



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176761

January 24, 1973

Sociometrics, Inc.
11212 Grandview Avenue, Suite 101
Silver Spring, Maryland 20902

Attention: Mr. William W. Gaston
President

Gentlemen:

We refer to your letter of August 10, 1972, and subsequent correspondence concerning your protest under Request for Proposals (RFP) No. 72-4280(P), issued on April 28, 1972, by the National Institutes of Health, Department of Health, Education and Welfare, for a study of recruitment and admissions procedures for minority group students in schools of dentistry.

The work requirements for the study were set forth in Attachment B, Scope of Work, of the RFP. Briefly stated, the Scope of Work section required the contractor to develop an interview schedule for use in conducting in-depth interviews of minority students and graduates of several dental schools, identify problems of minority students, obtain data on all minority students who recently graduated from Meharry and Howard University Schools of Dentistry, convert certain information to computer accessible form, and make recommendations regarding the recruitment, selection, and education of minority dental students. Additionally, the RFP informed all offerors of the relative importance of the evaluation criteria, as follows:

*Technical Evaluation Criteria

Weight not to exceed

1. The proposed methodology for securing the cooperation of the various institutions and individuals involved
2. The technical merits of the proposal as reflected in submitted protocols or other information

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<u>Technical Evaluation Criteria</u>	<u>Weight not to exceed</u>
3. The demonstrated competence and research experience of proposed project staff	20
4. The contractor's experience in the area of dental education	10
5. The contractor's experience in working with minority training programs and minority students	<u>20</u>
TOTAL EVALUATION POINTS	100"

Since a cost-plus-a-fixed-fee contract was to be awarded, the RFP also advised offerors that cost might not be a controlling factor in selecting the contractor; that the Government reserved the right to make an award to the best advantage of the Government, cost and other factors considered; and that proposals should be submitted initially on the most favorable price and technical terms, since the Government reserved the right to make an award without further discussion of the proposals submitted.

Nine proposals, including offers from your concern and ABT Associates, Inc. (ABT), were received by the closing date set for receipt of proposals on May 17, 1972. Subsequently, the proposals were reviewed by a technical evaluation committee.

The contracting officer states that the ABT proposal received the highest composite score (83 out of a possible 100), and that your proposal, which received a score of 49, ranked eighth in the field of nine proposals received. In this regard, HEW has furnished this Office with an analysis of your proposal, which is quoted, in pertinent part, as follows:

*** The proposal presents no planned approach to securing the cooperation of Howard and Meharry University, and the three other institutions named in the scope of work. The contact of selected dental schools via general mailing referred to in Section B, page 1, is unlikely to be successful; personal contact by phone should precede such a mailing.

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"In general, the proposal paraphrases the words of the scope of work rather than supplying detailed information regarding how the scope of work can be accomplished.

"The proposal fails to provide details regarding the methodology to be used in developing the questionnaire, trying it out, coding the results, and its method of use by an interviewer.

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"All reviewers agree that the proposal reveals that Sociometrics/Wolf has no corporate experience in conducting studies in the field of dental education.

"Although the corporation does demonstrate prior experience in working with minority groups, their experience in working with training programs and individual students seems limited."

In view of this analysis, the contracting officer states that it was her opinion your proposal was neither technically acceptable nor marginally acceptable, and that discussion with your company would not have upgraded or qualified your proposal. In view thereof, and inasmuch as HEW determined that ABT had submitted the only technically acceptable offer, an award was thereafter made to ABT on June 30, 1972, in the estimated amount of \$99,966.00.

You maintain that your proposal, which was lower in estimated cost than ABT's offer, should have been considered in the competitive range for this procurement, considering your price, technical approach, and experience, and that negotiations should therefore have been conducted with your concern. Specifically, you maintain that you are more experienced than ABT in minority problems.

Federal Procurement Regulations (FPR) 1-3.805-1(a) requires that after receipt of initial proposals, written or oral discussions shall be conducted with all responsible offerors who submitted proposals within a competitive range, price and other factors considered. In this connection, it has been our position that the determination of competitive range is primarily a matter of administrative discretion.

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which will not be questioned absent a clear showing of arbitrary abuse of discretion. B-166052, May 20, 1969. Based on our review of the point score evaluations by the individual evaluators and the analyses of deficiencies in your proposal, we cannot conclude that HEW arbitrarily determined that your proposal was not within the competitive range for the procurement, notwithstanding the lower estimated cost (relative to ABT's proposed cost) which you proposed to do the work. Neither can we conclude that you are more experienced than ABT in these matters, or that HEW failed to give adequate weight to the experience of your concern in conducting studies in the field of dental education, in working with minority groups, and in working with minority training programs.

Additionally, the relative inexperience of your concern was not the only factor involved in the HEW determination. HEW also concluded, among other things, that your proposal did not contain detailed information regarding how the scope of work was to be accomplished. We have held, in this regard, that informational deficiencies may properly be considered in determining whether a proposal is in the competitive range, and that where a proposal is so materially deficient that it could not be made acceptable without major revisions, there is no requirement that discussions be conducted with the offeror. B-176294, October 27, 1972. On the present record, we are unable to conclude that minor revisions would have been sufficient to place your proposal within the competitive range.

You also allege that HEW officials told you that your proposal was acceptable. In reply, the contracting officer states that at no time was it either stated or implied to you that your proposal was technically acceptable. Assuming, for the purpose of discussion, that such informal advice was given to you, it is clear that the written record, upon which the propriety of HEW's actions must be judged, does not support such advice. Conversely, the record fails to show that your proposal was ever considered acceptable. We therefore fail to see how any advice to the contrary after award of the contract could have materially prejudiced your position.

For the reasons set forth above, your protest must be denied.

Very truly yours,

Paul G. Dembling

For the Comptroller General
of the United States