



Comptroller General  
of the United States

Washington, D.C. 20548

146177

## Decision

**Matter of:** Network System Solutions, Inc.

**File:** B-246555

**Date:** March 19, 1992

Eric M. Lins for the protester,  
Vera Meza, Esq., and Richard Gonzales, Esq., Department of  
the Army, for the agency.  
Jacqueline Maeder, Esq., and Paul Lieberman, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Award to higher rated, higher price offeror was proper under solicitation in which price was less important than technical factors and agency reasonably concluded that the technical advantages associated with the awardee's proposal outweighed the higher price.

### DECISION

Network System Solutions, Inc. (NSSI) protests the award of a contract to Connectivity, Inc. under request for proposals (RFP) No. DAAG60-91-R-0009, issued by the Department of the Army for furnishing all equipment, material and labor for the installation of telecommunications support for a multiple workgroup at the United States Military Academy, West Point, New York. NSSI challenges the award to a higher price offeror on the basis that it provided a lower priced technically acceptable proposal.

We deny the protest.

The RFP provided for award of a fixed-price contract to the responsible offeror whose offer conforming to the solicitation was most advantageous to the government, based on evaluation, in descending order of importance, of the offeror's technical approach, vendor support and management, quality control, and cost. The RFP specifically provided that the government reserved the right to award a contract to other than the lowest price offeror.

Three proposals were received and, under the initial evaluation, Connectivity's proposal was rated fully technically acceptable and assigned a score of 90 points out of a maximum possible score of 100. NSSI's proposal contained several deficiencies but was evaluated as

susceptible of being made acceptable and received a score of 65. All three proposals were included in the competitive range, and after discussions were held with all offerors, the firms were requested to submit best and final offers (BAFOs).

After final evaluation, Connectivity's proposal was ranked highest technically with a composite score of 93 at a price of \$55,227.91. NSSI's proposal was ranked second technically with a composite score of 81 at a price of \$36,996.47. The independent government cost estimate was \$50,000. Because of the technical superiority of Connectivity's proposal, the source selection official determined that award to Connectivity would be most advantageous to the government. Award was made to Connectivity on September 27, and NSSI filed this protest, arguing generally that it should have been awarded the contract because it submitted a technically acceptable proposal at a lower cost.

In a negotiated procurement, the government is not required to make award to the firm offering the lowest price unless the RFP specifies that price will be the determinative factor. Univ. of Dayton Research Inst., B-227115, Aug. 19, 1987, 87-2 CPD ¶ 178. Here, the RFP did not require award on the basis of the lowest cost, technically acceptable proposal. The RFP stated that technical factors were much more important than cost and that proposals would be evaluated on three technical factors--technical approach, vendor support and management, and quality control--in descending order of importance. Cost was the least important factor.

Based on these evaluation criteria, the Army found that Connectivity's proposal was technically superior to the protester's.<sup>1</sup> For example, the Army found several

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<sup>1</sup>In its comments on the agency report filed with our Office on December 18, NSSI first raised allegations concerning certain areas of its proposal which NSSI learned at its December 2 debriefing the Army had found deficient. NSSI disputes particulars of the Army's evaluation in these areas. Our Bid Protest Regulations require that protests against other than alleged deficiencies which are apparent from the solicitation be filed within 10 working days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2(a)(2) (1991). NSSI was advised of the specific deficiencies in its proposal at the December 2 debriefing and knew the bases for protesting the technical evaluation of its proposal at that time. Since NSSI waited more than 10 working days after the debriefing to raise

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deficiencies in NSSI's proposal, in large measure because the proposal contained unclear schematics even though schematics had been specifically requested by amendment, while Connectivity's proposal, rated higher than NSSI's in every one of the 11 subfactors which were evaluated under the three technical criteria, was considered to be excellent with no major deficiencies.

Given this technical disparity, the selection official could reasonably determine that the technically superior proposal was worth the higher cost associated with it. Virginia Technology Assocs., B-241167, Jan. 29, 1991, 91-1 CPD ¶ 80. Accordingly, we find no basis to object to the award.

The protest is denied.

  
for James F. Hinchman  
General Counsel

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<sup>1</sup>(...continued)

NSSI's piecemeal presentation of this issue is untimely and will not be considered. Sach Sinha and Assocs., Inc., B-241056.3, Jan. 7, 1991, 91-1 CPD ¶ 15, recon. denied, B-241056.4, May 21, 1991, 91-1 CPD ¶ 487; EER Sys. Corp., 69 Comp. Gen. 207 (1990), 90-1 CPD ¶ 123.