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Decision

Matter of: Integrated Technology Works, Inc.-Teltara, Inc.

File: B-286769.5

Date: August 10, 2001

Robert K. Tompkins, Esq., and Dean M. Dille, Esq., Patton Boggs, for the protester. Wilson J. Campbell, Esq., Naval Facilities Engineering Command, 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

Where protester submitted proposal that failed to comply with requirement that type be no smaller than 12 pitch, agency's reformatting of the proposal into required type size--as a result of which, proposal exceeded the 30-page limit--was unobjectionable, where agency's reformatting approach was reasonable.

DECISION

Integrated Technology Works, Inc.-Teltara, Inc. (ITW) protests the award of a contract to Nova Commercial Company under request for proposals (RFP) No. N68711-00-R-7734, issued by the Department of the Navy for janitorial services. ITW asserts that the Navy improperly determined that its technical proposal exceeded the 30-page limit imposed by the solicitation, and therefore improperly failed to evaluate the entire proposal.

We deny the protest.

The RFP provided for award on a "best value" basis with technical factors approximately equal to price, and notified offerors that the agency intended to award the contract without holding discussions. The technical factors were Past Performance, Experience and Management/Administration Plan. Subfactors were listed for each factor, including (relevant here) the following Management/Administrative Plan subfactors: C1 - Management Plan for Work Accomplishment, C2 - Detailed Management Plan for Quality Control, C3 - Management Plan for Contract Administration, and C4 - On Site Staff and Organizational Structure. RFP amend. 3, § M, at 2-3. The RFP instructed offerors that the proposal's technical volume was limited to 30 pages and "must be legibly typed on 8 ½ by 11 inch paper

with margins no less than one inch on each border, and a type not smaller than 12 pitch.”¹ Id., § L, at 1-2.

Fourteen offerors, including ITW and Nova, submitted technical proposals, which were evaluated by a technical evaluation board (TEB). The TEB found that ITW’s proposal was not typed in the 12-pitch required by the RFP. Supplemental Agency Report (SAR) at 1. Rather than reject the proposal, the agency chose to retype a sample of it in the correct size type to determine what information properly fell within the 30-page limit, and should be evaluated. Id. Initially, the agency retyped part of ITW’s proposal in 12-point Times New Roman font, and determined that the proposal information related to subfactors C3 and C4 fell outside the 30-page limit. The agency thus assigned ITW unacceptable ratings under these subfactors and, as a result, for its overall technical proposal. Subsequently, the agency determined that Nova’s proposal represented the best value to the government and made award to that firm.

ITW protested the award to our Office (B-286769.2), arguing that the 10-point font it used to type its proposal was equivalent to 12-pitch type, and that the Navy improperly retyped its proposal in a 12-point font which, it claimed, is not equivalent to the required 12-pitch type. The agency conceded that 12-pitch is not equivalent to 12-point, but disagreed that ITW’s proposal as submitted was typed in a font equivalent to the required 12-pitch type. The agency explained in this regard that fixed-spaced varieties of 10-point fonts, such as 10-point Courier New, are 12-pitch type, because (being fixed-spaced) they always type 12 characters per inch; the 10-point Times New Roman type that ITW used in parts of its proposal was not equivalent to 12-pitch type, because it used proportional spacing, and therefore included more than 12 characters per inch. Agency Report (AR) at 10. Thereafter, the Navy informed our Office and ITW that it would take corrective action by reformatting ITW’s entire proposal in 12-pitch type, and reevaluating any previously unevaluated information that fell within the 30-page limit. As a result, our Office dismissed the protest as academic. (The agency also decided to reformat Nova’s

¹ Relevant definitions from Microsoft’s “Definitions of Typography Terms in Word,” located at <http://support.microsoft.com>, are:

Font Size - The size of type, measured in points between the bottom of the descender and the top of the ascender (the vertical point size of a font). Sometimes referred to as the Type or Point size.

Pitch - The amount of horizontal space used for each character of fixed-width fonts, often specified in characters per inch.

Point - A unit of measurement, often used to measure type size . . . (approximately equal to 1/72”).

proposal in 10-point Courier New after determining that it was not typed in 12-pitch type.)

The reformatting resulted in bringing the subfactor C-3 information in ITW's proposal within the 30-page limit. Evaluation Memorandum, Apr. 16, 2001, at 2. (Nova's entire proposal remained within the page limit.) However, the information related to subfactor C-4 still fell outside the 30-page limit and therefore was not evaluated; as a result, ITW's rating for that subfactor remained unacceptable. Id. The agency determined that this unacceptable rating made an award to ITW too risky, id. at 4, and therefore reaffirmed the award to Nova. ITW then filed this protest.

PROPOSAL COMPLIANT AS SUBMITTED

ITW maintains that its proposal as initially submitted met the solicitation 12-pitch type requirement. In this regard, the protester explains that, in preparing its proposal, it referenced Microsoft's on-line help and was informed that the 10-point type in its proposal is equivalent to 12-pitch type.

Under our Bid Protest Regulations, a protest that does not involve a solicitation impropriety generally must be filed within 10 days after the protester learns the basis of protest. 4 C.F.R. § 21.2(a)(2) (2001). Here, the Navy advised ITW on March 26 that, in implementing its corrective action, it would define 12-pitch type as 12 characters per horizontal inch, and would use that standard to reformat ITW's proposal. AR at 9; Protest at 5. Thus, if ITW believed that its proposal as prepared using its proportionally spaced 10-point type already complied with the solicitation, and that reformatting therefore was unnecessary, ITW was required to protest on this basis no later than April 5, 10 days later. Since ITW did not file its protest until May 21, this issue is untimely and will not be considered.²

REASONABLENESS OF AGENCY'S REFORMATTING

ITW maintains that the agency improperly reformatted its proposal in a manner that exceeded the 30-page limit, since ITW was able to prepare a reformatted version of fewer than 30 pages using the same 10-point Courier New font as the agency. ITW attributes the Navy's longer version to its addition of a full blank line between paragraphs, and its expansion of ITW's graphics. Noting that the solicitation did not require a blank line between paragraphs, and that its proposal as initially submitted

² In any case, we note that ITW's entire proposal was not typed in a 10-point font; it was typed in fonts that were as small as 4.5-point. TEB Report, Jan. 17, 2001, at 7. Thus, ITW's proposal would not meet the 12-pitch requirement even if ITW were correct that the 10-point proportionally spaced font it used is equivalent to 12-pitch type.

included less than a full line break (a break of 6 points, while the text was 10 points) between paragraphs, ITW concludes that the Navy's reformatting approach was unreasonable.³ Protester's Supplemental July 18, 2001 Submission at 1.

We do not agree with ITW that the agency's approach was unreasonable. First, as a general matter, we have reviewed the reformatted proposal and find nothing unconventional in the format and, in particular, no excessive blank space. Specifically regarding the paragraph spacing, the solicitation required offerors to present proposals that were legibly typed, and we do not think the agency was required to compromise this requirement in order to squeeze the maximum amount of type onto each page. While ITW left only one-half line between paragraphs, we find nothing inherently unreasonable in the agency's leaving a full line; the agency's approach is not unreasonable merely because it differed from ITW's initial proposal. We note, moreover, that ITW's argument ignores two ways in which the agency's approach deviated from ITW's, but benefited ITW--ITW's initial proposal included 1¼-inch left and right margins and a significant amount of white space, and the agency's reformatting reduced the left and right margins to 1 inch (thus adding ½-inch of text on every line) and eliminated the extraneous blank space.

ITW also argues that the agency unreasonably expanded the graphics in its proposal. This argument also is without merit. The agency explains that, in reformatting the proposals, it did not change text that was part of a graphic or chart, and did not appear to have been typed in by the offeror, even where the graphics included smaller than 12-pitch type. On the other hand, because the 12-pitch requirement applied to information "typed" in the proposal, RFP § L at 1-2, the agency increased to 12-pitch type any information that an offeror typed into its proposal, including information that surrounded or explained a graphic. SAR at 4. Because ITW's proposal included typed-in explanatory information with its graphics, those portions of ITW's proposal took additional space, even though the size of the graphics was not increased. SAR at 5. This approach was entirely consistent with the 12-pitch requirement as set forth in the RFP, and therefore was reasonable.

BIAS

ITW asserts that the Navy was biased against it, and in favor of Nova. In this regard, the protester claims that the Navy adopted a new standard for 12-pitch, and decided to take corrective action on its initial protest, only after it determined that Nova's

³ ITW argues that the Navy should have accepted ITW's own reformatted version of its proposal. This argument is untimely, since ITW knew on March 26 that the agency intended to reformat the proposal, but did not protest on this basis within 10 days thereafter. 4 C.F.R. § 21.2(a)(2).

proposal would remain within the 30-page limit under the new standard.⁴ Government officials are presumed to act in good faith; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Instrument Specialists, Inc., B-279714, July 14, 1998, 98-2 CPD ¶ 18 at 3 n.2. Where, as here, a protester alleges bias or bad faith on the part of a procurement official, the protester must present credible evidence that the official acted with the intent to harm the protester. TEAM Support Servs., Inc., B-279379.2, June 22, 1998, 98-1 CPD ¶ 167 at 3. The record does not establish bias. ITW's argument attributes an improper motive to the agency, and simply concludes that the agency therefore was biased. However, there is no evidence that the agency's actions were based on such an improper motive. In particular, there is no basis to conclude that the agency decided on its corrective action in response to ITW's original protest only as a result of determining that the intended corrective action would lead to a determination that Nova's proposal met the 30-page limit and ITW's did not.

The protest is denied.

Anthony H. Gamboa
General Counsel

⁴ Citing our decision in Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, ITW argues that the agency's reformatting and reevaluation are entitled to little weight because they took place during the heat of the protest process. Boeing is inapposite to the facts here. There, the agency argued that the protest challenging the evaluation had no merit, and prepared a hypothetical reevaluation to demonstrate that, even if its evaluation were wrong, the protester would not receive the award and therefore was not prejudiced. Here, the reformatting and reevaluation were conducted, not as a hypothetical exercise to show that ITW was not prejudiced, but as corrective action after the agency conceded that ITW's protest had merit.