



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

40000

Decision

Matter of: Engineering & Computation, Inc.
File: B-258728.2
Date: December 7, 1994

DECISION

Engineering & Computation, Inc. (ECI) has filed this supplemental protest, following its receipt of the agency report filed by the Department of the Air Force in response to its initial protest against its exclusion from the competitive range and alleged agency favoritism toward the incumbent, University of Dayton Research Institute (UDRI), under request for proposals (RFP) No. F33615-94-R-5601.

We dismiss the supplemental protest.

ECI's initial protest was filed on October 3, 1994. In that protest, ECI "complain[ed] that the technical evaluation was not accomplished fairly and objectively but rather prejudicially in favor of the incumbent, UDRI." Counsel for the protester "admit[s that] the initial protest letter did not raise any issues directly relating to the agency's cost realism analysis." On November 9, ECI received the agency report; on the following day, it requested various additional documents from the agency, including "all documents referring or relating to any cost realism analysis." According to ECI, the agency "refused to provide" the cost realism documents. The agency has subsequently explained that it refused to provide these cost realism documents for the following reason:

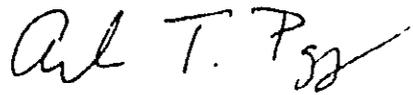
"Our position is that cost realism is not an issue that has been raised in this protest. Therefore, such documents are not relevant. If the protester can demonstrate how the cost realism documents are relevant to an issue that it has raised in its protest, the Air Force would certainly honor the request."

Upon learning that the Air Force would not provide these cost realism documents, the protester filed a supplemental protest, within 10 working days of its receipt of the agency report, alleging that "the evaluation materials [that it was

provided in response to its initial protest] do not demonstrate that any evaluation of costs realism occurred." Thus, its supplemental protest was solely based on the agency's alleged failure to provide or otherwise demonstrate in its agency report (submitted in response to its initial protest which related solely to technical issues) that a cost realism analysis was adequately performed.

This supplemental protest is not only speculative but contains an allegation directly contrary to the established facts of record. Cost realism was and is not an issue in ECI's initial protest; under our Bid Protest Regulations, 4 C.F.R. § 21.3(c) (1994), the agency was only supposed to furnish the protester with "relevant documents" in its agency report. Since cost realism was not a relevant issue, the agency's refusal to provide cost realism documentation to the protester in response to its initial technical-issue protest is probative of nothing. Simply put, the protester has no reasonable factual basis to allege that the agency somehow failed to conduct a cost realism analysis.

Our Office will not find improper action by an agency based on conjecture or inference, especially unreasonable conjecture or inference. ECI's submission does not indicate any valid basis of protest. Accordingly, pursuant to our Bid Protest Regulations at 4 C.F.R. § 21.3(m), the protest is dismissed. See Electra-Motion, Inc., B-229671, Dec. 10, 1987, 87-2 CPD ¶ 581.



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