

DECISION



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

FILE: B-185754

DATE: August 2, 1976

MATTER OF: Jet International, Inc.

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DIGEST:

Agency properly rejected protester's proposal prior to conducting discussions with other offerors, where un rebutted evidence indicates that such proposal did not represent a reasonable initial effort to address itself to the essential requirements of the RFP and therefore was unacceptable.

Jet International, Inc. (Jet) protests the rejection of its proposal for On/Off-Site Programming and Analysis Support Services submitted in response to Request for Proposals (RFP) No. 5-19300-153 issued by the National Aeronautics and Space Administration (NASA), Goddard Space Flight Center.

The protester claims that NASA acted arbitrarily and capriciously in discontinuing its evaluation prior to accepting revisions which might have cured the infirmities noted in its initial proposal. NASA's decision to reject Jet's proposal without discussion was communicated to Jet by letter of January 12, 1976, advising the protester that the Source Evaluation Board (SEB) found the proposal unacceptable because "it did not represent a reasonable initial effort to address itself to the essential requirements of the RFP." The specific grounds for discontinuing evaluation of Jet's proposal were stated as follows:

- "1. There is no indication that any of the proposed resumed personnel are currently, or could be, employed by Jet International, Inc.
2. There is no indication that facilities for off-site support are available or will be available.
3. The required level of effort cited in Part 3 of the RFP was not addressed in the cost proposal.

4. Detailed EXHIBITS and SCHEDULES were not included in the proposal supporting the DD Form 633-4.

In addition, your proposal was deficient in that required financial data was not submitted (current balance sheet, profit and loss statement and cash flow statement), and no company experience of a similar size related to the technical areas were provided. The proposed Project Manager also failed to meet the requirements of the RFP."

No evidence has been presented to indicate either that the rejected proposal met the requirements of the RFP in the areas noted or that the deficiencies were not material. Jet's position rests solely on its contention that additional information or amendments to its proposal would have cured these infirmities and that NASA arbitrarily prevented only Jet from providing such information. Furthermore, Jet requests that we ascertain whether other offerors were permitted to revise their proposals prior to the rejection of Jet's proposal.

In this regard, we stated in 52 Comp. Gen. 865, 868 (1973):

"Informational deficiencies may properly be considered in determining whether a proposal is so materially deficient that it could not be made acceptable without major revisions, and 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."

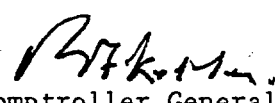
Furthermore, NASA Procurement Regulation § 3.805-1(a) (1975 ed.) requires that, after evaluation of proposals, written or oral discussions shall be had with all responsible offerors who submit proposals within a competitive range, price and "other factors" considered. Competitive range determinations necessarily require the exercise of a considerable degree of discretion of procurement officials. Consequently, our

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Office will not question competitive range determinations unless they are without a reasonable basis. See Phelps Protection Systems, Inc., B-181148, November 7, 1974, 74-2 CPD 244.

NASA has advised that the decision to reject Jet's proposal was made prior to the holding of discussions with any other offerors. Consequently, we must reject the protester's contention that it was not on an equal footing with all other proposals prior to initial evaluation. Furthermore, the unrebutted evidence indicates that the protester's proposal failed to address what the contracting agency determined to be essential requirements of the RFP. Having failed to show that such determination was unreasonable, the protester is precluded from arguing that the determination to exclude it from the competitive range without discussion and to negotiate only with offerors within the competitive range was arbitrary or an abuse of administrative discretion.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States