



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Electronic Systems USA, Inc.

File: B-246110

Date: February 14, 1992

Barry S. McKee for the protester.
Robert H. Berry, Jr., Esq., Defense Intelligence Agency, for the agency.
John W. Van Schaik, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of proposal and exclusion from the competitive range is denied where review of agency's evaluation of protester's proposal establishes that it was evaluated in accordance with solicitation's evaluation criteria and that agency reasonably concluded that the proposal would require major revisions to become acceptable.
2. Proposal that agency properly finds technically unacceptable may be excluded from the competitive range without consideration of price.
3. Contracting agency is not required to conduct discussions with offerors of proposals reasonably determined to be technically unacceptable.

DECISION

Electronic Systems USA, Inc. protests the award of a firm-fixed price contract to Honeywell, Inc. under request for proposals (RFP) No. MDA908-91-R-0180, issued by the Defense Intelligence Agency (DIA) for an integrated fire alarm and energy management system for the Defense Intelligence Analysis Center at Bolling Air Force Base. Electronic Systems argues that the proposals were improperly evaluated.

We deny the protest.

The solicitation requested proposals to design and furnish a state-of-the-art integrated fire alarm and energy management system to replace an existing Honeywell system. The contractor also was to test the system and provide system documentation, training, installation, and maintenance.

The agency explains and the RFP reflects the fact that the project is sensitive and complex because the existing system must operate 24 hours per day and remain functional during the installation of the upgraded system. Accordingly, the RFP requires that the contractor work on only one system at a time--fire alarm or energy management--and permits a maximum outage of 24 hours per field panel for the energy management system and an outage of only 120 hours for each of the approximately 31 zones which comprise the fire alarm system. Because the agency was concerned that successful accomplishment of the project would require a well-thought-out technical approach and a good deal of planning on the part of a highly skilled and experienced contractor, the following evaluation criteria were set forth in the RFP:

- a. Qualifications
- b. Technical Capability
- c. Completeness of Proposal and System Capabilities
- d. Security
- e. Price

According to the solicitation, of the five evaluation factors, Price was to be weighted slightly more than either Technical Capability or Qualifications, which were to be rated equally. Also, the factor Completeness of Proposal and System Capabilities was to be given approximately half the weight of the price factor, and Security was the least important factor. The solicitation also stated that unsupported promises to comply with the contractual requirements would not be sufficient and that "failure of an offeror to address any of the evaluation factors will result in an unacceptable proposal." Finally, the solicitation stated that offerors which are included within the competitive range would be required to conduct a factory demonstration and test of their proposed systems.

Electronic Systems and Honeywell submitted proposals. After the proposals were evaluated, the agency determined that Electronic Systems' proposal was technically unacceptable because, among other reasons, it did not demonstrate that the firm has the qualifications and experience to install the system it proposed, it did not explain how the system would be installed, and it was missing required equipment. Honeywell's proposal was considered technically acceptable.

The agency conducted a successful factory demonstration test of Honeywell's proposed system and held discussions with that firm. On September 18, the agency notified Electronic Systems that its proposal was technically unacceptable and, on September 30, the agency awarded the contract to

Honeywell at a price of \$579,759. Electronic Systems' price was \$369,286.¹

Electronic Systems argues that it submitted ample documentation to demonstrate its ability to provide an acceptable system and that DIA should have allowed the firm to demonstrate its system before deciding to award the contract to Honeywell at a higher price. In addition, Electronic Systems argues that since it has been employed for 3 years to provide systems maintenance, upgrades, and enhancements to the current alarm system at Bolling Air Force Base, it was unreasonable for the agency not to give the firm an opportunity to demonstrate its system.

The determination of the merits of proposals is primarily the responsibility of the contracting agency, which must bear the burden of any difficulties resulting from a defective evaluation. Viking Instruments Corp., B-238183, Apr. 24, 1990, 90-1 CPD ¶ 414. Accordingly, in reviewing challenges to the evaluation of a technical proposal and the resulting determination of whether the proposal is in the competitive range, we will not reevaluate the proposal and independently judge its merits; we will only consider whether the evaluation was reasonable and in accord with the solicitation evaluation criteria. W.N. Hunter & Assocs.; Cajar Defense Support Co., B-237259; B-237259.2, Jan. 12, 1990, 90-1 CPD ¶ 52. Further, offers that are technically unacceptable as submitted and would require major revisions to become acceptable generally are not required to be included in the competitive range. Id.

Here, based on our review of Electronic Systems' proposal and DIA's technical evaluation, we find that the agency's decision to reject the proposal was reasonable.

The evaluators primarily were concerned that Electronic Systems' proposal did not establish that the firm has the qualifications and experience required for the project. In this respect, the solicitation required offerors to provide information showing their relevant individual and corporate experience. The agency states that Electronic Systems' proposal included no evidence of experience installing the particular system it proposed and that the firm's proposal of a single technician to install its system represented a marginal approach. In addition, the agency states that the single technician assigned to the installation has no

¹Although the solicitation included 3 optional years of maintenance, these items were not included in the contract due to uncertainty as to what maintenance was required. The prices listed here for Honeywell and Electronic Systems do not include the maintenance line items for the option years.

experience performing installation work of the type required and that the protester failed to provide specific experience references for several key personnel proposed, such as the senior construction technician and the service engineer. Finally, according to the agency, the references submitted by Electronic Systems show that the local office proposed for the project has no design and construction experience and the firm's proposal listed no corporate resources to support the contract.

In response, Electronic Systems, while admitting that it has not previously installed the system it proposed, argues that it has successfully maintained and installed additional equipment on the current system and that its proposed technician was trained to install the proposed system after the submission of the proposal. Under the circumstances, the protester argues that there is no reason for the agency to assume that the firm could not install the system. In addition, the protester argues that the solicitation did not require a minimum number of technical personnel for the installation and that its proposal stated that, if necessary, it would draw on personnel from its branch offices to install the system in a timely manner. According to the protester, it included in its proposal a list of the personnel that would be responsible for some of the work required and this type of list has been satisfactory in proposals it has submitted in response to other government solicitations.

We think the agency was reasonably concerned about Electronic Systems' qualifications to install the system since, although the firm has previously performed maintenance and upgrade work on the existing system, there was no indication in its proposal that the personnel proposed for the installation or the local office that would have responsibility for the contract have experience designing, constructing, and installing the system required here. Although Electronic Systems argues that there is no basis to assume that it could not do the work successfully, a technical evaluation must be based on information in, or submitted with, the proposal, Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371, and the limited qualifications and experience listed in Electronic Systems' proposal, in our view, reasonably raised questions as to the firm's ability to successfully complete the project, which involves the need to install a completely new system while ensuring that the vital alarm functions are "out" for only a minimum amount of time. Under these circumstances, whether or not the RFP specified a minimum number of personnel needed, it was clearly reasonable for the agency to downgrade a proposal which, in its view, assigned insufficient resources to the project.

In addition to concerns about qualifications and experience of both Electronic Systems and the personnel it stated in its proposal "would be involved" with the project, the evaluators also noted that the proposal itself was incomplete and lacked detail as to how the firm would perform the work. Initially, we note that the RFP advised offerors that their proposals were to "include a complete and detailed presentation of the offeror's technical approach for accomplishing tasks required by the Statement of Work." Proposals were also to include a complete and detailed management approach, manning plans, and methods of applying prior related experience of the offeror. In addition, the Technical Capability evaluation factor included the following subfactors:

- "1. The soundness of the offeror's technical approach, including the offeror's understanding of the technical requirement.
2. The adequacy of the proposed management plan for accomplishing the requirement."

Further, under the Completeness of Proposal and System Capabilities factor, the evaluators were to consider the "soundness of the offeror's response to the RFP, addressing all equipment, drawings and construction phasing data necessary for a complete proposal. The RFP also required the submission of a demonstration plan.

The evaluators stated that Electronic Systems' proposed technical approach was vague and did not demonstrate that the firm understood the project. For instance, the evaluators found that Electronic Systems provided no management plan or documentation on the execution of the project, such as how it would approach the job but rather proposed to meet the agency after award to determine a detailed technical approach. Also, the evaluators noted that the proposal did not include a construction or demonstration plan, or wiring and construction schematics.

In response, the protester states that its proposal included the locations where it would install new equipment and a detailed description of the installation process. Although the proposal did not include a management approach or a step-by-step installation schedule, Electronic Systems argues that more detailed information typically is provided after the contract is awarded. In addition, the protester argues that it did submit drawings showing the architecture of the system it proposed.

Our review confirms that Electronic Systems' proposal did not set out a detailed technical approach or a management or demonstration plan. Rather, the proposal included only

general information on the installation, including a list of equipment locations and a brief description of the order in which equipment would be installed. As the agency states, most of the proposal was devoted to describing the components of the system and there is no detailed description of the components as an integrated system which has been specifically designed to meet DIA's needs. In addition, although the protester states that its proposal included drawings showing the architecture of the system it proposed, we found in the proposal one extremely general two-page drawing showing only the location of and connections between the major components of the proposed system.²

Electronic Systems apparently believes that it would be more appropriate to submit a detailed technical approach including drawings and a management plan after award. However, as we explained above, the solicitation instructed offerors to include in their proposals "a complete and detailed" technical approach and management plan. The solicitation also emphasized that proposals must include documentary evidence to support statements regarding promised performance and that the failure to address any of the evaluation factors would result in an unacceptable proposal. Contrary to these provisions, Electronic Systems' proposal simply lacked any detail as to how the contract would be performed and, under the circumstances, we think the agency reasonably concluded that the proposal failed to show an adequate understanding of the solicitation requirements.

The evaluators also noted, and the protester does not dispute, that Electronic Systems' proposal did not include required equipment such as a computer system, multiple printers, a 20-inch video display unit and floppy drives for computers. Electronic Systems, while conceding that it left required equipment out of its proposal, argues that it would be obligated to supply any missing equipment under the contract.

On the contrary, a proposal that fails to conform to the material terms and conditions of the solicitation by offering to supply only a portion of the equipment required is unacceptable and therefore may not form the basis for award. AMDATA, Inc., B-239216, Aug. 13, 1990, 90-2 CPD ¶ 123. More importantly, however, the record indicates that because of the numerous shortcomings in Electronic Systems' proposal, the evaluators were concerned that the firm did not understand what was involved in installing the required

²The proposal also included commercial literature with drawings of other projects performed by the firm. These drawings provided little or no information on how Electronic Systems would design and install its system for DIA.

system and its failure to propose to supply hardware required for the system it proposed, in our view, reasonably contributed to that concern.

Here, the RFP required offerors to provide information on their qualifications and experience relevant to the project and to submit detailed information on how the work would be accomplished including complete technical and management approaches. Electronic Systems' proposal did not meet any of these requirements. It is our view that the firm's lack of installation experience with the particular equipment it proposed along with its failure to submit detailed management, construction, and test demonstration plans in accordance with the clear instructions contained in the RFP properly caused the agency evaluators to be concerned as to the firm's understanding of the RFP requirements for this sensitive and relatively complex project. Under the circumstances, we think that the agency reasonably concluded that the proposal was technically unacceptable and would have required major revisions to become acceptable. Further, while we carefully scrutinize decisions which result in a competitive range of one, such decisions are unobjectionable where, as is the case here, the agency reasonably determined that the excluded firm lacked a reasonable chance of being selected for award. Technology and Mgmt. Servs., Inc., 70 Comp. Gen. 58 (1990), 90-2 CPD ¶ 375.³ In addition, although Electronic Systems argues that the agency should have conducted a factory demonstration of its proposed system, the solicitation specified that only competitive range offerors were to demonstrate their proposed systems.

Electronic Systems further argues that it proposed to perform the contract for over \$100,000 less than Honeywell and, under the circumstances, the evaluators' concerns about its proposal should have been clarified by giving the firm the same opportunity to discuss its proposal as was given to Honeywell. Although an agency may not exclude a technically acceptable proposal from the competitive range without

³Electronic Systems states that it is listed by Underwriters Laboratory (UL) under the Burglary and Fire Alarm Service Certification Program which, according to the protester, indicates a commitment by Electronic Systems to provide qualified service personnel for maintenance, repair, and system upgrades. While the UL listing provides support for Electronic Systems' assertion that it is qualified to perform maintenance, repair, and upgrades, the work required by the current solicitation is more sophisticated than Electronic Systems' proposal indicates it has done in the past and, in any event, it is the responsibility of the contracting agency, not UL, to determine if a particular offeror meets the requirements of the solicitation.


considering price, a technically unacceptable proposal can be excluded from the competitive range irrespective of its lower offered price. American Technical & Analytical Servs., Inc., B-240144, Oct. 26, 1990, 90-2 CPD ¶ 337. Moreover, an agency need not conduct discussions with a technically unacceptable offeror. Id.

Electronic Systems also argues that Honeywell's proposal should have been found unacceptable because its proposed system employs control interpreter language programming, which was prohibited by the solicitation. In addition, Electronic Systems objects to the award because, according to the protester, Honeywell proposed a single source system which can only be expanded by Honeywell itself because of its proprietary architecture and software. Electronic Systems also maintains that Honeywell's system will prevent competitive bidding for the annual maintenance contract.

These allegations provide no basis for objecting to the award. First, according to DIA, the language proposed by Honeywell is not in the prohibited format. Rather, the agency explains that Honeywell proposed to use DeltaNet Pascal, "an English description type language," and showed that language at the factory demonstration. Electronic Systems filed comments on the agency's report but did not rebut or otherwise comment on this issue. Consequently, we consider this issue to be abandoned. Engineered Air Sys., Inc., 69 Comp. Gen. 172 (1990), 90-1 CPD ¶ 75.

Finally, we reject the protester's contention that the award was improper because Honeywell proposed a system which only it can maintain or expand. The agency states that it has no reason to believe that Honeywell's proposed system could not be maintained and upgraded by other vendors. In any event, we are aware of no RFP provision which would have prevented Honeywell from proposing and the agency from accepting a system with proprietary hardware or software.

The protest is denied.


James F. Hinchman
General Counsel