



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Western Environmental Corporation

File: B-258567

Date: January 30, 1995

Mike White for the protester.

Alden F. Abbott, Esq., Department of Commerce, for the agency.

Jacqueline Maeder, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that contracting agency improperly evaluated protester's proposal under solicitation which sought offers for design and construction of a controlled environment laboratory is denied where record shows that the evaluation was reasonable and consistent with the stated evaluation criteria and protester does not refute the evaluation results.

DECISION

Western Environmental Corporation protests the award of a contract to Control Solutions under request for proposals (RFP) No. 52SBNB4C8239 issued by the Department of Commerce, National Institute of Standards and Technology (NIST), for the design and construction of a controlled environment laboratory to house a multi-axis dimensional measuring system. Western argues that the evaluation of its offer was unreasonable.

We deny the protest.

BACKGROUND

The multi-axis dimensional measuring system is an extremely sensitive, three-dimensional coordinate measuring machine used to determine the dimensions of gauges to be used as master forms for the production of manufactured parts. The measuring system will enable NIST to act as a national clearinghouse for the calibration, within exacting tolerances, of gears and complex thread forms to be used by, among others, automotive, aerospace, and machine tool manufacturers.

Because the measuring system is sensitive to variations in temperature, as well as dust, vibration, and humidity, the enclosure must be designed to maintain a stringently controlled environment. Specifically, the RFP required a control system design for the laboratory that would maintain a constant temperature within a narrow range in the enclosure. In addition, in the area immediately surrounding the measuring system (referred to as the "measurement volume") the RFP required that the temperature be controlled within an even narrower range than that specified for the enclosure generally. The RFP also required that the control system include high-speed temperature response, incorporating thermistor temperature sensors, and that air velocity within the laboratory be maintained within a narrow range.

The RFP contemplated the award of a firm, fixed-price contract to the offeror whose proposal was determined to be of greatest value to the agency considering technical merit and price. The RFP included the following technical factors:

- (1) system performance
- (2) contractor's past performance
- (3) system features
- (4) availability of spare parts

The RFP stated that the first factor would account for approximately 40 percent of the total technical score, the second factor approximately 30 percent, and the third and fourth factors each approximately 15 percent of the total technical score. Under the RFP, the technical factors were approximately twice as important as price.

Three proposals were submitted. A technical evaluation team evaluated the proposals using a 100-point rating system based on the percentages given above. Western's proposal received a technical score of 40.7 points and was judged to be unacceptable but susceptible to being made acceptable; Control Solutions' proposal was assigned 91 points and was judged to be technically acceptable.

All three proposals were included in the competitive range. The agency conducted discussions by providing each offeror with a list of weaknesses in its proposal and requesting best and final offers (BAFO). Western was cautioned that a proposal that merely offers to meet the specifications would be ineligible for award and that an offeror "must submit an explanation of its proposed technical approach and ability in conjunction with furnishing and installing an environmental enclosure." Western also was notified that the agency required additional information concerning the firm's proposed control system and evidence from past

performance of the functionality of its proposed mechanical design.

Based on the final evaluation, Western's proposal was still considered unacceptable primarily because, although Western's BAFO expanded its explanation by specifying the control system it intended to use, the agency viewed the BAFO as still failing to demonstrate that Western could meet the requirements. For example, the agency found that Western provided no description of how the entire control system, including the controller and sensor inputs and outputs, would function. Also, the evaluators noted that Western proposed to mount fixed temperature sensors on the walls away from the measurement volume and below the light fixtures, raising a concern that heat emitted from the fixtures would distort the temperature measurements.

Additionally, because the wall sensors would be located away from the measurement volume and because Western proposed no sensors to be used in or near the measurement volume, this area--which needs the most sensitive environmental control--would have no sensors to accurately signal for appropriate control measures. The evaluators also noted that Western proposed resistance temperature detector (RTD) sensors rather than the thermistor sensors required by the solicitation. The evaluators also were not convinced about Western's abilities from Western's drawings of a clean room it had built at the Red River Army Depot. According to NIST, since the Red River clean room permits a higher air speed velocity than is permitted in the NIST enclosure, the evaluators questioned whether Western could build an enclosure that would meet the low air speed required under the RFP. Additionally, the drawings indicated that the Red River facility's temperature control was less stringent than the temperature control required here.

Because Western's and the third offeror's BAFOs were determined to be unacceptable, technical proposals were not rescored. The BAFO prices of the protester and the awardee were \$109,000 and \$138,000, respectively. Based on the evaluation, the agency determined that Control Solutions' proposal offered the best value to the government.

PROTESTER'S CONTENTIONS

In response to the agency's concern that Western's design did not ensure accurate temperature readings or meet the required air flow specifications, the protester responds that it provided calculations that show its proposed enclosure would maintain temperatures "well below those allowed in the NIST solicitation guidelines" and that its proposal included air flow calculations that "scientifically proved the air flow was more than 20 percent less than the

maximum allowed." Western also alleges that the Red River facility "was certified by an independent third party" and found to be maintaining a constant temperature (of 68 degrees F) "+/- 0.1 [degree] F throughout the lab."

Western contends that the award was improper because its proposal satisfies solicitation requirements at a considerably lower price.

ANALYSIS

The evaluation of technical proposals is a matter within the discretion of the contracting agency since that agency is responsible for defining its needs and the best method of accommodating them. Management Technical Servs., B-250834, Feb. 22, 1993, 93-1 CPD ¶ 304. In reviewing an agency's technical evaluation, we will not reevaluate the proposals; instead, we will examine the record to ensure that the evaluation was reasonable and consistent with the RFP evaluation criteria. Id. A protester's disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Robert Slye Elecs., Inc., B-243272, July 5, 1991, 91-2 CPD ¶ 28.

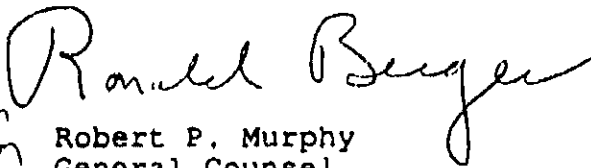
Based on our review of the record, we conclude that the evaluation was reasonable and consistent with the RFP's stated evaluation criteria. As previously stated, the agency found Western's proposal unacceptable because it failed to demonstrate that Western could design and build a system meeting the RFP requirements. Among other flaws, the agency concluded that Western's proposed placement of the temperature sensors would result in distorted readings, especially for the area immediately surrounding the measurement system; Western did not offer thermistor sensors as required by the RFP; and, Western's submission supporting its experience, specifically at the Red River facility, did not demonstrate that the protester had previously designed and installed a facility with the stringent temperature control required here.

Western has not submitted any information to refute the agency's evaluation of its proposed design. Rather, the protester merely argues that its calculations--submitted with its BAFO--demonstrate compliance. Western does not, however, explain how its calculations overcome the agency's concern that the firm's design is unacceptable because, for instance, the sensors are placed too close to the light fixtures. In this respect, NIST does not dispute Western's calculations, which the agency states are sound and calculations and provide the same results as the awardee's calculations; rather, NIST questions whether the proposed design meets the specifications. Also, Western does not refute the criticism of the proposed placement of its

sensors and, while Western states that an independent test of the Red River facility demonstrates that the temperature in that facility is maintained within .1 degree F of 68 degrees F, the requirement here is more stringent than the plus or minus .1 degree range achieved by the Red River facility. Western's proposal also shows that it offered RTD rather than thermistor sensors, contrary to the terms of the RFP. Under these circumstances, we have no basis for questioning the evaluation.

Finally, since Western's proposal was unacceptable, it could not form the basis for award. Scientific-Atlanta, Inc., B-255343.2; B-255343.4, Mar. 14, 1994, 94-1 CPD ¶ 325. Therefore, the fact that award was made to a higher-priced offeror provides no basis to object to the award.

The protest is denied.


for Robert P. Murphy
General Counsel