



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Infotec Development, Inc.

File: B-235568

Date: September 6, 1989

DIGEST

The General Accounting Office will not question the exclusion of the protester's step-one proposal as unacceptable in two-step negotiated procurement where the proposal was reasonably found deficient, requiring major revisions to make the proposal acceptable.

DECISION

Infotec Development, Inc., protests the rejection of its technical proposal, without discussions, as technically unacceptable under request for technical proposals (RFTP) No. F04606-89-R-25237. The RFTP initiated step one of a two-step negotiated procurement^{1/} conducted by the Sacramento Air Logistics Center, Department of the Air Force, for a total of 17 Transionospheric Sensing Systems (TISS),^{2/} to include training, data, installation, contractor logistics support and first article testing.

We deny the protest.

^{1/} The agency apparently employed a negotiated variation of two-step sealed bidding (see Federal Acquisition Regulation (FAR), subpart 14.5 (FAC 84-12)). Specifically, the agency requested technical proposals, without prices, in step one and required the submission of pricing information in response to a request for pricing proposals (RFP) in step two. For purposes of our decision, we see no essential difference between the two methods.

^{2/} TISS measures the effects of the ionosphere on satellite signals. This information is derived from Global Positioning Satellites and is used by the Air Force with space tracking and surveillance radars, and communication satellite links.

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The RFTP was issued on November 20, 1988. Three firms submitted technical proposals. The Air Force evaluated proposals and found that Infotec had incorrectly calculated several of the critical performance requirements, neglected to substantiate others, and proposed some that were contrary to the specified requirements. Specifically, Infotec's proposal was found deficient in the following areas: (1) differential delay calculation (measures the delay of radio signals caused by the ionosphere); (2) calibration requirements; (3) differential carrier phase noise; (4) system amplitude scintillation (rapid variations of radio signal strength caused by the ionosphere); (5) performance of its receiver; and (6) other specification requirements, including, operating temperature, mean down time, power, and password changes via the Air Weather Network. The Air Force rejected Infotec's proposal and determined that only one firm submitted a technically acceptable proposal that was acceptable without extensive revisions or major rewrite. The agency therefore proceeded with the second step request for pricing proposal with the one offeror. This protest followed.

Initially, we note that an agency may reject, without discussions, a step-one proposal that is technically unacceptable if the proposal either fails to meet essential requirements of the solicitation or can be made acceptable only through extensive revisions. See Midcoast Aviation, Inc., B-223103, June 23, 1986, 86-1 CPD ¶ 577. Thus, the basic issue here is whether the Air Force reasonably evaluated Infotec's proposal as requiring a major rewrite. Since evaluating proposals basically involves the exercise of the contracting agency's discretion, we will not question the results of an evaluation unless shown to be unreasonable. See Datron Systems, Inc., B-220423 et al., Mar. 18, 1986, 86-1 CPD ¶ 264. Further, the fact that a protester may disagree with the agency's conclusion does not itself render the evaluation unreasonable. See TIW Systems, Inc., B-222585.8, Feb. 10, 1987, 87-1 CPD ¶ 140.

The protester maintains that the Air Force's evaluation was erroneous and insists that it could easily have corrected any deficiencies in its proposal had it been given the opportunity to discuss them with the agency.

In response, the Air Force asserts that Infotec's technical approach was unacceptable. The Air Force states that in fundamental measurement areas, Infotec's proposal failed to meet the requirements without major design changes.

The record contains extensive highly technical arguments by both parties. We limit our discussion to a few critical examples of deficiencies found by the agency in Infotec's proposal. The record shows that under the TISS there are three basic types of measurements required which are at the very "heart" of the TISS system. These measurements include "differential group delay" measurements, "differential phase" statistic, and "amplitude variation" statistic. In the differential group delay measures, the RFP specified a limit on the "accuracy" parameter that Infotec in its initial proposal was evaluated as exceeding by nearly 20 percent. Although Infotec claimed to meet this requirement, the Air Force found that its methodology was flawed. In this regard, the accuracy of this measurement is critical for space surveillance radars and for impact points of ballistic missiles. While the protester has attempted to correct its measurements in its protest submission to the agency, there has been no showing that the Air Force's evaluation of its initial proposal as submitted was flawed.

The Air Force also found that Infotec failed to meet the differential carrier phase accuracy specification. The firm proposed to meet the specification by an "averaging process" that the Air Force found to be totally unacceptable. Infotec, in its protest, acknowledges that its initial approach with respect to the differential carrier phase was inaccurate, but contends that now that it understands the requirement it can propose a modified approach that would comply with the specification requirement. This, however, does not show the initial evaluation to be flawed. Moreover, the Air Force has evaluated Infotec's modified approach and has determined that this alternate approach would make a fundamental change in the technical capability of Infotec's most significant hardware and also would change critical performance characteristics.

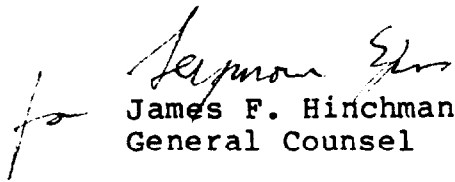
With respect to the amplitude variation statistic, the Air Force found that Infotec completely failed to address a requirement concerning the system contribution and specifically proposed nine measurements that were different from the RFP requirements. In response, Infotec contends that this issue could be resolved through clarification. In this regard, Infotec admits that its proposal did not adequately address certain key RFP requirements but disagrees with the Air Force's conclusion that correction of the deficiencies would require more than mere clarification. We reject these contentions.

The Air Force found that the protester, to be acceptable, would have to change key hardware in the system proposed, including the receiver, calibration equipment, the computer,

the antenna subsystem, and modem/controller and that these revisions would constitute a new proposal. The protester has failed to show otherwise. Based on this record, we find that the protester, while expressing disagreement with the technical determination by the agency, has not shown the evaluation to be unreasonable.

Finally, the protester contends that since two of the three offerors were determined to be technically unacceptable, the Air Force should not have proceeded to step two with one offeror. Although an agency in a two-step sealed bidding procurement may cancel step two and proceed to complete the procurement through negotiation where, as here, there is only one acceptable offeror, the agency is not required to do so. See HSQ Technology, B-227054, July 23, 1987, 87-2 CPD ¶ 77. Since step two in this case is a negotiated procurement, we believe the agency properly proceeded with the negotiation.

The protest is denied.


James F. Hinchman
General Counsel