



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Califone International, Inc.

**File:** B-246233; B-246233.2

**Date:** February 25, 1992

Hassel Hill, Jr., Esq., for the protester.  
Robert A. Lincoln, Esq., Office of the General Counsel,  
Library of Congress, for the agency.  
C. Douglas McArthur, Esq., and Michael R. Golden, Esq.,  
Office of the General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

1. Agency reasonably made a determination to eliminate the protester's proposal from the competitive range where solicitation placed emphasis on technical factors and where after discussions and the submission of revised proposals, the protester's technical score was less than half that of the other remaining offeror and the evaluation record otherwise supports the agency's conclusion that the proposal had no reasonable chance for award.

2. Protest that agency failed to fulfill its obligation to conduct meaningful discussions with the protester is denied where record shows that during discussions agency identified the weaknesses and deficiencies that it found in the protester's proposal and extended the protester the opportunity to revise its proposal to eliminate those weaknesses and deficiencies.

### DECISION

Califone International, Inc. protests the rejection of its offer under request for proposals (RFP) No. 91-38, issued by the Library of Congress for a quantity of 12,000 phonograph talking book machines. The protester contends that the agency had no basis for awarding a contract to a higher priced offeror.

We deny the protest.

On July 17, 1991, the agency issued the solicitation for a firm, fixed-price contract for a quantity of 12,000 A-1 talking book machines (phonograph) and 3-year warranty, to be produced in accordance with specifications attached to the solicitation. The A-1 machine is a portable, 3-speed phonograph used in the agency's talking book program, which serves a readership of nearly 700,000 blind and physically handicapped readers, and is designed to play recorded books and magazines published by the agency.

The solicitation provided for award to the offeror with the combination of technical and price proposals most advantageous to the agency, with emphasis on the most effective technical proposal demonstrating the contractor's ability to produce the equipment specified in the solicitation at a price within the agency's available resources. The RFP called for evaluation of the acceptability of technical proposals with respect to three major factors, in addition to cost reasonableness, as follows: Facilities and Related Experience (applicable experience, capacity and equipment, and warranty program); Engineering (current staff applicable experience; drawing system and change control process); and Quality Control System (procedures, expertise, and test equipment and gauges).

The agency instructed offerors to submit price and technical proposals, with evidence of capability and experience in the manufacture of machines of similar complexity, a description of facilities and equipment, including plant layout, overall production capacity, and warranty repair procedures, and information demonstrating "ability to provide for a trained and stable work force to meet the requirements." In order to show that it could "provide an engineering staff with expertise in the design and manufacture of phonograph machines which will be committed full time," both to monitor production and to make necessary configuration changes, each offeror was to provide a description of its current relevant engineering experience including key personnel resumes, and descriptions of the engineering drafting and drawing maintenance capability, the engineering change control system, and its system for control of government-furnished tooling.

The agency received two proposals, from the protester and from the eventual awardee, Telex Communications, Inc. (Telex), on August 30, 1991, and forwarded them to its evaluation team. The evaluation team found both offerors responsive, but rated the Telex proposal much higher, with 73 of 75 possible evaluation points. In general, the team

found that the protester did not have enough qualified engineering personnel, that it had assigned too many duties to its vice president of engineering, whom evaluators found to be the one qualified engineer on the staff, and had only one person assigned to quality control. The proposal also failed to provide details of the protester's drawing and change control process and quality control system, including any documented quality control procedures. The team gave the protester a total score of 42 points, broken down as follows: Facilities and Related Experience, 16; Engineering, 14; and Quality Control System, 12 points.

The agency addressed specific discussion questions in these areas to the protester and conducted a site visit. As a result of its review of the revised proposals, the agency increased the protester's score to 19 points in the area of Facilities and Related Experience, but reduced it to 7 points in Engineering and to 8 points in Quality Control System. The deficiencies in staff experience and expertise and numbers of personnel remained; although the protester offered to hire additional personnel including an additional quality engineer if it received award, evaluators considered the lack of an adequate existing staff to be a "serious limitation." There were no documented quality control procedures, and the agency doubted that the protester could adequately redesign and staff its quality control system in the time required for delivery of production control samples. The evaluators advised the contracting officer that the protester appeared to be at best marginally qualified, and that deficiencies in the areas of Quality Control System and Engineering made it:

"highly doubtful that Califone can revamp their quality control system and raise it to the required level, provide adequate engineering support, and produce acceptable Production Control Models within the required 6 months after award."

On September 26, the contracting officer, after reviewing the evaluation record and cost proposals, eliminated the protester's proposal from further consideration, primarily because deficiencies remained in the Quality Control System and Engineering support areas. Because of the agency's limited funding, it amended the solicitation to reduce quantities to 9,360 machines, a level that it could afford at the price submitted by Telex. Telex agreed to provide that quantity at the price submitted earlier, and the agency awarded a contract to Telex on September 30. This protest followed.

The protester argues that the agency's evaluation was unreasonable and contends that it was unfair to deduct points twice for the same deficiency--for instance, downgrading the proposal for lack of quality control personnel in both the areas of Engineering and Quality Control, and for lack of experience in all three areas of the evaluation. Further, the protester contends that the agency should have given greater weight to certain areas of the evaluation, such as the warranty program, and less weight to offerors' engineering capability; the protester argues that the product design is stable and will not require much engineering support. The protester also contends that the agency should not have downgraded its proposal for the lack of quality control procedures, since it committed itself to conducting all tests and inspections, which the protester believes is all that an offeror can do in the short time necessary to respond to the solicitation.

In reviewing protests against an agency's technical evaluation and decision to eliminate a proposal from consideration for award, we review the record to determine whether the agency's judgments were reasonable and supported by the record and in accordance with the listed evaluation criteria and whether there were any violations of procurement statutes or regulations. CTA, Inc., B-244475.2, Oct. 23, 1991, 91-2 CPD ¶ 360. In our review of numerical point scores, we view such scores as useful only as guides to intelligent decision-making, and our focus is upon whether the evaluation provided the contracting officer with a clear understanding of the relative strengths and weaknesses of proposals. Ferguson-Williams, Inc., 68 Comp. Gen. 25 (1988), 88-2 CPD ¶ 344. We find that the evaluation and contracting officer's competitive range determination here was both reasonable and consistent with the evaluation factors that the solicitation established.

The solicitation clearly called for consideration of experience under both the Facilities and Related Experience and the Engineering technical factors. Further, the RFP provided that evaluation of the offeror's quality control system was to include expertise. Thus, the offeror's experience or expertise was identified as part of the evaluation of each of the three technical factors. We think that where, as here, the lack of experienced personnel to perform necessary engineering and process control functions affected both quality control and engineering, it was not unreasonable to downgrade the proposal in both areas.

Regarding the solicitation's emphasis on engineering capability, the solicitation requirements regarding inspection and acceptance clearly required more than a commitment to perform inspections; it required not only procedures and equipment to insure quality throughout the manufacturing process, but an organization sufficient to conduct testing and control workmanship on units in production. The contractor was required to have not only a capability of monitoring the production process but the ability to perform design modifications and solve engineering problems before as well as during production. Further, the protester's opinion that engineering will not constitute a major part of the effort conflicts with the solicitation's specifications and work statement. While the agency would make production drawings available, it advised offerors that these 160 drawings would serve only as a reference, contained only the detail necessary to manufacture the machines in the desired manner, and might conflict with specifications. The solicitation does not reflect a fully mature product, with only incidental engineering tasks, but provides that the contractor is to begin its effort with a comprehensive examination and testing of a machine from current production, to insure conformance with requirements, followed by the approval of a production sample to serve as a production control model. Thus, we think that the RFP clearly communicated the importance of obtaining a contractor with engineering capability.

The record shows that the evaluation was consistent with the solicitation's heavy emphasis on engineering experience and capability. Of 25 points available in the Engineering area, the agency assigned 20 points to the subcriterion of current staff applicable experience and 5 points to that of drawing system and change control process. The solicitation required in this regard that a contractor provide "an engineering staff with expertise in the design and manufacture of phonograph machines" who would be committed full time to the contract to monitor the product, perform design modifications, conduct an approved engineering change control process, and solve engineering problems before and during production. In the initial evaluation, the agency downgraded the protester's proposal because evaluators advised the contracting officer that, of the three electrical engineers on the protester's staff, two had worked there less than 9 months; the vice president of engineering occupied three positions on the organization chart; and the protester only identified one quality control person. The agency, in discussions, expressly noted the shortage of experienced personnel and asked the protester how it proposed to divide the time required under the

production contract; the protester's response essentially indicated that its small staff generally operated in a commercial environment and that it intended to hire the necessary staff to meet the agency's requirements. The protester did not identify these personnel, provide their resumes, or describe the qualifications that it was looking for in potential employees. Although the protester submitted a revised organizational chart listing five additional positions, it was unclear how many additional personnel the protester intended to hire, since the original organizational chart contained instances of current employees such as the vice president for engineering filling multiple positions.

The evaluators advised the contracting officer that while the protester's vice president for engineering was well qualified, he was essentially the only person in the protester's employ with the necessary experience to perform the required work. Further, in response to the agency's request for a description of its existing drawing system, the protester merely expressed its opinion that it did not anticipate a large volume of change activity, an assessment with which the evaluators disagreed and which was not consistent with the RFP's work statement. Evaluators anticipated a potential for engineering and drawing changes and advised the contracting officer that the protester's system "would be hard pressed to absorb and maintain the 160 drawings in the A-1 system." In its evaluation of revised proposals, the evaluators awarded the protester only 5 of 20 points for staff experience and 2 of 5 points for its drawing change control process, for a total of 7 out of 25 possible points. In view of Califone's failure to establish that it had, or would obtain, staff with adequate engineering experience to perform the engineering work contemplated under the contract or to establish its understanding of the solicitation's requirements for adequate engineering staff to address the change process anticipated by the RFP, we find reasonable the agency's evaluation of this area as unacceptable.

Of 25 points available in the area of Quality Control System, the agency assigned 10 points to each of the two subcriteria of procedures and expertise and 5 points to test equipment and gauges. The initial evaluation noted that the protester had assigned only one person to quality control and had no documented quality control procedures; the protester responded to the agency's inquiries in this area with a general agreement to perform all specified tests and to incorporate the solicitation requirements into its quality assurance program plan. Although the protester indicated



that it would institute a position of quality assurance engineer, it specifically declined to commit itself either to hiring an additional person or assigning the additional duties to a current employee. Evaluators advised the contracting officer that the lack of an adequate existing staff for quality control was a serious limitation; further, they doubted that the protester could redesign and staff its quality control system in time for the required delivery of production control samples. The agency assigned the protester a score of 2 out of 10 points for procedures, 2 out of 10 for expertise, and 4 out of 5 points for test equipment, for a total of 8 out of 25 points. Since the protester's revised proposal was at best ambiguous concerning its staffing to meet its quality control obligations, such that it was unclear whether or not the protester had the staffing capability to timely provide an adequate quality control system, we think the agency reasonably could find this aspect of its proposal unacceptable.

Further, the record shows that the weights assigned to the other criteria, such as the warranty, were also consistent with the weighing scheme that the solicitation established. The protester's disagreement with the agency's judgment and belief that its proposal should have received a higher score is not in itself sufficient to establish that the agency's evaluation was unreasonable. PHH Homeequity, B-244683, Oct. 7, 1991, 91-2 CPD ¶ 316. We find the agency's evaluation of the protester's proposal as unacceptable to be reasonable and consistent with the listed evaluation criteria.

The protester next argues that the agency improperly failed to consider price in rejecting its proposal and takes issue with the relatively low weight (25 percent) that the agency accorded to price in its selection decision. The protester notes that the solicitation provided for an evaluation "with respect to three (3) major factors and the cost factor listed below and are equal in importance"; the protester contends that this language indicated that cost would be of equal weight with the three technical factors. While it appears that, based on this language alone, both the agency's and the protester's interpretations of the weight to be afforded price are reasonable, where there is a question as to the meaning of a solicitation requirement, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all solicitation provisions. Gore's Sec. Agency, Inc., B-240969.2, Nov. 6, 1991, 91-2 CPD ¶ 430. The protester's interpretation ignores the language preceding that quoted,

which specifically stated, "Emphasis will be on selecting the most effective technical proposal." Applying the solicitation language as a whole, the agency's intention appears reasonably clear, that technical was more important than cost, and in considering whether to retain the protester in the competitive range, the agency properly gave primary emphasis to technical factors.

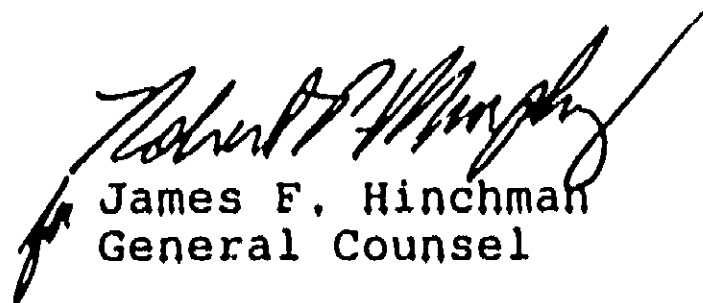
Contrary to the protester's assertion, the record shows that the contracting officer did consider Califone's cost in determining Califone's proposal outside the competitive range, but found, based on the remaining deficiencies in Califone's proposal discussed above, that it was highly doubtful that Califone could successfully perform this contract, which required delivery of acceptable production control models within 6 months of award.

The protester also asserts that the agency's discussions with the firm were not meaningful. Agencies must generally conduct written and oral discussions with all offerors within a competitive range, advising them of weaknesses, excesses or deficiencies in their proposals, unless doing so would result either in disclosure of one offeror's technical approach to another or in technical leveling, and providing them the opportunity to satisfy the government's requirements through submission of a revised proposal. to Bauer Assocs., Inc., B-229831.6, Dec. 2, 1988, 88-2 CPD ¶ 549. We have reviewed the initial evaluation results, the discussion questions, and the final evaluation, and we find that the agency discussed with the protester each weakness and deficiency noted during the initial evaluation, providing the protester the opportunity to revise its proposal to meet the agency's concerns. The protester does not identify any issue that the agency failed to discuss, and the record shows that the agency fulfilled its obligation to conduct meaningful discussions by asking specific questions in each deficient technical area. For example, under Quality Control System, Califone was questioned as to the adequacy of the one person assigned and, under Engineering, how it could perform the work with its proposed staff of three electrical engineers, one quality control person and a vice president of engineering occupying three :



positions. Simply, Califone's responses to these and other questions did not adequately resolve the agency's staffing concerns.<sup>1</sup>

We deny the protest.

  
James F. Hinchman  
General Counsel

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<sup>1</sup>The protester also contends that before eliminating its proposal from consideration, the agency was obligated to refer the matter to the Small Business Administration under certificate of competency (COC) procedures. It is not improper in a negotiated procurement to include traditional responsibility criteria, such as experience and personnel qualifications, among the technical evaluation criteria. B & W Serv. Indus., Inc., B-224392.2, Oct. 2, 1986, 86-2 CPD ¶ 384. So long as the factors are limited to areas which, when evaluated comparatively, can provide an appropriate basis for a selection that will be in the government's best interest, COC procedures do not apply to a technical proposal deficient in those areas. Arrowsmith Indus., Inc., B-233212, Feb. 8, 1989, 89-1 CPD ¶ 129. Here, the record shows that the experience and personnel qualifications evaluation was a comparative one; accordingly we find that COC procedures are inapplicable to the agency's decision to reject the protester's proposal.