



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Bollam, Sheedy, Torani & Co.

File: B-270700

Date: April 11, 1996

Willard G. Reynolds for the protester.

Jesse E. Lasken, Esq., National Science Foundation, for the agency.

Susan K. McAuliffe, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably excluded the protester's proposal from the competitive range where solicitation placed heavy emphasis on technical factors, protester's proposal ranked tenth in technical merit of 34 proposals, and protester's initial price was higher than seven of the eight proposals with higher technical scores that were included in the competitive range (the higher-priced proposal that was included in the competitive range received a significantly higher technical score than the protester's proposal), and the evaluation record supports the agency's determination that, based on initial proposals received, the protester had no reasonable chance for award.

DECISION

Bollam, Sheedy, Torani & Co., LLP, CPA protests the exclusion of its proposal from the competitive range under solicitation No. OIG-95016, issued by the National Science Foundation for financial audits and related services. Bollam generally contends that since it has not had performance problems under its current contract with the agency for similar services, the exclusion of its proposal was improper.

We deny the protest.

Thirty-four proposals were received in response to the solicitation and the agency, after considering both technical and cost, included the eight highest technically ranked proposals in the competitive range. Bollam's proposal was ranked tenth

technically out of the 34 proposals received, offered a higher price than that offered by seven of the eight proposals included in the competitive range, and received a significantly lower technical score than the only higher-priced competitive range proposal.

The evaluation of proposals and resulting determination of whether a particular offer is in the competitive range are matters within the discretion of the contracting agency, since it is responsible for defining its needs and the best method of accommodating them. Crown Logistics Servs., B-253740, Oct. 19, 1993, 93-2 CPD ¶ 228. In reviewing challenges to an agency's competitive range determination, our Office does not independently reevaluate proposals; rather, we examine the evaluation to determine whether it was reasonable and in accordance with the solicitation criteria. Id. A proposal that is technically acceptable as submitted need not be included in the competitive range when, relative to other acceptable offers, it is determined to have no reasonable chance of being selected for award, based on price or other factors. Radio Sys., Inc., B-255080, Jan. 10, 1994, 94-1 CPD ¶ 9; Institute for Int'l Research, B-232103.2, Mar. 15, 1989, 89-1 CPD ¶ 273.

Bollam, which did not receive the agency's evaluation record but instead has requested an in camera review of the documents by our Office, does not challenge specific aspects of its proposal's evaluation or its technical score, but rather generally states that since the firm's performance on its similar prior contract with the agency was acceptable, the agency must have erred in excluding the firm's proposal from the competitive range on technical grounds.¹ We have reviewed the agency's evaluation record and competitive range determination and find it reasonable and proper.² Although Bollam's proposal was given substantial credit for the firm's performance under its current contract for similar services and was found to be technically acceptable, it did not receive as high a technical score as the proposals included in the competitive range because of numerous informational omissions. For example, detailed information was lacking as to the firm's (and its staff's) experience and proposed approach regarding pre-award proposal reviews and quality control reviews of workpapers, field work and reporting, specific use of

¹The protester asserts that the agency failed to consider price in making its competitive range determination. Although the notice of exclusion sent to the protester states that the proposal was excluded on technical grounds, the agency reports, and the record confirms, that price was a secondary factor in the comparative evaluation of proposals for purposes of determining the competitive range.

²Since this is an on-going procurement, and the technical evaluation scores and prices of the competitive range proposals are considered source selection sensitive, our discussion of the evaluation of proposals is necessarily limited.

and audit experience with various Office of Management and Budget Circulars, indirect cost experience, and proposed staffing, job duties, and level of effort. Comparatively, the proposals included in the competitive range were commended and received higher technical scores, for their detailed, informative technical presentations.

In negotiated procurements, since the agency's technical evaluation of proposal quality is based upon information submitted with the proposal, the burden is on the offeror to submit an adequately written proposal. See Communications and Data Sys. Assocs., B-223988, Oct. 29, 1986, 86-2 CPD ¶ 491. Bollam simply did not provide a sufficiently detailed proposal to warrant the conclusion, in light of the firm's proposed high price, that it would have a reasonable chance of receiving the award in light of the other proposals that were received and included in the competitive range. See Radio Sys., Inc., supra. Accordingly, the agency's exclusion of Bollam's proposal from the competitive range is not legally objectionable.

The protest is denied.

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