



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Huffman Prairie Physicians, Inc.

File: B-246194

Date: December 17, 1991

Stephen L. DeVita, Esq., for the protester.
Kenneth A. Martin, Esq., Elliot, Bray & Riley, for Coastal
Government Services, Inc., and Stanford R. Hall for EmQuest,
interested parties.
Gregory H. Petkoff, Esq., and Wendy L. Wiedenfeld, Esq.,
Department of the Air Force, for the agency.
Barbara C. Coles, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

1. Where solicitation provides for award to low, technically acceptable offeror without discussions, allegations that agency did not conduct discussions or perform a cost-technical tradeoff do not state a valid basis for protest.
2. Protester's contention, not raised until after award, that the solicitation should have been set aside for small business concerns is untimely and will not be considered.

DECISION

Huffman Prairie Physicians, Inc. protests the award of a contract to Coastal Government Services, Inc. under request for proposals (RFP) No. F33601-91-R-9028, issued by the Department of the Navy for health care services at USAF Medical Center, Wright-Patterson AFB, Ohio.

We dismiss the protest.

The solicitation was issued on July 19, 1991 and established August 19 as the closing date for receipt of proposals. The RFP advised offerors that their proposals would be evaluated based on the following two factors, listed in descending order of importance: (1) compliance with the performance work statement; and (2) price and price-related factors. The RFP also advised offerors that "[t]he [g]overnment intends to evaluate proposals and award a contract without discussions with offerors . . . [t]herefore, each initial offer should contain the offeror's best terms from a price and technical standpoint."

053124 / 143467

The Air Force received three proposals; Coastal was the low-priced offeror with an initial offer of \$286,830 and Huffman submitted the second low-price of \$356,160. After evaluating the proposals, the contracting officer determined that while the three proposals were within the competitive range, only Coastal's proposal was "acceptable as submitted." As a result, the contracting officer decided to award the contract on the basis of initial proposals to Coastal as the technically acceptable, low-priced offeror. Huffman's protest to our Office followed.

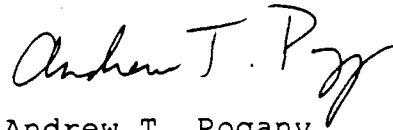
Huffman contends that the award to Coastal was improper because the award was based solely on price. The protester also argues that the agency failed to conduct discussions concerning each offeror's past performance, educational level, military experience, qualifications or competency.

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, 4 C.F.R. § 21.1(c)(4) (1991), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge--Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335. Here, it is evident that a reasonable reading of the solicitation shows that the agency contemplated a selection that was to be based on initial proposals to the low-priced, technically acceptable offeror. In light of this evaluation methodology and the fact that Huffman has not provided any evidence to suggest that Coastal's proposal was not technically acceptable, Huffman's allegations regarding the agency's award on the basis of price without conducting a price/technical tradeoff, and without discussions, fail to state a valid basis for protest.

Huffman also objects, for the first time in its comments on the agency report, to the agency's decision not to set aside the contract for small business concerns. Huffman's objection involves a solicitation impropriety which was apparent from the face of the solicitation. Since this allegation was raised after contract award rather than prior to the time set for receipt of proposals, we find it to be clearly

untimely. 4 C.F.R. § 21.2(a)(1) (1991), as amended by
56 Fed. Reg. 3759 (1991); Custom Programmers Inc., B-235716,
Sept. 19, 1989, 89-2 CPD ¶ 245.

The protest is dismissed.

A handwritten signature in cursive script, reading "Andrew T. Pogany". The signature is written in dark ink and is positioned above the printed name and title.

Andrew T. Pogany
Acting Assistant General Counsel