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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Cajar Defense Support Company

File: B-242562.2; B-243520

Date: June 12, 1991

Mason Ford for the protester.
Jeffrey I. Kessler, Esq., and Robert J. Parise, Esq.,
Department of the Army, for the agency.
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Michael R. Golden, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Where protester would not or could not provide information to show the feasibility of its proposed small arms research project for laser transmission or activation of chemical agents under solicitation for "leap ahead technology" for small arms systems, agency reasonably found that technical success was improbable and decision not to fund protester's proposed project was proper.

DECISION

Cajar Defense Support Company protests the rejection of its proposal under solicitation No. DAAA21-90-BAA4, issued by the U.S. Army Armament, Munitions and Chemical Command (AMCCOM) for "leap ahead technology" for small arms systems. The protester contends that it was unreasonable for the agency to require information on the feasibility of its proposal, since the protester believes true "leap ahead technology" will rely upon technologies that have never been tested.

We deny the protest.

On June 19, 1990, the agency issued the solicitation proposals for scientific study and experimentation directed toward development of small arms technology. The solicitation provided for an initial determination of acceptability, based chiefly upon the respondent's understanding of the BAA's scope and the degree of operational and performance benefits of the proposed technology. The agency would then assess each proposal based on technical, management, and cost factors, with the technical factors including the supportability of claims, technical risk or uncertainty and the overall estimated probability of technical success within the proposed

time frame and budget. The solicitation warned offerors that the agency could eliminate any proposal that did not satisfy its technical concerns.

The protester submitted a timely proposal for a chemical laser weapon, involving laser transmission and activation of small mass chemical agents for direct anti-personnel action. Parts of the protester's proposal suggested development of a laser beam producing a path for a chemical agent; others suggested that the laser might activate agents previously delivered. The protester described the system as a "two stage, high powered, high velocity, long range, direct trajectory ballistic path 'water pistol,' with the ability to inject the liquid into the body of the target." Although the proposal asserted that the transportation/activation of chemicals by laser are "proven technologies," the proposal warned that it would not be possible to provide a detailed description of the concepts, approaches, methods, techniques, materials, sketches, diagrams, and comparative analyses involved, since the program would be starting from a purely conceptual basis.

The agency initially determined the protester's response to be acceptable and requested further information for technical evaluation, including any research to support the protester's claims and by which the agency could evaluate technical risk and uncertainty and the probability of success. The protester declined a specific response, began to hedge on its ability to demonstrate laser transmission of chemicals and insisted that instead of written discussions, the agency hold a face-to-face meeting to discuss the protester's proposal, with the understanding that the agency would resolve all issues at that meeting. At such a meeting held at the protester's request, the protester advised evaluators of its belief that proof of concept feasibility was exactly what the protester would be supplying under the contract and that it was not necessary to supply any data in support of its research proposal. In any event, the protester supplied nothing to support its claim that laser transmission/activation of chemicals was a proven technology or at all practicable.

The technical panel was unable to find any support for the protester's concept of small arms applications and could not find that the proposal offered an acceptable risk or any great probability of success within the proposed time frame and budget. Among the most significant problems with the proposal, the agency concluded were the following: (1) for a chemical agent to take advantage of a laser-created path, the agent would have to move at the speed of light; (2) the energy requirements for such a system would weigh too much for an infantryman to carry; (3) laser beams would not activate chemical agents but would cause their chemical bonds to dissolve; (4) the laser itself would be a more efficient and

promising mechanism to kill/incapacitate than would any agent that it might transmit. Physicists at Los Alamos National Laboratories, to whom the proposal was referred for evaluation, found that the proposal completely lacked any understanding of the fundamental processes that it proposed to employ.

On January 3, 1991, the agency advised the protester that it had decided not to fund the protester's proposal. This protest followed.

The protester essentially believes that the agency induced it to submit a proposal, even though the agency knew that the proposal had no chance of award. Furthermore, the protester argues that the agency should have held face-to-face discussions with the protester, instead of furnishing discussion questions in writing, and contends that the agency was obligated to hold face-to-face meetings until such time as all questions were resolved. The protester argues that the failure to hold further meetings with Cajar gave rise to a reasonable presumption that the agency had no further questions and that the protester would receive an award.

The protester takes no specific issue with the agency's findings that its research proposal had essentially no chance to succeed within time and budget. The record shows that the agency discussed its concerns with the protester at a meeting on September 17, and expressed them again in letters of October 18 and 23. There is no basis for the protester's claim that the agency could not reject its proposal without resolving all outstanding issues by successive and continuous face-to-face meetings, and we find that the protester has not shown the agency's evaluation of the protester's proposal to be unreasonable. See Security Defense Sys. Corp., B-237826, Feb. 26, 1990, 90-1 CPD ¶ 231.

The protester next contends that the agency's technical panel was not qualified to evaluate its proposal and also objects to the agency furnishing a copy of its proposal for evaluation by personnel at Los Alamos and Sandia National Laboratories, whom the protester considers as competitors under the solicitation. The record shows, however, that neither Los Alamos nor Sandia submitted a proposal under the solicitation. Under the Federal Acquisition Regulation (FAR) § 35.017, each laboratory, as a Federally Funded Research and Development Center (FFRDC), functions only to meet special long-term research or development needs, which cannot be met as effectively by contractor resources; in that role, the FAR provides that FFRDC's have access to contractor data, including sensitive and proprietary data and to employees and facilities. We find no impropriety in the agency's furnishing Cajar's proposal to the two laboratories for evaluation.

purposes. See Scipar, Inc., B-220645, Feb. 11, 1986, 86-1 CPD ¶ 153. In any event, the agency points out that none of the information in the protester's proposal contained restrictive markings.


Our file in this case contains an abundance of correspondence from the protester; as part of this correspondence, the protester complained about the agency's failure to provide information regarding allegedly related activities at Picatinny Arsenal. The protester argues that our Office should have treated these complaints as a document request, under our Bid Protest Regulations, 4 C.F.R. § 21.3 (1991), and that if we had insisted that the agency turn its files over for our review, we would have found evidence that the agency acted in bad faith in inviting the protester to compete.

The protester has advanced no grounds for our Office to suppose that the agency has in its possession any documents evidencing bad faith in its invitation for Cajar to compete under the solicitation. Furthermore, our Bid Protest Regulations, 4 C.F.R. §§ 21.3(c), (d), require that a document request describe "specific" documents and that it be filed with our Office and with the contracting agency at the location specified in the solicitation within 2 days of receipt of the agency report. We do not find in any event that a general letter complaining of the agency's failure to share information with the public constitutes a document request as contemplated by our Bid Protest Regulations.^{1/}

Subsequent to filing its protest against the rejection of its proposal under solicitation No. DAAA21-90-BAA4, and having notified our Office and other Federal agencies that it was no longer capable or inclined to compete under future procurements, on April 3, 1991, the protester filed a protest against a second solicitation No. DAAA21-91-BAA1. The protester stated, however, that it was "unable to continue in business by a response to this subject solicitation." Acknowledging the advice of our Office that unless it were a potential offeror, Cajar could not protest the solicitation, the protester charges that the rule makes no sense and violates statute and regulation. To the contrary, the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551(2), 3553(a) (1988), clearly restricts our jurisdiction to protests submitted by

^{1/} The protester also appended a letter denying its Freedom of Information Act request to one of several letters to our Office. The protester also argues that this constituted a "document request"; the protester submitted nothing that qualified as a document request under our regulations.

interested parties, defined in the statute as "an actual or prospective bidder or offeror." The protest against DAAA21-91-BAA1 is therefore dismissed.


James F. Hinchman
General Counsel