



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Abacus Enterprises

File: B-248969

Date: October 13, 1992

Steve Scharosch for the protester,
Ned A. Greene, Department of Agriculture, 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. Where solicitation requests offerors to include specific information in technical proposals, such as plans for coordinating consultant efforts, resumes for professional personnel, and dollar value of past contracts, evaluators reasonably viewed proposal that provided that information as superior to proposal that did not, notwithstanding protester's arguments that evaluators could have inferred the necessary information from other information in the proposal.

2. Where agency evaluators reasonably concluded that the low-cost offeror had submitted a technically superior proposal, award without discussions to that offeror was proper.

DECISION

Abacus Enterprises protests the award of a contract to ESSA, Ltd., under request for proposals (RFP) No. RM-92-19, issued by the Forest Service for development of training models and materials. Abacus alleges that the agency unreasonably evaluated proposals.

We deny the protest.

On March 10, 1992, the agency issued the solicitation for a firm, fixed-price type contract for development and testing of a west-wide pine beetle model, development of users manuals, training materials, and software, and the conduct of workshops to demonstrate the model on test stands, evaluate its behavior, and modify it for use in the major pine ecotypes in the western United States and southwest

Canada. The agency reserved the right to make award on the basis of initial offers, without discussions, to the responsible offeror whose proposal was most advantageous to the government.

The RFP identified two factors for award, technical quality and price. The technical evaluation was to consider three criteria--quality of proposal, described as "extremely important" and worth 30 points in the evaluation, qualification of project team, and organization's experience, with the two latter criteria described as "very important" and worth 15 points each. Price was described as "important," with its degree of importance increasing with the quality of proposals.

The agency received two proposals and submitted them to its technical evaluation team. The evaluation team rated the proposal of ESSA higher under each of the technical criteria, with an average total score of 44.7 points versus an average total score of 31.3 points for the protester. While reviewers generally found the protester adequate in the area of quality of proposal, there was a concern that the proposal depended too much on the agency for guidance on how to proceed; further, the scheduling of workshops for summer months showed a lack of understanding of the need for input from subject matter experts, who were generally engaged in field research at that time of year. Under qualification of project team, evaluators found the proposal adequate as a whole, but noted that the protester had not identified or provided resumes for some of its personnel. Under the third evaluation criterion, organization's experience, reviewers found that the protester had provided insufficient information on its past experience, much of which appeared limited to small-scale projects.

The price of the protester's proposal, \$391,341.08, was higher than ESSA's price of \$299,943. Based on its clear technical superiority and much lower price, ESSA received the contract award on May 8. This protest followed.

The protester argues that the evaluation of its proposal and the agency's decision to award a contract without discussions were unreasonable.

In reviewing protests against an agency's technical evaluation and selection decision, we examine the record to determine whether the evaluation was reasonable and consistent with the evaluation criteria. SeaSpace, 70 Comp. Gen. 268 (1991), 91-1 CPD ¶ 179. We find the evaluation here consistent with the evaluation criteria, and we conclude that the agency's determination that the awardee's proposal was technically superior to the protester's proposal was reasonable.

First, under quality of proposal, firms were to be evaluated for their detailed plan for all project phases, including the management and coordination of consultant efforts; the protester's proposed project schedule called for most of its workshops and technical meetings to be held in the summers of 1992 and 1993. The agency downgraded the protester's proposal because the majority of the participants (research entomologists, pest management specialists and Silviculturalists) who under the solicitation's work statement were to provide the expertise and guidance for the project at these workshops and meetings would be unavailable during the summer when these scientists generally conduct field work. The protester states that the schedule was dictated by the agency's March 1 start date. We see no basis for such an assertion. There is nothing in the solicitation which required that the workshops and meetings be held in the summers, and we note that the awardee did not find it necessary to propose such a schedule. Accordingly, we think the evaluators reasonably viewed Abacus's initial proposal as less desirable than the awardee's in this respect.

Second, the RFP called for evaluation of the project team including resumes with a statement of the qualifications individuals would bring to contract tasks such as pest model software development. Abacus was downgraded for not submitting resumes for its programmers and data analysts. Abacus argues that the RFP called for resumes of only professional personnel and that its brief description of the work these individuals would perform should have been adequate. The RFP evaluation criteria clearly required the names of the project team and their qualifications. We do not find it unreasonable for the agency to consider programmers and analysts who would be performing data analyses and programming tasks essential to the project's success to be part of the project team. Thus, we think that Abacus was properly downgraded for not identifying all of its project team members. The awardee's proposal, we note, did identify these team members and did include resumes of these individuals.

Finally, under organization's experience, including successful completion of large, multi-year contracts, the evaluators downgraded Abacus for failing to identify the dollar volume of its prior relevant contracts. Abacus concedes that it did not explicitly furnish such information, and views it as "privileged information which has the potential to compromise any subsequent price negotiation." Nonetheless, Abacus states that the agency should have been able to determine the size of the project from that portion of its proposal that set forth the number of lines of computer source code written for each of its prior projects. We find no merit to this argument.

Regardless of what could reasonably be determined from the amount of source code prepared for prior projects, the solicitation clearly asked for dollar volume and Abacus did not provide that information. Since offerors are expected to respond explicitly to RFP requirements, the protester acted at its own peril when it chose not to submit the requested data. See Fischer & Porter Co., 3-229764, Mar. 17, 1988, 88-1 CPD ¶ 279. The evaluators simply were not required to infer information that the protester elected not to provide. Again, we note that the awardee supplied the required specific information about its prior large contract experience. We have no basis to disagree with the agency's evaluation of this area.


We thus find that the record supports the evaluators' judgment that the awardee had submitted the superior proposal. In view of the agency's reasonable finding that ESSA's proposal was technically superior,¹ and since it was lower in price, award on the basis of initial proposals, without discussions, was proper. Professional Safety Consultants Co. Inc., B-247331, Apr. 29, 1992, 92-1 CPD ¶ 404.

The protester also raises several untimely contentions regarding the solicitation. First, Abacus contends that the agency should have provided a preference for American firms (ESSA, Ltd. is located in Vancouver); absent any solicitation provision for such a preference, the terms of the solicitation precluded the agency from applying such a preference, and to the extent that the protester now contends that the RFP should have contained such a provision, its protest is untimely. Abacus also contends that various ambiguities in the solicitation favored ESSA because of the awardee's prior experience with a project scoping workshop; such alleged improprieties including the failure to include a preference for an American firm must be protested prior to the time set for receipt of initial proposals, and the protester's contentions in this regard,

¹Regarding the ESSA proposal, the protester contends that the awardee failed to discuss the facilities to be used in the performance of the contract, and to provide a time breakdown by team member and project task, which the solicitation called for. We note that the listed evaluation criteria did not include proposed facilities. Regarding the time breakdown, evaluators noted this weakness and penalized the awardee accordingly in the evaluation. The record does not indicate that evaluators overlooked weaknesses in the awardee's proposal or gave ESSA an unreasonably high rating.

first raised nearly a month after award and more than 7 weeks after the receipt of initial proposals are clearly untimely. See U.S. Defense Sys., Inc., B-245006.2, Dec. 13, 1991, 91-2 CPD ¶ 541; 4 C.F.R. § 21.2(a)(1) (1992).

We deny the protest.


for James F. Hinchman
General Counsel