



Comptroller General
of the United States
Washington, D.C. 20548

146704

Decision

Matter of: Sierra Technology and Resources, Inc.

File: B-243777.3

Date: May 19, 1992

Robert W. Campbell for the protester,
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McPherson and Hand, for RDA International, Inc., an
interested party.
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Agency for International Development, for the agency.
Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

1. Contention that awardee gained an unfair competitive advantage over other offerors by hiring and proposing as a key employee an individual who allegedly possessed procurement sensitive information is denied where the record shows that the employee was only briefly and remotely involved in the initial planning stages of the project contemplated by the solicitation and protester does not show that the employee had access to any procurement sensitive information unavailable to other offerors.
2. Contention that awardee may have gained an unfair competitive advantage because a key employee proposed by the awardee allegedly received telephone messages and personal mail at the contracting agency's office from which contract field activities will be administered is denied where the allegation of impropriety amounts to no more than unsupported speculation.
3. Protest that agency failed to conduct meaningful discussions by withholding information that would have permitted protester to address perceived deficiencies in its proposal is denied where, prior to oral discussions, agency provided protester with written questions about its proposal that sufficiently alerted protester to specific areas where its proposal was considered deficient, and the protester concedes that those areas were discussed during oral discussions.

4. The General Accounting Office will not review an affirmative determination of responsibility absent a showing of possible fraud or bad faith on the part of the procurement officials, or that definitive responsibility criteria in the solicitation were misapplied.

DECISION

Sierra Technology and Resources, Inc. (STAR) protests the award of a contract to RDA International, Inc., under request for proposals (RFP) No. 879-91-004, issued by the Agency for International Development (AID) for a fisheries development and management project in the Kingdom of Tonga. STAR argues that RDA had an unfair competitive advantage which should have rendered the firm ineligible for award. The protester also contends that AID showed bias against the protester and failed to conduct meaningful discussions.

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

BACKGROUND

The RFP was issued on October 30, 1990, and contemplated the award of a cost-plus-fixed-fee level of effort contract for technical and consulting services to assist the government of Tonga improve the management of its marine resources. Contract objectives included identifying and reporting on cost-effective equipment and methods useful in small-scale tuna fishing.

Offerors were required to submit separate technical and cost proposals. Section M of the RFP stated that award would be made to the responsible offeror whose offer was most advantageous to the government, cost and other factors considered. The RFP explained that technical proposals would be evaluated according to the following factors worth a maximum of 100 points: 1) proposal (20 points); 2) plan to achieve outputs (20 points); 3) offeror qualifications (15 points); and (4) personnel qualifications (45 points).

Four firms, including STAR and RDA, submitted proposals by the January 22, 1991 closing date. During the week of February 11, a five-member technical evaluation committee evaluated and numerically scored each technical proposal. Cost proposals were separately reviewed. The results of that initial evaluation were as follows:

<u>Offeror</u>	<u>Technical Score</u>	<u>Overall Proposed Costs</u>
RDA	424	\$2,482,000
STAR	420	2,467,000
C	343	3,094,000
D	309	4,550,000

Based on these results, the contracting officer determined that offerors C and D did not have a reasonable chance of being selected for award, and therefore included only the STAR and RDA proposals within the competitive range. In an April 12 letter, the contracting officer opened negotiations with both STAR and RDA. That letter invited representatives of each firm to meet with AID officials in Manila, Philippines, on May 1, to discuss technical and cost issues raised by their proposals, and requested that prior to that meeting, each offeror respond in writing to several questions listed regarding their proposals. Following that meeting, which a STAR representative attended, the contracting officer requested best and final offers (BAFO) from both offerors by July 30. Although the BAFOs were not numerically scored, the technical evaluation committee reviewed the BAFOs, found that RDA's proposal was more advantageous to the government, and recommended that AID award the contract to RDA. Based on the evaluation committee's recommendation, and since there was no significant difference between the total costs proposed by RDA and STAR, the contracting officer awarded the contract to RDA. This protest followed.

DISCUSSION

STAR's numerous allegations may be summarized as follows: (1) RDA had an unfair competitive advantage over other offerors by hiring and proposing a key individual who allegedly had procurement sensitive information unavailable to STAR; (2) AID showed bias against STAR; and (3) AID failed to conduct meaningful discussions with the protester.

Unfair Competitive Advantage

STAR states that several months prior to the issuance of the RFP, RDA signed an exclusive employment agreement with Mr. Paul Mead, a local master fisherman resident of Tonga whom RDA proposed as a key individual. According to STAR, Mr. Mead was "intimately involved in the proposed project" and contributed to its design. STAR maintains that since Mr. Mead knew details about the RFP that were not publicly available until after it was issued, "it is unreasonable to assume that Mr. Mead would not inform RDA of every possible bit of information which could provide RDA 'an edge' in its proposal preparation." STAR further alleges that having obtained that information, RDA was able to identify candidates for certain required positions before AID issued the RFP.

The agency and RDA explain that, contrary to STAR's assumptions, Mr. Mead was not "intimately involved" with the procurement and did not design the RFP or advise AID on any specific details of the solicitation. His only connection

with the procurement was a 3-day employment in March 1989, during which AID generally sought Mr. Mead's assistance in preparing for the then upcoming fisheries development project. The agency states that Mr. Mead's participation during that brief period was only a preliminary planning exercise before any substantive elements of the RFP were even considered or written. The agency further states that other consultants, not Mr. Mead, eventually designed the project contemplated by the RFP, and that the statement of work and the RFP itself were prepared in-house by AID officials with whom Mr. Mead had no contact. AID further asserts that no one who participated in the early stages of the project design during 1989 participated in the subsequent preparation of the RFP.

An agency may exclude an offeror from the competition because of an apparent conflict of interest in order to protect the integrity of the procurement system, even if no actual impropriety can be shown, so long as the determination is based on facts and not mere innuendo or suspicion. NKF Eng'g Co. v. United States, 805 F.2d 372 (Fed. Cir. 1986); CACI, Inc.-Federal v. United States, 719 F.2d 1567 (Fed. Cir. 1983); NKF Eng'g, Inc., 65 Comp. Gen. 104 (1985), 85-2 CPD ¶ 638; RCA Serv. Co., B-224366, Aug. 28, 1986, 86-2 CPD ¶ 241. Our role in resolving a bid protest allegation of a conflict of interest or appearance of impropriety is to determine whether the agency has a reasonable basis for allowing an offeror to compete in the face of an allegation or indication of an apparent conflict of interest. Laser Power Techs., Inc., B-233369; B-233369.2, Mar. 13, 1989, 89-1 CPD ¶ 267. STAR's arguments here, based primarily on its unsupported assumptions, do not amount to a showing that RDA had a conflict of interest or that it gained an unfair competitive advantage.

The record does not support STAR's principal allegation that Mr. Mead was "intimately involved" in designing the RFP or the statement of work, or that he had any privileged information regarding the procurement. Mr. Mead's brief 3-day planning consultancy occurred before the project design team even arrived in Tonga, and well before the RFP was prepared or the statement of work written. The record further shows that Mr. Mead's 3-day 1989 "consultancy" consisted primarily of 2 days of travel from Tonga to another region in the South Pacific, where he was briefly interviewed by AID, generally concerning his extensive fishing experience in the region. STAR has simply not shown, and there is no basis for us to conclude, that Mr. Mead improperly obtained any sensitive information about this procurement as a result of that brief engagement nearly 19 months before the RFP was issued.

In any case, the mere employment of a former government employee who is familiar with the type of work required, but not privy to the contents of proposals or to other inside agency information, does not confer an unfair competitive advantage. Technology Concepts and Design, Inc., B-241727, Feb. 6, 1991, 91-1 CPD ¶ 132, citing Regional Envtl. Consultants, 66 Comp. Gen. 67 (1986), 86-2 CPD ¶ 476, aff'd, 66 Comp. Gen. 388 (1987), 87-1 CPD ¶ 428. With no showing that Mr. Mead may have possessed anything other than general information about the RFP, which STAR admits was available throughout the industry prior to the solicitation being issued,¹ we see no basis to conclude that RDA's hiring and proposing Mr. Mead as a key individual conferred an unfair advantage on RDA over other offerors. See Textron Marine Sys., B-243693, Aug. 19, 1991, 91-2 CPD ¶ 162.²

STAR also objects that Mr. Mead has "literally daily contact" with the Tongan Fisheries Division office, from which various field activities under the contract will be administered, where Mr. Mead allegedly receives telephone messages and personal mail.³ STAR argues that this

¹In this connection, the protester states that it was aware of the general nature of this project well before the RFP was issued; that it was aware that the project encompassed development of a commercial longline tuna fishery in Tonga; that based on this information, it assumed that "useful specialists" might include master fishermen and other individuals knowledgeable in fisheries development; and that STAR also recruited for these individuals prior to AID issuing the RFP.

²We similarly have no objection to RDA proposing as one of its analysts a full-time government employee of the National Marine Fisheries Service, who does not own or substantially control RDA. See Federal Acquisition Regulation (FAR) § 3.601; International Alliance of Sports Officials, B-211755, Jan. 25, 1984, 84-1 CPD ¶ 117 (where award to an organization that employed government employees was upheld since there was no evidence that the organization was substantially owned or controlled by the government employees).

³In support of this allegation, STAR submits a copy of what appears to be portion of an informal 1989 report titled "Addresses Useful to Pacific Islands Fishery Personnel," published by the Food and Agriculture Organization of the United Nations. For Tonga, the report lists Mr. Mead in his individual capacity, shows his address as "C/O Fisheries Division," and indicates that he may be contacted by telephone "via Hotel" or by fax "via Moorings." Except for appearing on this list of useful contacts, there is no

arrangement also creates a conflict of interest since, through his contacts with that office, Mr. Mead must have gained access to procurement sensitive information that was later disclosed to RDA.

The record contains no evidence that such improprieties occurred. STAR has submitted no evidence that Mr. Mead's receipt of messages at the Tonga Fisheries Division office--which is not improper by itself, see Little Susitna, Inc., B-244228, July 1, 1991, 91-2 CPD ¶ 6--resulted in the agency's improperly disclosing procurement information to Mr. Mead. Mere allegations of possible impropriety, unaccompanied by supporting evidence, amount to speculation, Delta Ventures, B-238655, June 25, 1990, 90-1 CPD ¶ 588, and as such, do not provide a basis for protest. Key Book Serv., Inc., B-226775, Apr. 29, 1987, 87-1 CPD ¶ 454.

STAR also argues that by making several trips to Tonga prior to the issuance of the RFP, RDA gained access to information about the RFP from AID and Tongan officials, which gave RDA an unfair advantage in hiring personnel and preparing its proposal. The agency explains, however, and STAR does not deny, that general information about the fisheries project was publicly available prior to the issuance of the RFP.⁴ The agency thus argues that by September 1990--before the RFP was issued--any party interested in the Tongan portion of the project, including STAR and RDA, could have found a fairly detailed description of the proposed project in the public record, and could have reasonably anticipated the issuance of a solicitation as a result. The agency also vigorously denies that AID officials gave RDA any information about the RFP prior its issuance, and states that Tongan personnel were cautioned not to release any information about the contents of the RFP to prospective offerors.

Here, in light of AID's explanation, we find nothing improper with RDA's activities in Tonga, and there is no evidence in the record that AID engaged in any unfair action

indication that Mr. Mead maintains or shares office space in the Fisheries Division as STAR alleges.

⁴According to the agency, the AID Congressional Presentation for Fiscal Year 1990, which contained a description of the fisheries development project, was widely distributed to the public before the RFP was issued. The agreement subsequently reached between the United States and the Government of Tonga, which was executed on August 30, 1990, and was well publicized throughout the industry, also described the fisheries development project, including its goals, purposes, and contractor's responsibilities.

or conduct designed to give RDA or any other offeror a preference. STAR's numerous allegations regarding RDA's pre-solicitation activities to recruit fishing experts in Tonga--efforts apparently based on publicly available information--simply do not provide a basis for our Office to object to the award.

STAR also asserts that RDA has an organizational conflict of interest in connection with one contract task, the evaluation of three different size fishing boats--28-foot, 35-foot, and 40-foot--for longline tuna fishing. The RFP provided that the contractor is to charter the 28-foot and 35-foot boats, subject to AID approval, while the government of Tonga would provide the 40-foot boat. STAR asserts that RDA has the conflict because Mr. Mead owns the only 35-foot boat currently available in Tonga, and argues that Mr. Mead provided RDA with favorable lease terms unavailable to STAR and with details about the boat's maintenance costs and performance capabilities that unfairly contributed to the overall quality of RDA's proposal.⁵

Even assuming that RDA was in a position to submit an enhanced proposal as a result of having detailed information about the 35-foot boat, as STAR alleges, this would not result in an organizational conflict of interest. FAR § 9.501 defines an organizational conflict of interest as one that:

"because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage."

STAR, however, does not argue that RDA will be incapable of rendering an impartial evaluation of the vessel or that RDA will improperly benefit from any follow-on work as a result of a biased evaluation. Rather, STAR argues that as a result of hiring Mr. Mead, RDA gained an unfair competitive advantage over STAR because Mr. Mead provided RDA with details about the boat, and offered RDA better terms on the charter of the 35-foot vessel, unavailable to STAR.

⁵To the extent that STAR challenges AID's decision to include the requirement for the evaluation of a 35-foot boat, this allegation concerns an apparent alleged impropriety in the RFP, which STAR had to have protested prior to the January 21, 1992, time for receipt of initial proposals. See 4 C.F.R. § 21.2(a)(1) (1992).

Contrary to STAR's suggestion, the situation here does not give rise to the kind of unfair competitive advantage contemplated by the regulations. An unfair competitive advantage arises where some action by an individual who previously participated in the procurement on behalf of the government results in prejudice for or on behalf of the awardee, see, e.g., Holmes and Narver Servs., Inc./Morrison-Knudson Servs., Inc., a joint venture, Pan Am World Servs., Inc., B-235906; B-235906.2, Oct. 26, 1989, 89-2 CPD ¶ 379, aff'd, Brown Assocs. Mgmt. Servs., Inc.--Recon., B-235906.3, Mar. 16, 1990, 90-1 CPD ¶ 299 (unfair competitive advantage found where an agency employee who had access to the acquisition and source selection plans left government service and was hired by the successful contractor to help write its proposal on the same procurement), or where an offeror otherwise derived an advantage as a result of improper business conduct. See, e.g., Compliance Corp., B-239252, Aug. 15, 1990, 90-2 CPD ¶ 126, aff'd, B-239252.3, Nov. 28, 1990, 90-2 CPD ¶ 435.

By contrast here, as already discussed, Mr. Mead was not involved in designing the RFP or the statement of work; he had no privileged information about the procurement; and there is no evidence in the record that RDA otherwise gained an advantage during this procurement as a result of any improper business conduct. To the extent that STAR complains that RDA obtained favorable lease terms on the 35-foot boat from Mr. Mead unavailable to STAR, or that the terms of the charter placed RDA in a more favorable competitive position, this simply reflects the fact that RDA reached a favorable business arrangement with Mr. Mead; this arrangement does not give rise to an unfair competitive advantage.⁶

Agency Bias

STAR next asserts that an AID procurement official showed bias against the protester. STAR alleges that during the May 1 meeting, Mr. Ralph Singleton, an AID negotiator, apparently concerned with the 1987 dates that appeared on several resumes STAR submitted with its proposal, remarked that, "[p]erhaps these are the [resumes] you took with you

⁶STAR also maintains that RDA received an improper competitive advantage because AID had "pre-selected" Mr. Mead's 35-foot boat to be evaluated. The RFP did not require offerors to identify a particular boat, however, and proposals were not evaluated on that basis. The fact that AID may have been aware that Mr. Mead owned the only 35-foot fishing vessel in Tonga did not preclude STAR from offering another boat that met the RFP's requirements, and did not have an effect on the award decision.

when you left RDA."⁷ The protester infers from that remark that Mr. Singleton had improperly concluded that STAR was guilty of improper or illegal acts which tainted his opinion of STAR. The protester thus maintains that since Mr. Singleton was on the technical evaluation committee, STAR did not receive an impartial evaluation of its proposal.

Where a protester alleges bias on the part of procurement officials, the protester must prove that the officials intended to harm the protester. Advanced Sys. Tech., Inc., Eng'g and Prof. Servs., Inc., B-241530; B-241530.2, Feb. 12, 1991, 91-1 CPD ¶ 153. In the absence of such proof, contracting officials are presumed to act in good faith. Institute of Mod. Procs., Inc., B-236964, Jan. 23, 1990, 90-1 CPD ¶ 93.

While Mr. Singleton's remark may show lack of judgment, we do not believe that it demonstrates an intent to harm STAR. Our in camera review of the individual evaluators' score sheets shows that Mr. Singleton awarded STAR a total of 43 out of 45 maximum points following his evaluation of initial proposals under the "personnel qualifications" evaluation factor, rating STAR 4 points higher than RDA on 2 subfactors under one of the only categories where the resumes may have had any relevance. Mr. Singleton also awarded STAR a total of 88 out of 100 maximum technical points, while awarding RDA only 79 total points. In fact, Mr. Singleton rated STAR higher than did any other evaluator, and was the only evaluator to award a higher score to STAR than to RDA. STAR's contention that Mr. Singleton was biased in his evaluation of STAR's proposal is therefore untenable.⁸

⁷STAR's president, who represented STAR at the meeting, is a former employee of RDA. STAR explains that its president left employment with RDA in 1986 and subsequently incorporated STAR in 1987. It appears that the resumes STAR submitted with its proposal were obtained during the firm's initial recruiting efforts during 1987 and have not been updated since.

⁸STAR also contends that AID showed bias by requesting more financial information from STAR than from RDA. Even if the same request was not made of RDA, STAR has not shown that AID's request had a prejudicial effect on the competitive nature of the procurement or on STAR. See, e.g., American Mut. Protective Bureau, Inc., B-229967, Jan. 22, 1988, 88-1 CPD ¶ 65.

Further, STAR's argument that Mr. Singleton formed his biased opinion after the May 1 meeting, when he was exposed to RDA, and that he influenced the evaluation committee to downgrade STAR's BAFO, is similarly unsupported. The record shows that all five members of the technical evaluation committee carefully considered and commented on STAR's and RDA's BAFOs and concluded that RDA's approach was more advantageous to the government. Specifically, the committee unanimously found unacceptable STAR's proposed project management, which, as discussed below, was one of several weaknesses found in STAR's initial proposal.⁹ STAR's contentions that Mr. Singleton was biased against STAR or that he unduly influenced the evaluation of STAR's proposal are simply not supported by the record.¹⁰

Meaningful Discussions

The protester argues that AID failed to conduct meaningful discussions with STAR because it did not adequately alert it to serious deficiencies in its proposal. As support for its argument, STAR points to AID's April 12, 1991, letter opening discussions with STAR, arguing that except for two items it regarded as requiring only minor clarifications, nothing in that letter indicated that AID considered STAR's management structure or corporate experience as fatal flaws.

In order for discussions in a negotiated procurement to be meaningful, contracting officials must furnish to competitive range offerors information about the areas in their proposals which are believed to be deficient, and give offerors the opportunity to revise their proposals to fully satisfy the government's requirements. See FAR §§ 15.610(c)(2), (5); The Scientex Corp., B-238689, June 29, 1990, 90-1 CPD ¶ 597. Agencies are not obligated, however, to afford offerors all-encompassing discussions, Training

⁹In its final comments on a supplemental agency report requested by our Office, STAR argues that AID unreasonably downgraded its BAFO in the management area. This new allegation, raised for the first time in its final comments, is untimely and will not be considered. See 4 C.F.R. § 21.2(a)(2).

¹⁰To the extent that STAR objects that the committee was not technically qualified to evaluate its proposal, the composition of evaluation committees is within the discretion of the contracting agency, and we will not question the agency's exercise of that discretion unless the protester presents evidence of fraud, bad faith, conflict of interest, or actual bias. MGM Land Co.; Tony Western, B-241169; B-241169.2, Jan. 17, 1991, 91-1 CPD ¶ 50. STAR's allegations alone do not meet this standard.

and Mgmt. Resources, Inc., B-220965, Mar. 12, 1986, 86-1 CPD ¶ 244, or to discuss every element of a technically acceptable, competitive range proposal that has received less than the maximum possible score. See Associated Chem. and Envt'l. Servs. et al., 67 Comp. Gen. 314 (1988), 88-1 CPD ¶ 248. Agencies are only required to lead offerors into areas of their proposals considered deficient. See Johnson, Basin and Shaw, Inc., B-240265; B-240265.2, Nov. 7, 1990, 90-2 CPD ¶ 371.

Based on our review of the record, we conclude that AID conducted appropriate and meaningful discussions with STAR. The agency's April 12 letter consisted of 16 numbered paragraphs, some of which were subdivided into additional sections with comments and questions regarding STAR's technical and cost proposals. In the first paragraph, under the heading "Weaknesses of the Proposal," AID informed the protester that it had not adequately described STAR's experience as a firm, and suggested that STAR should submit additional information concerning any other contracts it may have performed. Regarding its management structure, paragraph number 7 requested STAR to "confirm that the proposed project manager . . . will be based at STAR's home office in California for the duration of the contract"; and paragraph number 11, entitled "Home Office Support," specifically requested STAR to provide information regarding the number of individuals in its "home office staff," including their professional and support functions.

The record further shows that during oral discussions, AID specifically led STAR to several areas in its proposal considered deficient--specifically, the physical location of STAR's proposed project manager. For example, STAR concedes that during discussions, AID appeared "very concerned" over the fact that STAR's proposed project manager was physically located in Maryland, instead of California; that due to the differences in time zones, AID "expressed great concern" over the potential difficulty in communicating between Tonga and the East Coast, where the project manager would be located; and that AID "appeared to want" the project manager to relocate to California during the life of the contract. STAR also states that AID discussed its home office support.

In our view, STAR's assertion that AID did not make these points "clear" during discussions is inconsistent with the record and with the protester's description of the discussions. AID presented STAR with an extensive written list of technical and cost issues to be covered in oral discussions and advised STAR that it should respond to those issues, and to other matters raised during oral discussions, in its BAFO. Assuming that oral discussions were as STAR describes them, and given the specificity and breadth of AID's April 12 letter, STAR's assertions that it was not

adequately informed during discussions of any deficiencies in its proposal concerning its corporate experience or management structure are unsupported by the record.¹¹ STAR's failure to fully respond to the agency's concern in these areas simply cannot be attributed to any inadequacy on the part of AID to raise these matters during discussions.

STAR's Additional Allegations

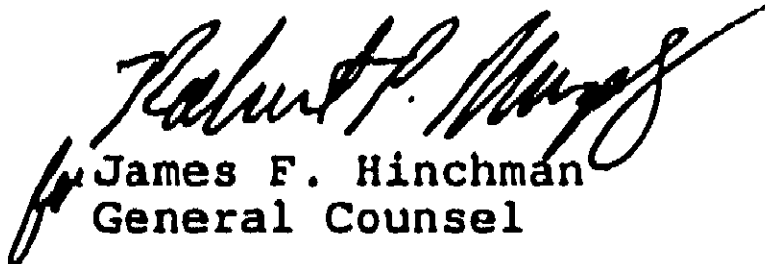
STAR also states that the award was improper because RDA's performance was allegedly unsatisfactory on a recent contract for similar services. To the extent that STAR challenges the agency's determination that RDA is a responsible firm, absent a showing of possible fraud or bad faith on the part of procurement officials, or that definitive responsibility criteria in the solicitation may have been misapplied, our Office will not review such a determination since it is based in large part on the subjective business judgment of the contracting officer. 4 C.F.R. § 21.3(m)(5); Alaska Indus. Resources, Inc. B-246472, Nov. 4, 1991, 91-2 CPD ¶ 427. Definitive responsibility criteria are specific and objective standards, established by an agency for a particular procurement to measure an offeror's ability to perform the contract. Management Eng'g, Inc.; KLD Assocs., Inc., B-233085; B-233085.2, Feb. 15, 1989, 89-1 CPD ¶ 156. Here, STAR does not allege fraud or bad faith on the part of agency officials. Since the RFP's requirements for offerors to provide evidence of "adequate" financial resources and of a "successful" performance record do not constitute standards that can be applied objectively, as STAR maintains, we will not review the agency's affirmative responsibility determination.

In its comments on the agency report, STAR raises various additional allegations of impropriety. For example, STAR contends that the agency failed to inform it of the award to RDA within 10 days, and that AID did not furnish STAR with a copy of the agency's administrative report in a timely

¹¹STAR also generally contends that AID did not raise any substantive issues during oral discussions, maintaining that the questions AID raised during negotiations seemed arbitrary and not relevant to the proposed services. The extent and content of discussions are within the discretion of the contracting officer, however, since the issues required to be discussed vary among the proposals. See Holmes & Narver, Inc., B-239469.2; B-239469.3, Sept. 14, 1990, 90-2 CPD ¶ 210. Consequently, AID properly individualized written and oral discussions with each offeror, limiting questions to weaknesses and clarifications raised by each proposed approach.

fashion. STAR also argues, for the first time, that AID did not properly consider the evaluation factors in evaluating its BAFO; and that during discussions, the contracting officer directed STAR to use its proposed ceiling rates in preparing its BAFO, to its disadvantage. As for AID notifying STAR of the award or not providing the agency report in a timely fashion, we consider AID's actions to be procedural defects that did not prejudice STAR here, and that have no effect on the propriety of the awarded contract. See Technical Servs. Corp., 64 Comp. Gen. 245 (1985); 85-1 CPD ¶ 152. Further, the protester's unwarranted piecemeal presentation of new issues and litany of additional complaints in its comments are untimely filed and will not be considered. Science Sys. and Applications, Inc., B-240311; B-240311.2, Nov. 9, 1990, 90-2 CPD ¶ 381.

The protest is denied in part and dismissed in part.


James F. Hinchman
General Counsel