



Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: InterAmerica Research Associates, Inc.

File: B-253698.2

Date: November 19, 1993

Juan G. Gutierrez for the protester.
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for the agency.
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of the decision.

DIGEST

1. Agency properly excluded from the competitive range a proposal which failed to provide necessary specific information in numerous areas, and instead merely parroted back material contained in the solicitation, leading the agency to reasonably conclude that the proposal would require major revisions in order to correct the deficiencies and become technically acceptable.

2. Protest that solicitation was deficient because an amendment which added additional tasks to the requirements failed to make an allegedly needed corresponding change to the evaluation criteria is untimely where it was clear from the face of the amendment that the evaluation criteria remained unchanged, and the protest was not filed until after the closing time for receipt of proposals.

DECISION

InterAmerica Research Associates, Inc. (IRA) protests the award of a contract under request for proposals (RFP) No. 105-93-1570, issued by the Department of Health & Human Services (HHS) to obtain training and support services for certain Head Start grantees. IRA contends that its proposal was improperly excluded from the competitive range. IRA also argues that the RFP, as amended, was defective.

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

The solicitation was issued on February 26, 1993, for proposals to furnish training and support services to local Head Start grantees in 10 specified geographical areas, plus two programs branches. Award of separate cost-plus-fixed-

fee contracts was contemplated for a 1-year base period with three 1-year options. This protest concerns the award of the contract for the furnishing of training and support services to Head Start grantees in the Migrant Programs Branch of the Head Start Program.

The RFP instructed offerors to submit separate technical and cost proposals. The solicitation contained the following technical evaluation factors and weights (out of a total of 100 points): (1) understanding the scope of work (10 points); (2) methodology (40 points); (3) qualification of proposed personnel (30 points); (4) corporate capabilities (10 points); and (5) adequacy of manpower plan and manpower facilities/resources (10 points). The solicitation stated that proposals would first be technically evaluated, and technically acceptable proposals would be evaluated as to cost. Award was to be made to the responsible offeror whose offer, conforming to the solicitation, was the most advantageous to the government, cost and other factors considered.

Three offerors submitted proposals by the amended closing date of April 12. A technical evaluation board (TEB) determined that only the proposal submitted by the Academy for Educational Development, which received a technical score of 98, was technically acceptable. The TEB determined that IRA's proposal, which received a technical score of 65, contained serious deficiencies throughout, and the proposal was eliminated as technically unacceptable because a major rewrite would have been required to make it acceptable. IRA protested to our Office alleging that its proposal was misevaluated and improperly excluded.

The evaluation of proposals and the determination of whether an offeror is in the competitive range are matters within the discretion of the contracting agency, since it is responsible for defining its needs and the best method of accommodating them. Automated Datatron, Inc.; Cal. Image Media, Inc., B-215399; B-215399.2, Dec. 26, 1984, 84-2 CPD ¶ 700; Essex Electro Eng'rs, Inc.; ACL-Filco Corp., B-211053.2; B-211053.3, Jan. 17, 1984, 84-1 CPD ¶ 74. Generally, offers that are technically unacceptable as submitted and that would require major revisions to become acceptable may be excluded from the competitive range. Id. Where a proposal is found to be technically unacceptable and therefore outside the competitive range, the agency has no duty to hold discussions with the offeror. Id.; Zuni Cultural Resource Enter., B-208824, Jan. 17, 1983, 83-1 CPD ¶ 45.

In reviewing an agency's technical evaluation and competitive range determination, we will not independently evaluate proposals; rather, we will consider only whether

the evaluation had a reasonable basis and was in accord with the listed evaluation criteria, and whether there were any violations of procurement statutes or regulations. Management Training Sys., B-238555.2, July 17, 1990, 90-2 CPD ¶ 43. Although we will closely scrutinize an agency's decision, such as this one, which results in a competitive range of one, we will not disturb such a determination absent a clear showing that it was unreasonable. Native Am. Consultants, Inc.; ACKCO, Inc., B-241531; B-241531.2, Feb. 6, 1991, 91-1 CPD ¶ 129.

The most critical deficiencies in IRA's proposal were found under the two most important evaluation factors, methodology and qualification of proposed personnel. Under methodology, IRA's proposal was viewed by the TEB as lacking specificity for all tasks, *i.e.*, for failing to describe specific actions and contingency plans. For example, the agency noted that "statements of IRA's self-proclaimed wealth of experience as HS [Head Start] resource center is substituted for thorough explanation of how IRA will assume certain tasks." The TEB also downgraded IRA's proposal for failing to list the number of consultants in its consultant pool, and for not providing any explanation of how the proposed advisory group for a specified task will function to perform that task, and instead essentially repeating the basic RFP requirements. Further, while the solicitation required that offerors describe the qualifications of the disabilities consultants in their consultant pools, IRA's proposal merely stated that its consultant pool would be expanded to include disabilities consultants who must have academic or professional background in some combination of 11 listed factors. As a result, IRA's proposal was evaluated as failing to describe specific minimum qualifications for disabilities consultants.

IRA responds that it should have been afforded discussions in order to address any instances where its proposal may have lacked adequate detail. IRA, which for over 12 years has provided HHS with many of the services listed under the Migrant Programs Branch requirements, seems to believe that its proposed methodology should have been evident from this prior experience. However, responses that are essentially blanket offers of compliance are not adequate substitutes for the detailed and complete technical information necessary to establish that what the offeror proposes will meet the agency's needs. M. C. Dean Elec. Contracting, Inc., B-246193, Feb. 24, 1992, 92-1 CPD ¶ 219. An offeror must demonstrate affirmatively the merits of its proposal, and it runs the risk of rejection if it fails to do so. Vista Videocassette Servs., Inc., B-230699, July 15, 1988, 88-2 CPD ¶ 55. Here, the agency properly evaluated IRA's methodology on the basis of the material contained in IRA's proposal, rather than on the basis of assumptions arising

from IRA's past performance. Our review of the record confirms that the agency reasonably concluded that IRA failed to demonstrate how it would perform the required tasks.

The agency also found critical deficiencies in IRA's proposal under the "qualification of proposed personnel" factor. The position of the project director, which is a full-time position identified in the solicitation as a "key staff" position, calls for in-depth expertise and experience in the Head Start components and Head Start administration and management issues. The TEB noted that IRA's proposed project director did not demonstrate any experience in managing a comparable national Head Start training and technical assistance program. Additionally, the TEB was concerned that IRA's proposed project director would be concurrently working on her Ph.D. dissertation and therefore not be in a position to devote the time necessary to manage the contract. The TEB also determined that IRA's proposal failed to provide required letters of commitment from two individuals who will serve as lead consultants if option task B is exercised.

IRA asserts that its proposed project director was scheduled to complete her dissertation before the work on the contract was to begin. IRA concedes that its proposal may have had certain informational deficiencies (such as the omission of required letters of commitment), but again argues that these matters should have been brought up in discussions, rather than used as a basis to eliminate its proposal from the competitive range. IRA argues that the evaluators "nit-picked" its proposal.

In our view, the agency reasonably downgraded IRA's proposal for failure to provide the required letters of commitment. This deficiency was properly viewed as significant because the individuals in question were potential lead consultants under this contract if option task B is exercised, and there is nothing in the record which suggests that option task B will not be exercised.

¹Under this evaluation factor, the protester also objects to the agency's criticism that its proposed disability specialist lacked the requisite academic background for this position. Our review of the record raises some concerns about the agency's evaluation in this area. However, since the proposal was properly found unacceptable with respect to other aspects of this evaluation factor, any errors in this regard did not significantly impact the evaluation and will not be addressed. Dick Young Prods., Ltd., B-246837, Apr. 1, 1992, 92-1 CPD ¶ 336.

The agency also reasonably downgraded IRA's proposal because the proposed project director lacked experience in managing a comparable national Head Start training and technical assistance program. Such experience was properly considered to be of particular importance under this contract because, unlike most of the other contracts to be awarded under this solicitation, which are for services oriented to discrete regions, the Migrant Programs Branch Head Start grantees, which are to receive services here, are located in various states around the nation, and many serve sites located in more than one state.

Regarding IRA's statement that its proposed project director is scheduled to conclude her dissertation before the work on the contract is to commence, this information was not provided in its proposal. The technical evaluation must be based upon information in, or submitted with, the proposal. Southeastern Center for Elec. Eng'g Educ., B-230692, July 6, 1988, 88-2 CPD ¶ 13. Thus, the TEB's concern as to the project director's ability to devote her full-time attention to the contract was well-founded, as IRA's proposal did show that its proposed project director was in the process of writing her dissertation.

In sum, the record reflects that the agency reasonably concluded that IRA's proposal contained serious deficiencies concerning its method for performing the work and its proposed personnel which would require major revision to remedy and therefore properly excluded the proposal from the competitive range. Cook Travel, B-238527, June 13, 1990, 90-1 CPD ¶ 571.


Next, the protester argues that certain provisions of the RFP contributed to the informational deficiencies in its proposal. The protester cites the page limitations set in the RFP, and the admonition in the RFP against unnecessarily elaborate proposals. These provisions cannot be read to obviate the clearly expressed requirements to submit specified information with the proposal.⁷ TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37. While IRA also argues that the agency failed to provide it with the solicitation and amendments in a timely fashion, which hampered its ability to submit a complete proposal, this

⁷To the extent that IRA is now objecting to the propriety of these portions of the RFP, this aspect of its protest is untimely. Our Bid Protest Regulations require protests based upon alleged improprieties in an RFP which are apparent prior to the closing time for receipt of initial proposals to be filed prior to that date. 4 C.F.R. § 21.2(a) (1993).

argument is untimely since the protest was not filed until after the closing time for receipt of proposals. 4 C.F.R. § 21.2(a)(1).

IRA also argues that the solicitation as amended was defective because when certain optional tasks were added to the solicitation by amendment, the agency failed to make a corresponding amendment to the evaluation criteria. This argument concerns alleged improprieties incorporated in the solicitation through amendment and is untimely since it was not filed until after award. 4 C.F.R. § 21.2(a)(1).

The protest is denied in part and dismissed in part.


FOR
James F. Hinchman
General Counsel