



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** SBS Technical Services  
**File:** B-259934  
**Date:** April 19, 1995

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Edward A. Sambriski, Jr., for the protester.  
Craig Haughtelin, Esq., Department of the Navy, for the agency.  
John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Agency properly rejected protester's proposal as technically unacceptable where the agency reasonably found that numerous aspects of the protester's proposal were deficient. Because the evaluation factors under which the proposal was rated as technically unacceptable were not related to responsibility, the agency was not required to refer this determination of technical unacceptability to the Small Business Administration for consideration under its certificate of competency procedures.

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### DECISION

SBS Technical Services protests the award of a contract to Encore Computer Corporation under request for proposals (RFP) No. N68936-94-R-0380, issued by the Department of the Navy. SBS argues that the agency's rejection of its proposal as technically unacceptable was unreasonable.

We deny the protest.

The RFP provided for the award of a firm, fixed-price, indefinite quantity contract for a 2-year base period with two 1-year options. The contractor is to provide preventative and remedial computer hardware maintenance and system/software analyst support services for the Naval Air Warfare Center Weapons Division installations at China Lake and Point Mugu, California.

The RFP stated that award would be made to the responsible offeror submitting the lowest-priced, technically acceptable proposal who then successfully demonstrated its technical capability by performing certain tasks presented by the agency in a specified amount of time. Specifically, the RFP provided for a two-step evaluation process, with the first

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step being the evaluation of proposals to determine which were technically acceptable, and the second step being the demonstration of certain tasks by the offeror found to have submitted the low-priced, technically acceptable proposal. With regard to the first step of the evaluation process, the RFP listed the following equally weighted evaluation factors: (1) Technical Expertise; (2) Personnel Qualifications (Resumes); (3) Corporate Experience; and (4) Management Plan.<sup>2</sup>

The RFP instructed offerors to submit separate technical and price proposals, and informed offerors that their technical proposals were to respond to the RFP's evaluation criteria and subcriteria using the same numbering and titling as that set forth in the solicitation. The RFP contained detailed standards for the positions of Systems/Software Analyst and Technician, which were identified as "key personnel," and required that resumes be provided for the individuals proposed for these positions.

The agency received proposals from Encore, the incumbent contractor and manufacturer of the computer system to be maintained, and SBS. The proposals were evaluated, discussions held, and best and final offers (BAFO) requested and received. SBS's BAFO was rated technically unacceptable. The agency determined that Encore had submitted a technically acceptable proposal, and made award to that firm after its successful demonstration of its technical capability.

SBS protests that the agency's evaluation of its proposal as technically unacceptable was unreasonable. The evaluation of technical proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. Marine Animal Prod. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16. In reviewing an agency's evaluation, we will not reevaluate technical proposals but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. MAR Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367. The offeror has the burden of submitting an

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<sup>1</sup>The RFP stated that should the offeror submitting the low-priced, technically acceptable proposal fail to satisfactorily complete the tasks required, the assessment of technical capability would be administered to the offeror submitting the next lowest-priced, technically acceptable proposal.

<sup>2</sup>The RFP listed numerous subcriteria under each of the four evaluation criteria.

adequately written proposal for the agency to evaluate, and where a proposal fails to include the information that is called for by the solicitation that is necessary to establish compliance with the specifications, there is a reasonable basis to find the proposal technically unacceptable. Whittaker Elec. Sys., B-246732.2, Sept. 10, 1992, 92-2 CPD ¶ 161. A protester's mere disagreement with the agency does not render the evaluation unreasonable. Realty Executives, B-237537, Feb. 16, 1990, 90-1 CPD ¶ 288.

The agency evaluated SBS's proposal as technically unacceptable because of numerous deficiencies in each section of SBS's technical proposal to wit: SBS's technical expertise, personnel qualifications, corporate experience, and management plan.

For example, the agency found SBS's proposal deficient under the Technical Expertise evaluation factor because, among other things, SBS did not, as required by the RFP, demonstrate its knowledge of the computer system's architecture including peripheral equipment, provide a list of diagnostics to be used at each location, or define its procedures for updating those diagnostics.

SBS argues, without further explanation, that its knowledge of the computer system's architecture is demonstrated in the section of its proposal addressing its corporate experience. We have reviewed SBS's proposal, and like the agency, find no information that can reasonably be considered as meeting the requirement that SBS demonstrate its knowledge of the computer system's architecture including peripheral equipment. The corporate experience section to which SBS refers merely describes the backgrounds of certain unnamed SBS personnel in general terms; it cannot reasonably be construed as demonstrating SBS's knowledge of the agency's computer system.

With regard to diagnostics, SBS argues that its proposal should not have been found deficient because it agreed to "buy whatever diagnostics were required for each site." Contrary to the protester's assertion, its blanket offer to buy whatever diagnostics are necessary is not an adequate substitute for detailed and complete information in its proposal establishing that it understands and will meet the

government's needs with regard to diagnostics.<sup>3</sup> Medland Controls, Inc., B-255204; B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260.

The agency found SBS's proposal deficient under the Personnel Qualifications evaluation factor because, among other things, SBS's proposed System/Software Analyst does not meet the minimum personnel requirement set forth in the RFP. In this regard, the RFP required that the System/Software Analyst have a "Bachelor of Arts or Bachelor of Science in computer science, mathematics, engineering, information sciences or related discipline."

SBS concedes that its proposed System/Software Analyst does not have a college degree. However, the protester argues that the solicitation allowed for the substitution of practical experience for formal training when deemed appropriate by the reviewing officials, and contends that its analyst's "actual work history . . . should bear more weight than does the lack of a formal degree."

SBS has apparently misread the RFP. The RFP clearly required that proposed System/Software Analysts have a Bachelor of Arts or Science in computer science, mathematics, engineering, information sciences, or a related discipline. The provision allowing for the substitution of practical experience for formal training was not set forth in the section of the RFP detailing the minimum education requirements for key personnel, but rather was contained in the section listing the Encore-sponsored training courses or their equivalent which proposed personnel were required to have completed. In short, because the RFP required that the proposed Systems/Software Analysts have a Bachelor degree in one of the listed disciplines, and SBS's proposed Systems/Software Analyst did not have such a degree, or for that matter any college degree, the agency reasonably found

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<sup>3</sup>SBS's contention that the requirement that a list of diagnostics that the offeror proposes to use "is not a relevant factor" appears to be a challenge to the propriety of the RFP's requirement that such a list be provided for evaluation by the agency. This contention, raised after award, is untimely. Our Bid Protest Regulations contain strict rules requiring the timely submission of protests. Under these rules, protests based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals must be filed prior to that time to be considered by our Office. 4 C.F.R. § 21.2(a)(1) (1995).

SBS's proposal unacceptable with regard to key personnel.<sup>4</sup>  
Honolulu Marine, Inc., B-245329, Dec. 27, 1991, 91-2 CPD  
 ¶ 586.

The agency also found numerous deficiencies in SBS's proposal under the Management Plan evaluation factor. For example, although the solicitation instructed offerors that they were to provide a description of their "process for maintaining and enhancing key personnel's skills," and required that the Systems/Software Analyst and Technician complete 5 days of training per year, SBS simply stated in its proposal that it "actively encourages its personnel to engage in further educational studies." SBS does not substantively rebut the agency's determination that its proposal was deficient with regard to its proposed approach to maintaining and enhancing its personnel's skills and ensuring that its personnel complete certain training. Rather, SBS contends that this was "an unreasonable requirement . . . [and] should not have been included as an evaluation factor in this RFP." This argument, which similar to a number of SBS's other arguments challenges the propriety of the RFP's requirements and its evaluation scheme, and is raised after the receipt of initial proposals, is untimely and will not be considered. 4 C.F.R. § 21.2(a)(1).

SBS protests that the agency, upon finding SBS's proposal technically unacceptable, should have referred the matter to "the SBA [Small Business Administration] under the Certificate of Competency [COC] provisions instead of outright disqualification[]."

The Small Business Act prohibits agencies from finding, under the guise of a technical evaluation, that a small business is nonresponsible and thereby avoid referring the matter to the SBA, which has the ultimate authority to determine the responsibility of a small business concern. A & W Maintenance Servs., Inc., B-258293; B-258293.2, Jan. 6, 1995, 95-1 CPD ¶ 8. However, where an agency rejects a proposal for reasons not related to responsibility as well as for reasons that properly would be categorized as relating to responsibility, referral to the SBA is not required. Paragon Dynamics, Inc., 72 Comp. Gen. 142 (1993), 93-1 CPD ¶ 248. Here, as discussed above, the agency

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<sup>4</sup>To the extent that SBS is arguing that the solicitation's minimum personnel requirements overstated the agency's minimum needs and therefore were improper, the protester's argument, raised after receipt of initial proposals, is also untimely and will not be considered. 4 C.F.R. § 21.2(a)(1); Management & Indus. Technologies Assoc., B-257656, Oct. 11, 1994, 94-2 CPD ¶ 134.

reasonably found SBS's proposal unacceptable under a variety of factors--such as the firm's failure to demonstrate an understanding of the computer system's architecture, failure to provide a list of diagnostics it proposed to use, and failure to describe its process for maintaining and enhancing its personnel's skills--which indicated that SBS did not understand the solicitation's requirements and objectives and which were not responsibility-related. That being so, there was no requirement for a COC referral. A & W Maintenance Servs., Inc., supra.

In sum, based upon our review of the record, the agency's evaluation of SBS's proposal and rejection of the proposal as technically unacceptable were proper.<sup>5</sup>

The protest is denied.

/s/ Michael R. Golden  
for Robert P. Murphy  
General Counsel

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<sup>5</sup>SBS has made numerous other related contentions during the course of this protest. Although these contentions may not be specifically addressed in this decision, each was carefully considered by our Office and found either to be insignificant in view of our other findings, invalid based upon the record as a whole, or untimely. For example, the protester argues that because of the timing of the award, it "do[es] not see that a scheduled test could have been performed by Encore." However, the record confirms that Encore did in fact successfully complete the test.