



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: C-Cubed Corporation

File: B-272525

Date: October 21, 1996

James P. Gallatin, Jr., Esq., Popham Haik, for the protester.

Thomas J. Touhey, Esq., Bastianelli, Brown, Touhey & Kelley, for Semcor, Inc., an intervenor.

Anita Dixon Polen, Esq., Department of the Navy, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency decision to eliminate protester's proposal from consideration for award was reasonable where it was not clear from best and final offer that protester had committed to providing personnel meeting the solicitation's education and experience requirements.

DECISION

C-Cubed Corporation protests the rejection of its proposal under request for proposals (RFP) No. N00189-94-R-0131, issued by the Department of the Navy for professional and technical engineering services for shipboard electronic and electrical equipment.

We deny the protest.

BACKGROUND

The solicitation, which contemplated award of a time-and-materials, delivery order contract for a 1-year base period, with four 1-year options, listed categories of personnel that would be required to perform the contract, as well as specific education and experience requirements for each. The electronics assembler was required to have a high school degree, and the junior engineering technologist was required to have successfully completed 2 years of study at a school of higher education; there were no experience requirements for either category. The nine miscellaneous support trades listed required a high school diploma and experience varying from 2 to 6 years in the specific trade. Thus, for example, a sheet metal worker was required to have 5 years of experience fabricating, assembling, installing and repairing sheet metal products and equipment.

C-Cubed proposed (for the first time) in its best and final offer (BAFO) to employ individuals from the Virginia Apprenticeship Program. Its proposal stated that:

"those are the individuals which are bid under the category of Electronics Assembler. Upon graduation from the program, the individuals will be elevated to either Jr. Engineering Technologist or Miscellaneous Support Trades."

The contracting officer rejected C-Cubed's BAFO as unacceptable because he found it unclear whether the apprentices from the Virginia program would meet the education and experience requirements for the positions which they would fill. More specifically, the BAFO did not indicate that the apprentices would have a high school degree, as required for the electronics assembler and miscellaneous support trades; did not indicate that the apprentices would complete the 2 years of higher education required for the junior engineering technologist; and did not indicate that the apprentices would have the required years of experience when promoted to the miscellaneous support trades.

C-Cubed maintains that the information furnished was sufficient to establish compliance with the education and experience requirements, and that rejection of its proposal therefore was improper. The protester points out that the apprentices in the Virginia program range in age from 16 to 24 years old, a range encompassing apprentices old enough to have completed high school (as required for the electronics assembler and miscellaneous support trades), and 2 years of higher education (as required for the junior engineering technologist). Similarly, with respect to the experience required for the various support trade labor categories into which it proposed to promote apprentices, C-Cubed notes that two trade categories under the Virginia program (carpenter and pipefitter) have apprenticeship periods long enough to meet the experience requirements for the support trade positions listed in the solicitation, and that its BAFO identified another category under the Virginia program—electrical worker—with an apprenticeship period (4 to 5 years) sufficient to meet the experience requirement for all but one category of the miscellaneous support trades.¹ C-Cubed concludes that it identified in its proposal a pool from which it could obtain adequately educated and experienced personnel, and that the Navy, in finding its proposal unacceptable, improperly assumed that C-Cubed would select from this pool individuals who do not meet the solicitation

¹C-Cubed also states that it was told that the contracting officer initially found that the apprentices met the requirements of the solicitation for the Electronics Assembler. The contracting officer's statement, however, referred to the experience requirement, not the education requirement.

requirements;² this conclusion, C-cubed asserts, was inconsistent with the statement in its proposal that "this proposal is fully responsive to the mandatory requirements of the RFP."

In a negotiated procurement, any proposal that takes exception to a material solicitation requirement, or otherwise fails to conform to the material terms and conditions of the solicitation, is unacceptable and may not form the basis for an award. See Scientific-Atlanta, Inc., B-253343 et al., Mar. 14, 1994, 94-1 CPD ¶ 325. Where an evaluation is challenged, we will review the matter to determine whether it was reasonable and consistent with the evaluation factors. Dylantic, Inc., B-261886, Oct. 30, 1995, 95-2 CPD ¶ 197. The Navy reasonably evaluated and rejected C-Cubed's proposal.

While the pool of employees identified in C-Cubed's BAFO contained some individuals who would be able to satisfy the education and experience requirements, not all of the individuals in the pool could satisfy the requirements. By identifying only the pool, without also indicating that only qualified individuals would be selected from the pool, C-Cubed's BAFO was unclear as to whether the firm was proposing to comply with the education and experience requirements, or was taking exception to those requirements by proposing participation in the Virginia program as a substitute for the specific education and experience requirements in the RFP.

C-Cubed's failure to commit to meeting the education requirements was a sufficient basis for rejecting its proposal as unacceptable. However, we also note that C-Cubed's BAFO did not adequately indicate that the experience requirements would be satisfied. C-Cubed is correct that certain of the apprenticeship periods under the Virginia program--carpenter, pipefitter, and electrical worker--are long enough to meet the number of years of experience required for the corresponding support trades under the RFP. However, C-Cubed's BAFO did not state that only carpenter, pipefitting, and electrical worker apprentices would be hired from the Virginia program (for the electronics assembler positions), or that the individuals hired would be promoted from the electronics assembler position only into the carpenter, pipefitter, and electrical worker support trades. In this regard, C-Cubed's argument ignores the fact that the solicitation required not just a specific number of

²Noting that the technical evaluation team found that its BAFO was acceptable, C-Cubed questions how the contracting officer could determine that its BAFO was unacceptable. The technical team, however, found that C-Cubed's revised proposal, not its BAFO, was fully acceptable. Where an offeror introduces changes into its BAFO, it takes the risk that those changes may render its previously acceptable proposal unacceptable. Marylou's Transp. Serv., B-261695, Sept. 28, 1995, 95-2 CPD ¶ 154.

years of experience for the support trades, but that the experience be in the specific trade in which the individual will be employed. Thus, without some representation in C-Cubed's proposal that it would hire (and subsequently promote) only carpenter, pipefitter, and electrical worker apprentices, the agency had no assurance that the individuals in the support trade positions would satisfy the experience requirements for each position.

C-Cubed's argument that there was no basis for the agency to assume that it would deliberately violate the terms of the solicitation misses the point. The agency was not assuming that C-Cubed would violate the RFP terms but, rather, was anticipating that, in performing the contract, C-Cubed could assert that the agency had accepted its proposal to substitute apprenticeship in the Virginia program for the education and experience requirements in the RFP. While C-Cubed states that it intended to fully comply with the RFP requirements in selecting and promoting individuals from the Virginia program, the Navy was not obligated to accept the risk that C-Cubed would assert that the language of its proposal permitted it to select or promote individuals who did not meet the RFP requirements. It is an offeror's obligation to submit a proposal fully demonstrating that it intends to comply with the solicitation terms. Diagnetics, Inc., B-261712, Sept. 28, 1995, 95-2 CPD ¶ 165. A blanket offer of compliance, such as C-Cubed's statement that its proposal meets the requirements of the solicitation, does not meet this burden. See Marylou's Transp. Serv., supra.³

The protest is denied.

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³C-Cubed asserts that the Navy provided an inadequate debriefing. This is a procedural matter concerning agency actions after award which are unrelated to the validity of the award; we generally will not review such matters. Infotec Dev., Inc., B-258198 et al., Dec. 27, 1994, 95-1 CPD ¶ 52.