forth in the firm's proposal. As discussed, the statement of work specified that the proposed inspection system, to be described in the required quality assurance program plan, shall include work documents for all required maintenance which would assure specific and uniform step-by-step procedures for accomplishing work accurately, economically and safely. In addition, military specification MIL-I-45208A required that inspection and testing to substantiate conformance to contract maintenance requirements be prescribed by clear, complete, and current instructions and by procedures which will assure that the latest applicable drawings, specifications, and instructions are used for inspection and testing. While the protester's quality control manual generally stated that the firm would maintain a reference file of inspection work cards, work unit code manuals, and maintenance checklists for the C-12J aircraft, the Air Force found, and we have confirmed, that it generally did not furnish detailed work documents setting forth step-by-step procedures for accomplishing the required maintenance. The firm's quality control manual failed even to mention, much less provide, clear, complete and current instructions for such required areas of maintenance as daily launch and recovery (including postflight and preflight inspections and towing).

MIL-Q-9858A similarly requires that an offeror's quality assurance program prescribe all work affecting quality in clear and complete documented instructions, which provide the criteria for performing the work functions. Again, while Kay's quality control manual does include broad mention of some required work areas, the agency found the discussion too brief and not containing the level of detail required. For example, with respect to the functional check flight (FCF) required to verify that an aircraft is capable of performing its assigned functions, Kay's manual details when FCFs will be required, indicates that quality control personnel will supervise the FCF, and states that a checklist will be used, but does not indicate what will be done during the FCF, i.e., does not include clear and complete documented instructions that provide the criteria for performing the work. In addition, while MIL-Q-9858A requires that the quality program provide for the prompt detection and correction of conditions adverse to quality, Kay's proposal states only that it will conduct quality control audits every 180 days to verify the quality of maintenance, and special audits to investigate known deficiencies; it does not provide detailed procedures for assuring the required prompt detection and correction of conditions adverse to quality.

In responding to the deficiency notice, Kay stated that it had submitted only "examples of our quality control documentation" because in the time available it was "unable to produce the quantity of customized documentation anticipated in the format required." Further, the quality control and inspection manuals Kay furnished with its response were for the support of the H-1 helicopter, not the C-12J aircraft.

We conclude that the Air Force reasonably found that Kay failed to submit sufficient information with its proposal to establish compliance with the RFTP requirement for a detailed quality assurance plan. Likewise, we think the agency reasonably concluded that the additional documentation Kay furnished in response to the deficiency notice was basically irrelevant and did not show compliance with the quality assurance requirements of the solicitation.

Further, there is no indication that the Air Force gave undue weight in the evaluation to Kay's proposed quality assurance program. Although the solicitation listed the evaluation criteria in order of priority, and quality assurance was in fact listed towards the end of the evaluation factors, the solicitation clearly provided that for a proposal to be acceptable it had to meet all of the

requirements in the solicitation statement of evaluation criteria, including an acceptable quality assurance program plan. As we have found that the agency reasonably determined that Kay's proposal did not meet this requirement, rejection of the proposal on this basis was proper, and did not evidence an improper overemphasis on the requirement.

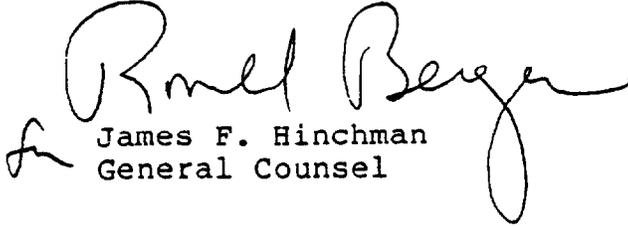
Kay contends that the deficiency notice was not sufficiently specific and failed to advise the firm where its interpretation of the specifications differed from the government's. However, as indicated above, Kay itself recognized in its response to the deficiency notice that it had only provided "examples" of its quality control documentation, and admitted it had not furnished "the quantity of customized documentation anticipated in the format required." Accordingly, it is clear from its response that Kay was aware that the agency was questioning its failure to provide detailed, customized quality assurance documentation. Since Kay clearly was led into the area of its proposal requiring amplification and was afforded an opportunity to revise the proposal, there is no basis to question the adequacy of discussions. Aydin Vector Division of Aydin Corp., B-229569, Mar. 11, 1988, 88-1 CPD ¶ 253.

Where an agency reasonably rejects a proposal as technically unacceptable, the fact that this results in a competitive range of only one offeror does not establish the existence of unfair motives on the part of the agency, Evaluation Technology, Inc., B-232054, Nov. 15, 1988, 88-2 CPD ¶ 477, or otherwise render the agency action improper. Datron Systems, Inc., B-220423, B-220423.2, Mar. 18, 1986, 86-1 CPD ¶ 264. As we have found the evaluation unobjectionable, the protester's mere speculation that the agency intended to procure the services only from the incumbent does not establish that the award was improper. Chemical Waste Management, Inc., B-232276, supra.

In its comments on the agency report, the protester alleges that the Air Force requirements were unreasonable and unduly restrictive and complains that the agency failed to provide offerors documentation on maintenance of the C-12J aircraft which had been furnished to the government under the incumbent's contract. Our Bid Protest Regulations require that protests based on alleged improprieties in a solicitation that are apparent prior to the closing date for receipt of initial proposals be filed prior to closing. 4 C.F.R. § 21.2(a)(1) (1988). The RFTP's requirements and the information furnished offerors were apparent on the face

of the solicitation; as Kay did not challenge them until after the initial closing date, this aspect of the protest is untimely and will not be considered.

The protest is denied.

  
James F. Hinchman  
General Counsel