



Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

**Matter of:** Cook Travel

**File:** B-238527

**Date:** June 13, 1990

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Ted G. Fink, for the protester.  
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decision.

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## DIGEST

1. Technically acceptable proposal which was reasonably evaluated as significantly inferior relative to those included in the competitive range was properly excluded from the competitive range where the contracting agency determined that the proposal did not have a reasonable chance of being selected for award.
2. A party is not interested to maintain a protest if it would not be in line for award if the protest were sustained. Once an offeror is properly found to be outside of the competitive range, it is not an interested party to protest the qualifications of another offeror which was included in the competitive range.

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## DECISION

Cook Travel protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. 7FXI-X5-89-S012-N, issued by the General Services Administration (GSA) for the establishment and operation of Travel Management Centers (TMC) for the states of Colorado, Montana, North Dakota, South Dakota, and Wyoming. Cook Travel contends that GSA's determination to exclude its proposal (for the award of a contract for services in Montana) from the competitive range was arbitrary, capricious, and an abuse of discretion.

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We deny the protest in part and dismiss it in part.

The solicitation was issued September 29, 1989, with a November 14 closing date for the receipt of initial proposals. More than 10 proposals were received for item 2 of the solicitation which sought the establishment of TMCs in Montana.<sup>1/</sup> The evaluation factors were as follows, with the first two of equal value and the remaining factors listed in descending order of importance:

- Project Management
- Offeror's Qualifications
- Equipment Capability
- Personnel Qualifications
- Rebates or Fees<sup>2/</sup>

The solicitation stated that the government would make an award for each site listed to the responsible offeror whose offer conformed to the RFP and was most advantageous to the government.

All proposals were evaluated by the four members of the Source Selection Evaluation Board (SSEB), and discussions were conducted among the evaluators to arrive at a consensus score on each factor for each proposal. After the initial evaluation, the SSEB concluded that approximately one half of the proposals submitted were technically acceptable and one half of these were recommended for inclusion in the competitive range. The technically acceptable proposals had scores ranging from 90 to 188, with a score of 168 received by the lowest-rated proposal recommended for inclusion. The scores received by the offerors which were not recommended for inclusion ranged from the low score of 90 to the

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<sup>1/</sup> The solicitation divides the requirements for TMCs on a state-by-state basis and permits offerors to submit proposals for a single state. The requirements in certain states were set aside for small businesses.

<sup>2/</sup> The solicitation provided that rebates were not mandatory, but if offered as an enhancement would be included and considered.

protester's score of 108. The contracting officer adopted the recommendation of the SSEB and informed Cook Travel, by letter dated January 30, 1990, that its proposal was not considered to be in the competitive range. In this letter, the contracting officer identified six deficiencies in Cook Travel's proposal which formed the basis for the agency determination. The noted deficiencies are as follows:

- "(1) Copies of accreditation or authorizations to act as an agent were not provided;
- "(2) Quality procedures to continually monitor services being performed as required by Section C.II.E. were not addressed;
- "(3) Your offer does not address establishing Memorandum of Understanding with the Federal Agencies;
- "(4) Your proposal did not detail ticket delivery within the cities of Missoula or Billings, remote ticket delivery, or emergency ticketing;
- "(5) The airlines on which you have seat assignment, last seat, and boarding pass capability were not listed in order to receive credit as detailed in Section M.I.B.(2); and
- "(6) Your rebate could not be evaluated or scored with the stipulations of minimum credit card billings per quarter as submitted."

The contracting officer further stated that:

"[a]lthough the deficiencies/omissions above were not of sufficient consequence to cause your offer to be technically unacceptable, these factors, combined with the lack of offered enhancements at no cost to the Government for service levels over and above the minimum requirements of the solicitation, resulted in your proposal being outside of the competitive range."

Cook Travel protested to our Office on February 7, arguing that its proposal could not have been reasonably eliminated from the competitive range because it is one of the outstanding travel firms in the Pacific Northwest and is backed by a superlative staff. The protester also challenges the GSA's determination to include Topp Travel in the competitive range, alleging that Topp Travel is less qualified since it only established an office in Billings on January 19, 1990, and has a skeleton crew. Cook Travel also alleges that the owners of Topp Travel donated a significant sum of money to the Republican Party in 1988, and that this raises a question about the impartiality of GSA's evaluation.

In a negotiated procurement, the competitive range consists of all proposals that have a reasonable chance for award, including deficient proposals that are reasonably susceptible of being made acceptable through discussions. Hummer Assocs., B-236702, Jan. 4, 1990, 90-1 CPD ¶ 12. The evaluation of proposals and the resulting determination of 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. Rainbow Technology, Inc., B-232589, Jan. 24, 1989, 89-1 CPD ¶ 66. In reviewing a competitive range determination, we do not reevaluate the technical proposals; rather, we examine the agency's evaluation to ensure that it was reasonable and in accord with the evaluation criteria. Hummer Assocs., B-236702, supra. We will not disturb a competitive range determination absent a clear showing that it was unreasonable, arbitrary, or in violation of procurement laws or regulations. Id.

Cook Travel disputes its technical score and argues that the cited deficiencies were only aspects of its proposal which "perhaps were not covered in the manner in which a professional presentation writer would pursue such an assignment." However, Cook concedes that its proposal was lacking in several of the cited areas. For example, in response to the first deficiency, that copies of accreditation or authorizations to act as an agent were not provided, Cook Travel states that it did not provide such letters but alleges that no one can comply with this requirement, and that the requirement is improper. However, according to the agency, it has always required offerors to provide such evidence for this kind of procurement, and offerors have always done so. Here, since the solicitation clearly

required that proposals include proof that the offeror is accredited to issue tickets and act as an agent, Cook Travel was properly downgraded for failure to provide such proof. To the extent that the protester is alleging that the solicitation was defective because it required this proof, the protest is untimely since protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed prior to closing. 4 C.F.R. § 21.2(a)(1) (1990).

With respect to the quality control deficiency, the protester asserts that its proposal did adequately address the quality procedures it intended to use. However, section L of the solicitation specifically required offerors to provide "[a] narrative description of the existing and proposed organization, including the relationship between Offeror's Project Manager, Quality Control and Offeror's Corporate Management." In particular, the RFP required an outline of the procedures the offerors would put in place to assure quality of the work performed, customer satisfaction, and timeliness of service. The section of its proposal which Cook Travel argues satisfies this requirement contains a discussion of tasks such as preparation of traveler's itineraries, detailed management reports, hours of service, and minimum personnel requirements. However, this section does not include any discussion of the specific measures that Cook Travel would take to provide quality control; rather, it states only that the owner will review the fares to ensure they are the lowest available. Since the quality control plan requirements were listed in detail under the business management factor, one of the two most important technical factors under the RFP, Cook Travel's failure to provide even a rudimentary quality control plan was reasonably considered by the agency to indicate a lack of understanding by Cook Travel of the agency's requirements regarding the quality of services during contract performance. See Source AV, Inc., B-234521, June 20, 1989, 89-1 CPD ¶ 578.

In view of the significant number of informational deficiencies listed above, and the fact that they concern important requirements under the solicitation, the agency concluded that major revisions would be required to make Cook Travel's proposal competitive with the higher rated proposals, which constitutes a reasonable basis to reject Cook Travel's proposal. Source AV, Inc., B-234521, supra. In an effort to cure its deficiencies, Cook Travel

submitted certain additional information in its protest submissions. However, this later-supplied material properly was not considered by GSA in its evaluation. See Federal Acquisition Regulation (FAR) § 15.608(a). Nonetheless, GSA did not reject Cook Travel's proposal as technically unacceptable. Rather, GSA excluded the proposal from the competitive range because the proposal received a total point score which was 60 points lower than the lowest scored proposal which was included.

A proposal found technically acceptable as submitted need not be included in the competitive range if, relative to the other acceptable offerors, it is determined to have no reasonable chance for award. ITECH, Inc., et al., B-231693 et al., Sept. 20, 1988, 88-2 CPD ¶ 268. Contracting officers are normally required to consider costs before making this relative determination. Here there is no cost to the government under the contract to be awarded. The only possible cost element under this procurement relates to the optional rebates or fees, the least important evaluation factor, under which Cook Travel failed to provide any information in the manner prescribed by the RFP. Therefore, in our view, the agency properly concluded that the substantial gap in technical scores was determinative. Accordingly, we find that GSA reasonably excluded Cook Travel's technically acceptable proposal on the basis that its relatively low technical score established that Cook Travel had no reasonable chance for award. See Allied Management of Texas, Inc., B-232736.2, May 22, 1989, 89-1 CPD ¶ 485; ITECH, Inc., et al., B-231693 et al., supra.

Regarding the protester's contention that its proposal should not be judged by the standard of a "professional presentation writer," we note that it is an offeror's responsibility to prepare an adequately written proposal which can be evaluated in accordance with the criteria set forth in the solicitation, and an offeror runs the risk of being rejected or downgraded if it does not submit an adequately written proposal. Realty Executives, B-237537, Feb. 16, 1990, 90-1 CPD ¶ 288.

Cook Travel also challenges the inclusion of Topp Travel in the competitive range, and alleges that the procuring officials were biased in favor of Topp Travel. Cook Travel is not an interested party to protest the inclusion of Topp Travel in the competitive range. See 4 C.F.R. §§ 21.0(a) and 21.1(a). A party is not interested to maintain a

protest if it would not be in line for award if the protest is sustained. Data Spectrum, Inc., B-233460, Feb. 16, 1989, 89-1 CPD ¶ 167. Once an offeror is properly found to be outside of the competitive range, it cannot be in line for award. DeCamp-Brouns & Assocs., B-231397, June 10, 1988, 88-1 CPD ¶ 559. Since Cook Travel was properly found to be outside of the competitive range, it is not an interested party to challenge the inclusion of another offeror. Id.

The protest is denied in part and dismissed in part.

*for Robert P. Murphy*  
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General Counsel