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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Mathews Associates, Inc.

File: B-299305

Date: March 5, 2007

William M. Weisberg, Esq., and Joyce L. Tong, Esq., Sullivan & Worcester, for the protester.

Brian E. Toland, Esq., and Karin S. Wiechmann, Esq., Department of the Army, for the agency.

Ralph O. White, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's contention that agency unreasonably refused to evaluate its proposal is denied where the solicitation clearly indicated that any page of an offeror's proposal that exceeded the margin, font, or total page limits would not be evaluated, and there is no dispute that the protester's proposal exceeded the solicitation's margin limits on every page.

DECISION

Mathews Associates, Inc. protests the rejection of its proposal submitted in response to request for proposals (RFP) No. W15P7T-06-R-N204, issued by the Department of the Army's Communications-Electronics Life Cycle Management Command to procure loudspeakers and battery boxes for use in the Single Channel Ground and Airborne Radio System. Mathews argues that the Army unreasonably rejected its proposal after concluding that every page of the proposal exceeded the solicitation's specified margin limitations.

We deny the protest.

The solicitation here was issued on October 12, 2006, and anticipated the award of up to two fixed-price, indefinite-delivery/indefinite-quantity contracts, for a period of 5 years, to the offeror(s) whose proposal(s) offered the best value to the government. The solicitation was issued as a small business set-aside, and established a minimum contract value of \$2.9 million, and a lifetime ceiling of \$120 million.

The solicitation instructions limited proposals to 25 pages, specified the margin settings and font sizes to be used, and required that proposals be submitted electronically. RFP § L.1. In addition, the RFP advised that “pages that exceed the margin, font or total page limit will not be evaluated.” RFP § L.2.

By the November 27 closing date, the agency received seven proposals, which were screened for conformance with the solicitation submission requirements before being sent to the Source Selection Evaluation Board (SSEB) for evaluation. The proposal submitted by Mathews, and a proposal submitted by another offeror, were removed from consideration as a result of this screening; thus, they were never evaluated by the SSEB.

By letter dated December 15, the agency advised Mathews that its proposal would not be evaluated because it had not been prepared in accordance with the margin requirements specified in the solicitation. Specifically, the agency concluded that the proposal submitted by Mathews violated the solicitation’s limitations, as shown in the table below.

	Solicitation’s Margin Rqmts.	Margins in the Mathews Proposal
Top	1”	0.87”
Bottom	1”	0.5”
Left	1”	1”
Right	1”	1”
From edge:		
-- Header	0.5”	0.28”
-- Footer	0.5”	0.18”

After Mathews asked the agency to reconsider its decision, and after the agency advised it would not, Mathews filed a protest with our Office on December 21.

Mathews argues that the Army position is unreasonable. It notes first that since the proposal was submitted electronically, it would have been a simple matter for Mathews—or the Army—to change the margin settings in the proposal. Mathews points out that if the proposal, as reformatted, exceeds the 25-page limit, the Army could reasonably refuse to read any portion of the proposal that exceeds the page limit. In addition, Mathews argues that the public policy rationale for including margin, page, and font limitations in solicitations is to create a level playing field for competition; thus, in Mathews’ view, while enforcement of page limitations serves to provide equal competitions, no discernible public policy end is served by upholding the Army’s decision not to allow reformatting of this proposal.

As the Army notes, there is no dispute here that every page of the protester's proposal exceeded the margin limitations in the solicitation, and that the solicitation clearly advised that no page that exceeded the margin, font, or page limitations would be read. In addition, while conceding the relative technical ease with which reformatting could be accomplished, the Army raises several concerns about the impact of a decision holding that it was required to reformat the protester's proposal, or allow the protester to do so.

Among the concerns the Army raises is the potential dispute between it and Mathews about how the reformatting should be accomplished. In the Army's view, any reformatting should only involve a change to the margin settings in the electronic document, which, it claims, would add four pages to the proposal. In the protester's view, the Army should not only change the margins in its submission, but should make some additional changes to spacing and headings that would allow the proposal to meet the 25-page deadline. Alternatively, the protester argues that the Army should change the margins and simply not read the portion of the proposal that exceeds the page limitation.

In our view, the protest here is rendered a closer call than it might have been several years ago because of the nature of electronic submissions. For example, in 1991 our Office considered a protest from an offeror that had disregarded both a solicitation's page limitation and the requirement that proposals be double-spaced. After 59 pages of the protester's 117-page submission were not read—with the expected negative result on its competitive posture—the protester argued that it “could retype the proposal using double space in a few days.” Our Office held that the agency was not required to give the protester a few more days to retype its proposal. All Star Maint., Inc., B-244143, Sept. 26, 1991, 91-2 CPD ¶ 294 at 4.

In contrast, the agency here would not be required to wait for a reformatted proposal, and could, in fact, complete the reformatting itself in a matter of minutes, without the offeror's involvement. The question before us, however, is not what the agency could do, but what it was required to do. Viewed in this light, we do not think the Army was required to reformat, or allow Mathews to reformat, the proposal.

We note first that, as in All Star Maint., Inc., the solicitation requirements at issue in this protest are clear, and were not contested by the protester.¹ In addition, there is

¹ In this regard, as noted above, the solicitation advised that “pages that exceed the margin, font or total page limit will not be evaluated.” RFP § L.2 (emphasis added). In a case where the solicitation instructions were less clear—*i.e.*, where the solicitation advised that failure to follow type-size and page limitations “may” be grounds for exclusion—we reached a different result based on our conclusion that

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no dispute about the facts of this case--the proposal here did not contain a single page that complied with the solicitation's margin requirements. Simply put, we know of no reason why an agency should be required to allow an offeror to reformat its proposal when the solicitation's requirements were so clear. While the protester asserts that reformatting--or allowing the protester to reformat--its proposal does not appear to pose a significant risk of unfairness to other offerors, that view does not translate into a requirement that the agency take such action, given the RFP's clear instructions regarding formatting and the consequences of not complying with those instructions. In addition, we think the record here supports the agency's contention that the approach urged by Mathews raises the possibility of further disputes about the manner in which the reformatting is accomplished. In our view, the agency should not be forced to assume the risk of such potential disruptions to the procurement due to the reformatting made necessary by Mathews' failure to comply with the unequivocal requirements of the RFP.

Finally, we recognize that many of our prior cases, cited by both the Army and the protester, involve situations where agencies took less severe action than in this case. See, e.g., Client Network Servs., B-297994, Apr. 28, 2006, 2006 CPD ¶ 79 at 8 (agency reasonably downgraded proposal for failing to comply with the solicitation's formatting requirements). On balance, however, we think there is nothing unfair, or unduly burdensome, about requiring offerors to assume the risks associated with submitting proposals that do not comply with clearly stated solicitation formatting requirements. Id.; Coffmann Specialties, Inc., B-284546, B-284546.2, May 10, 2000, 2000 CPD ¶ 77 at 3.

The protest is denied.

Gary L. Kepplinger
General Counsel

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the agency did not have a reasonable basis for excluding the proposal. Macfadden & Assocs., Inc., B-275502, Feb. 27, 1997, 97-1 CPD ¶ 88 at 4.