



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Science Applications International Corporation

File: B-265607

Date: September 1, 1995

Kathleen C. Little, Esq., and David R. Johnson, Esq., McDermott, Will & Emery, for the protester.

Paul Shnitzer, Esq., Crowell & Moring, for Vitro Corporation, an interested party.

Melissa K. Erny, Esq., Department of the Navy, for the agency.

Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

The General Accounting Office will dismiss, in part, a protest without obtaining a report where several allegations do not include sufficient factual information or any evidence establishing the likelihood that the Navy violated procurement laws or regulations.

DECISION

Science Applications International Corporation (SAIC) protests the Navy's award of a contract for engineering and computer engineering support services to VITRO Corporation pursuant to request for proposals (RFP) No. N00163-93-R-0086. The protester alleges that: (1) the Navy did not conduct a cost realism analysis of VITRO's proposal; (2) The Navy did not evaluate Vitro's proposal regarding the reasonableness of and the risk posed by Vitro's use of uncompensated overtime; (3) the Navy's evaluations of both SAIC's and VITRO's technical and management proposals was arbitrary, unreasonable, and inconsistent with the RFP's stated evaluation scheme; and (4) the Navy did not conduct a cost/technical tradeoff analysis.¹

We dismiss the protest insofar as it is based on the second, third, and fourth allegations.

¹The protester further states that, to the extent that the Navy and VITRO engaged in discussions after best and final offers (BAFO) were submitted, it protests such post-BAFO discussions as well. However, SAIC has presented no evidence that such discussions were conducted.

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The Navy provided a debriefing to SAIC but, according to the protester, the Navy gave only minimal information concerning its reasons for awarding the contract to VITRO instead of SAIC. The protester states that the Navy told it, among other things, that: (1) SAIC's proposal was highly rated and in the excellent range; (2) that no offer was deemed technically superior to any other offer and, therefore, cost was the deciding factor for award; and (3) that a cost realism analysis of both SAIC's and VITRO's proposed costs was conducted and that VITRO's costs had been adjusted upward as a result of that analysis while SAIC's costs were not adjusted.

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds of a protest, 4 C.F.R. § 21.1(c)(4), and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(e). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Robert Wall Edge-Recon., 68 Comp. Gen. 352 (1989), 89-1 CPD ¶ 335.

Regarding the first allegation (*i.e.*, failure to conduct a cost realism analysis), SAIC alleges that the agency used none of the accepted methods for evaluating VITRO's proposed labor rates, indirect rates, and -other cost components and that the agency did not obtain a Defense Contract Audit Agency audit of proposals. We consider the adequacy of the Navy's cost realism analysis to be the sole viable issue and will resolve it, after further development, in a future decision.

Regarding the second allegation, SAIC contends "upon information and belief" that the Navy did not evaluate VITRO's proposal to determine what level of uncompensated overtime would be reasonable and the additional performance risk posed by VITRO's use of uncompensated overtime. However, SAIC has provided no evidence nor any detailed statement of facts to support this allegation. In fact, SAIC specifically states that it does not even know if VITRO's proposal included the use of uncompensated overtime. In view of the fact that the Navy specifically told SAIC that it had evaluated both SAIC's and VITRO's proposed costs for realism and had even made upward adjustments to VITRO's proposed costs as a result, it is evident that these unsupported assertions are mere speculation on SAIC's part and do not provide an adequate basis for protest. See TRW Inc., B-258347, Jan. 11, 1995, 95-1 CPD ¶ 15.

Regarding the third protest ground (*i.e.*, improper evaluation of technical and management proposals), SAIC has provided only a general allegation regarding evaluation of its own proposal without any detailed factual information to support the allegation. Concerning evaluation of VITRO's proposal, SAIC asserts "on information and belief" only that the Navy used an unstated evaluation criterion because it evaluated certain innovations in VITRO's proposal, and the protester contends that "innovations" were not subsumed within the stated evaluation criteria.

Again, SAIC has not provided any detailed statement to support this allegation. In fact, it is evident that SAIC does not know what innovations, if any, were included in VITRO's proposal or how the Navy evaluated those innovations. In our opinion, this allegation provides no evidence that the Navy violated any procurement laws or regulations since, in the absence of any indication that the RFP prohibited the use of innovative ideas or methods, the Navy was free to evaluate such innovations under the existing evaluation criteria. Accordingly, this unsupported allegation is not an adequate protest basis.

Concerning the fourth protest ground (i.e., failure to conduct a cost/technical tradeoff analysis), the facts as stated in the protest letter show that all proposals were considered essentially technically equal. In such circumstances, price can properly become the deciding factor in the selection process and a cost/technical tradeoff need not be conducted. Thus, this allegation is not an adequate basis for protest.

Because the protest does not include sufficient factual information or any evidence establishing the likelihood that the Navy violated procurement laws or regulations, the second, third, and fourth grounds of protest will not be considered further.

Michael R. Golden
Assistant General Counsel