



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carrier Communications

File: B-248430

Date: August 21, 1992

Christopher C. Killian for the protester.
Dale Preston for Freedom Electronics, an interested party.
Douglas P. Larsen, Jr., Esq., and Robert M. Jusko, Esq.,
Department of the Navy, for the agency.
James M. Cunningham, Esq., and Paul I. Lieberman, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Agency properly evaluated proposed electronics technicians as satisfying solicitation technical qualifications requirements where the proposed employees' resumés evidenced the required skill levels, and the technical evaluation panel members had direct familiarity with performance by these individuals of the required skills while employed by the incumbent contractor.
2. Solicitation requirement that contractor furnish necessary test equipment not otherwise provided by the contracting agency is a performance requirement, the ability to comply with which is encompassed by the contracting officer's affirmative determination of responsibility.

DECISION

Carrier Communications protests the award of a firm, fixed-price contract to Freedom Electronics, Inc., under request for proposals (RFP) No. NO429A-R-0042, issued by the Naval Air Station, Point Mugu, California, for maintenance and repair of ground electronics equipment at the Naval Air Station. Carrier, the incumbent contractor, alleges that Freedom proposed two electronics technicians who lacked qualifications required by the RFP and that Freedom does not possess certain equipment necessary to perform the contract.

The protest is denied in part and dismissed in part.

The RFP required offerors to submit technical proposals outlining the proposed contract objectives and the technical approach to the work. The stated technical evaluation criteria, which were to be rated as either acceptable or unacceptable, were working knowledge to maintain and repair: (1) radios and pagers; (2) surveillance equipment; and (3) Navy planned maintenance systems. The RFP also required offerors to furnish employee resumes showing employment and experience history to demonstrate employee compliance with specified qualifications for three required electronics technicians required to possess skills ranging, in order of increasing complexity, from Levels I to III. The RFP stated that award would be made to the "responsible offeror proposing the lowest-price for services meeting the RFP requirements."

Five offers, including ones from Carrier and Freedom, were received by the Navy on January 15. Three proposals were found to be technically unacceptable. The proposals from Carrier and Freedom were both found to be susceptible of being made acceptable. The Navy found the three individuals proposed by Freedom for the electronics technicians positions were acceptable; the Navy also noted that Freedom's proposed lead technician (Level III) was a prior Carrier employee who had maintained the equipment in question under Carrier's prior contract.

Discussions were held with Freedom and Carrier after which the contracting officer requested both offerors to submit best and final offers, both of which were found to be technically acceptable. Freedom's price was substantially lower than Carrier's and on March 11, 1992, the contracting officer determined to award the contract to Freedom as the lowest priced, responsible offeror which had submitted a technically acceptable offer. After being informed of the award, Carrier first protested to the agency then filed this protest with our Office.

The RFP provides that a Level I electronics technician performs simple or routine tasks in working on electronic equipment, following detailed instructions which cover virtually all procedures, and that he receives technical guidance from higher level technicians in the performance of these tasks. A Level II electronics technician applies comprehensive technical knowledge to solve complex problems which can typically be solved solely by properly interpreting manufacturers' manuals or similar documents. He performs work which involves familiarity with the inter-relationships of circuits and judgment in determining work sequence and selecting tools and test instruments, which are less complex than those used by a Level III technician. Neither position description requires a specific degree, specific training, or a specific experience level. The RFP

requires that offerors propose qualified individuals for these positions in order to be considered technically acceptable. Carrier argues that Freedom's proposed Level I and Level II technicians should not have been evaluated as qualified.

In reviewing a protest against the propriety of an agency's evaluation of proposals, it is not the function of our Office to independently evaluate proposals and to substitute our judgment for that of the agency. Research Analysis and Maintenance, Inc., B-242836.4, Oct. 29, 1991, 91-2 CPD ¶ 387. The evaluation of proposals is within the discretion of the procuring agency, since it is responsible for defining its needs and for deciding on the best methods of accommodating them. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. We will question the agency's technical evaluation only where the record shows that the evaluation does not have a reasonable basis or is inconsistent with the evaluation criteria listed in the RFP. Research Analysis and Maintenance, Inc., supra. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. We conclude that the Navy properly evaluated Freedom's proposed electronic technicians.

The Navy points out that Freedom's proposed Level I technician's resumé stated that the employee "had obtained experience as an installation technician and an installer of mobile radios and other electronic equipment," and states that members of the technical review panel had witnessed the individual perform as a Level I technician under Carrier's prior contract. Although Carrier asserts that the individual was "incapable of performing a complete installation on his own," this assertion, even if accurate, does not contradict the Navy's determination that the individual competently performed Level I work under Carrier's contract, since a Level I technician receives technical guidance from higher level technicians. The evidence in the record supports the Navy's evaluation of this employee as qualified.

As to Freedom's proposed Level II technician, the Navy points out that the individual's resumé lists work on repairing equipment and on applying maintenance procedures. The Navy concluded that this resumé information establishes the individual's ability to solve problems and properly interpret manufacturer manuals in accordance with the RFP requirements for a Level II electronics technician. In this regard, the Navy also notes that the members of the technical review panel had personally witnessed the individual's competent performance as a Level II electronics technician. Notwithstanding Carrier's disagreement and its

assertion that it is "ridiculous" for the panel members to assert that they have witnessed Level II capability in this individual, the record reasonably supports the Navy's conclusion that the individual qualifies as a Level II technician.

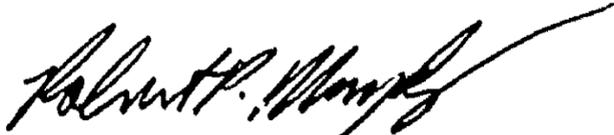
We therefore deny Carrier's protest against the Navy's evaluation of Freedom's proposed electronics technicians.

Paragraph 10 of the RFP stated that the government would furnish the contractor certain test equipment needed to do the work; however, the contractor was required to furnish "any [other] equipment not identified as Government furnished equipment . . . but necessary to accomplish the . . . contract." Carrier asserts that Freedom does not possess "any of the required microwave and other test equipment" and that the contracting officer failed to verify, by pre-award survey or other means, whether Freedom possessed needed test equipment.

The Navy states that during discussions the owner stated that he had taken into account possible contractor-furnished test equipment when he prepared the proposal. Specifically, the owner affirmed that "it was his plan to rent or lease the equipment if or when necessary." Based on this information, the contracting officer found Freedom to be a responsible, prospective contractor.

Where, as here, an RFP requires a prospective contractor to provide test equipment, as necessary, to maintain and repair specified equipment, this requirement concerns the contractor's performance obligation under the contract. Whether Freedom actually performs its contract in accordance with the RFP requirements is a matter of contract administration which is not for review by our Office. Cobra Technologies, Inc., B-239172, Aug. 2, 1990, 90-2 CPD ¶ 97. Since the requirement does not involve a definitive responsibility criterion, any question regarding the offeror's ability to meet this performance requirement is encompassed by the contracting officer's subjective responsibility determination which our Office will not review as there is no showing that the Navy's determination was based upon fraud or bad faith. See Telos Field Eng'g, B-233250, Nov. 8, 1988, 88-2 CPD ¶ 462. Consequently, we dismiss this ground of protest.

The protest is denied in part and dismissed in part.


for James F. Hinchman
General Counsel