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DECISION



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

[Protest of Army Contract Award]

FILE: B-194926

DATE: July 2, 1980

MATTER OF: Informatics, Inc. *CPG00803*

DIGEST:

1. Mere acceptance of functional specifications does not show offeror's ability to meet them; offeror who substitutes "we will" for "offeror shall" in response to items which it was directed to specifically address, without taking exception to any item, has not adequately indicated how requirements will be met.
2. Offer to provide specific equipment "or equivalent," which does not state what is being proposed or, if other than named equipment, demonstrate equivalency, is not capable of being made acceptable; discussions would allow offeror to decide what to propose during negotiations and would be tantamount to permitting offeror to submit entirely new proposal.
3. Technical evaluation is based on information submitted with proposal, not on industry knowledge. Regardless of offeror's capability, if it does not submit adequately written proposal, it will not be considered in competitive range or in line for further discussions.
4. Procuring agency has no obligation to conduct negotiations with offeror whose proposal is so deficient that it is initially excluded from competitive range. Permitting another offeror who was in competitive range to clarify proposal in areas which protester was found deficient does not show that protester was treated unfairly, since goal of negotiations is to point out deficiencies to offerors in competitive range and permit them to revise proposals.

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5. Purpose of benchmark is to demonstrate that offeror's equipment is capable of performing desired functions, not to provide information missing from proposal. In view of potential cost to both procuring agency and contractor, agency reasonably may restrict demonstration to offerors whose proposals are technically acceptable.
6. Acceptance of proposal which merely restates solicitation, in sole source negotiations with incumbent contractor, does not necessarily make such action proper in competitive procurement under different circumstances. Therefore, even though solicitations were similar, comparison of responses by prior sole source contractor and protester is not relevant.
7. Price need not be considered before proposal is rejected due to omission of material technical information.
8. Whether proposal needs clarification, and whether it can be made acceptable by clarification and reasonable effort by Government, are within discretion of procuring agency. GAO will not question its judgment unless there is evidence of fraud, prejudice, abuse of authority, arbitrariness, or capricious action.

Informatics, Inc. (Informatics) protests the exclusion of its proposal from consideration for award of a contract for teleprocessing services at Walter Reed Army Medical Center, Washington, D.C. The hardware and software systems being tested on an interim basis for 60 months (if option rights are fully exercised) will support centralized facilities for processing food and delivering supplies and linens within the hospital. The General Services Administration awarded the contract to Martin Marietta Data Systems in September 1979.

GSA found that Informatics' proposal lacked sufficient information to permit a determination of whether

it was technically acceptable. For the following reasons, we believe GSA was within its discretion in refusing to consider the proposal further.

Informatics alleges that its exclusion violates Federal Procurement Regulations (FPR) § 1-3.805-1 (1964 ed. amend. 153), which requires discussions with all responsible offerors whose proposals are "within a competitive range, price and other factors considered* * *." Informatics argues that deficiencies in its proposal either did not exist or could have been corrected if GSA had referred to its cover letter and appendixes to its proposal, held discussions, or permitted it to conduct a benchmark.

In addition, Informatics alleges that GSA improperly failed to consider its proposed price, since price was weighted 80 percent for evaluation purposes and technical features only 20 percent.

In reviewing protests concerning proposals which have been rejected due to information deficiencies, our Office has looked at the extent to which the solicitation called for detailed information. We also have considered whether the omissions showed that the offeror did not understand what it would be required to do under the contract, and whether the proposal as submitted was (1) inferior but capable of being made acceptable or (2) so deficient that an entirely new proposal would be needed. Finally, we have looked at the number of other offerors in the competitive range and at the potential cost savings offered by the rejected proposal. Electrospace Systems, Inc., 58 Comp. Gen. 415, 421 (1979), 79-1 CPD 264 at 12.

We believed a more detailed response than that provided by Informatics was required by the solicitation in this case. The general instructions, Section F of the Request for Proposals, stated:

"The offeror shall describe his services as they relate to this solicitation only * * *."
(Emphasis added.)

Offerors were asked to "specifically address" lettered and numbered sub-items (E.8 through E.8.4, for example) under each of three broad general headings: Mandatory Network Communications Facilities, Mandatory Systems Requirements, and Desirable Support Requirements.

GSA states that Informatics "parroted" the request for proposals, merely substituting "Informatics will" for "the offeror shall" in response to each item. This practice, GSA states, gave the technical evaluation team the impression that Informatics did not understand what was required. Clarification as to how, where, and in what manner Informatics would perform, GSA concludes, would have required an entirely new proposal and would have been unfair to other offerors.

Informatics, on the other hand, argues that the solicitation was for routine automatic data processing services, and "did not call for a dissertation on each paragraph of the specification." Informatics maintains that it did "specifically address" each requirement in "functional as a opposed to proprietary terms" (emphasis in the original).

Informatics acknowledges that it restated or paraphrased the request for proposals, but argues that this was the only way it could be sure that it included all mandatory and desirable features in its proposal. Although it did not cross-reference each item with the corresponding equipment or services listed in the appendixes to its proposal, Informatics concludes that since it took no exception to any items, its proposal should have been regarded as technically acceptable.

We disagree. We have held that mere acceptance of functional requirements does not evidence an offeror's ability to achieve those requirements and that parroting of functional specifications is not an adequate indication of how they will be met. Comten-Comress, B-183379, June 30, 1975, 75-1 CPD 400. See also PRC Computer Center, Inc., 55 Comp. Gen. 60, 70 (1975), 75-2 CPD 35 at 13; Neshaminy Valley Information Processing, Inc., B-194286.2, September 14, 1979, 79-2

CPD 199 at 6. A "specific" call for information may be no more than a general request which obviously was intended to elicit a specific response. Electrospace Systems, Inc., supra.

In this case, GSA directed offerors to describe their approach to the requirements "of this solicitation only"; such particularized information is distinguishable from the "unnecessarily elaborate proposals" which Informatics now argues are prohibited by regulation. We believe the instructions to "specifically address" the mandatory and desirable requirements were sufficient to put offerors on notice that they risked rejection if they did not do so. See Burroughs Corporation, B-194168, November 28, 1979, 79-2 CPD 376 at 4.

Informatics, in our judgment, failed to specifically address the requirements for teleprocessing at Walter Reed. Rather, it made blanket offers to comply with each item in the solicitation and attached to its proposal a general description of its data processing centers at Columbus, Ohio and McLean, Virginia.

With regard to the nature and scope of the information deficiencies which GSA relied on in rejecting Informatics' proposal, we find that while individual omissions may have been susceptible to correction, the sum total of them may have precluded GSA from making an intelligent technical evaluation. See generally PRC Computer Center, Inc., supra at 73.

We note that the parties dispute the exact number of information deficiencies (29 according to GSA). Although arguing that we should consider only those which GSA had identified at the time of its exclusion from the competition, Informatics has submitted to our Office a detailed technical analysis, including much proprietary information, of all 29 alleged deficiencies; alternatively, Informatics charges that the awardee's proposal had an equal number of deficiencies which it was allowed to correct.

GSA has identified as major problems the fact that Informatics did not define the configuration of its proposed hardware system; that the hardware listed in Appendix 2 to the proposal did not constitute a configuration; that it was not clear which disks or tapes were configured with each of the proposed systems; and the schematic diagram showing that all systems have access to all peripheral devices required clarification.

As an example of deficiencies which would have required an entirely new proposal, GSA cites the section of the solicitation covering Mandatory Network Communication Facilities. Within 45 days after notification of award, the offeror was to supply

"6 dedicated ports and 6 4,800 baud lines and modems (208A or equivalent)."

Informatics offered to provide "208A or equivalent." Similarly, for four other communications facilities sub-items, Informatics offered to provide the named equipment "or equivalent."

Implicit in a specification of this type is the rule that an offeror must not only state what is being proposed, but also, if something other than the named equipment, demonstrate its equivalency. If, as Informatics now contends, it actually was proposing the 208A, it should have said so in its proposal. Since Informatics did not, and did not offer a specific "equivalent," we agree with GSA that discussions on this point would have allowed the firm to decide what to propose during negotiations, and would have been tantamount to permitting it to submit an entirely new proposal.

Informatics contends that it is an "open and notoriously known fact in the industry, well known to GSA's computer experts," that the equipment listed in Appendix 2 as being available at its Columbus, Ohio, data center had "far more ports" than that called for by the specification. It is equally well known, Informatics states, that the "low, medium, and high speed terminals" described in Appendix 2 are capable of handling 300, 2,400, and 4,800 baud lines as specified.

Informatics responds in the same fashion to other GSA criticisms of its proposal. For example, the technical evaluation team noted that Informatics did not specifically state what operating system it was proposing and did not identify its proposed telecommunications access method; both, according to GSA, are crucial to the procurement, since data to be processed falls under the Privacy Act. Informatics indicates that computers available in Columbus operate under the OS/MVT and OS/VS2 operating system environment. While the former does not necessarily meet Privacy Act requirements, Informatics argues, it is "open and notoriously known" that the VS2 system meets all requirements. "Therefore, anyone who had a familiarity with Informatics' proposal would know that Informatics would provide the OS/VS2 operating system," the firm concludes.

A technical evaluation is made on the basis of information submitted with a proposal, Comten-Comress, supra, and Informatics could not expect to be evaluated on the basis of industry knowledge instead. No matter how capable an offeror may be, if it does not submit an adequately written proposal, it will not be considered in the competitive range or in line for further discussions in a negotiated procurement. Servrite International, Ltd., B-187197, October 8, 1976, 76-2 CPD 325 at 14; see also Genasys Corporation, B-190504, September 11, 1978, 78-2 CPD 182 at 5.

We do not believe any useful purpose would be served by discussing each of the remaining 27 alleged information deficiencies or omissions. Upon reviewing them, we find that GSA's determination that the proposal was materially deficient, and could not be made acceptable except by major revisions or alterations, to have been reasonable. See PRC Computer Center, Inc., supra at 73.

Regarding Informatics' allegation that the awardee had equally as many information deficiencies in its proposal, the parties also disagree as to what constitutes an information deficiency. For example, GSA may have had more than one question about an offeror's response

to a particular sub-item, but considered it only one deficiency.

In any case, the issue here is the materiality, not the number, of the alleged information deficiencies. The record indicates that in a substantial number of instances, Informatics failed to state with particularity how or whether it would comply with the specifications; Martin Marietta, on the other hand, was merely asked for clarification of data which apparently was already in its proposal. In no case did GSA find that Martin Marietta's proposal needed to be completely rewritten or showed a lack of understanding of what would be required under the contract. We therefore conclude that the deficiencies in Informatics' proposal were more serious than those in Martin Marietta's.

A basic goal of negotiations is the pointing out of deficiencies so that offerors in the competitive range may revise their proposals. But there is no obligation to conduct negotiations with an offeror whose proposal is so deficient that it is initially excluded from the competitive range, and the fact that Martin Marietta was permitted to clarify its proposal in areas which Informatics was found deficient does not establish that Informatics was treated unfairly. See Servrite International Ltd., supra at 15.

Nor did GSA have any obligation to permit Informatics to conduct a benchmark. The solicitation clearly stated that such demonstrations would only be performed by offerors who met all mandatory requirements. Benchmarking for the selection of teleprocessing services is potentially very costly for both the procuring agency and the contractor, Tymshare, Inc., B-193287, May 8, 1979, 79-1 CPD 317 at 11, and we believe GSA reasonably restricted the demonstration to offerors whose proposals as submitted were technically acceptable or capable of being made acceptable. In other words, the primary purpose of a benchmark is to demonstrate that an offeror's equipment is capable of performing the desired functions, Digital Equipment Corporation, B-183614, January 14, 1976, 76-1 CPD 21 at 7, not to provide information missing from a proposal.

Informatics relies heavily on the fact that its responses to this solicitation were virtually identical to those of Computer Sciences Corporation (CSC), the awardee under the 1978 contract for similar services. Informatics has attempted to show that its exclusion by GSA on the basis of these responses was arbitrary, capricious, and unreasonable. GSA argues that the prior solicitation was for development of the teleprocessing system for food services and logistics at Walter Reed, while this one was for production.

We note that CSC was the incumbent contractor, and that the responses cited by Informatics were in the context of sole source negotiations. Thus, although the solicitations are virtually identical, the awards appear to have been made under different circumstances. Even if the circumstances were the same, acceptance of a proposal which merely restated the solicitation one year would not make such action proper the following year. See Acme Paper and Supply Company, Inc., B-187439, January 18, 1977, 77-1 CPD 38. We therefore do not find it relevant to compare CSC's responses with those of Informatics.

Significantly, exclusion of Informatics did not leave only one other offeror in the competitive range; rather four proposals were considered further by GSA. As for consideration of potential cost savings, we have specifically rejected the suggestion that price must be considered before a proposal is rejected due to omission of material technical information. 53 Comp. Gen. 1 at 3 (1973).

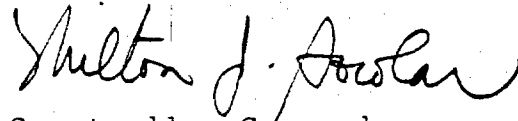
In conclusion, we have stated that whether a proposal needs clarification, and whether it can be made acceptable by clarification and reasonable effort by the Government are matters within the discretion of the procuring agency. We will not question its judgment unless there is evidence of fraud, prejudice, abuse of authority, arbitrariness, or capricious action. Struthers Electronics Corporation, B-186002, September 10, 1976, 76-2 CPD 231, citing B-165457, March 18, 1969.

None of these factors is present here.

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The protest is denied.

A handwritten signature in cursive script, reading "Milton J. Fowler".

Acting Comptroller General
of the United States