



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Information Systems Technology Corporation

File: B-288490.2

Date: July 3, 2002

Paul J. Chun, Ph.D., for the protester.

Eric J. Marcotte, Esq., and Scott A. Schipma, Esq., Winston & Strawn, for Spherix, Inc., an intervenor.

David T. Truong, Esq., Office of Personnel Management, for the agency.

Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that evaluation and source selection decision were flawed is denied where the record shows that the evaluation and source selection were reasonable and consistent with evaluation factors.

DECISION

Information Systems Technology Corporation (ISTC) protests the award of a contract to Spherix, Inc. under request for proposals (RFP) No. OPM-RFP-00-01037DHH, issued by the Office of Personnel Management (OPM), for call center services for the Retirement Information Office (RIO). ISTC argues that the agency misevaluated its revised proposal and unreasonably downgraded ISTC's technical score.

We deny the protest.

OPM's Retirement and Insurance Service (RIS) provides retirement, health benefits, and life insurance services to more than 2.4 million federal retirees and their survivors. The RIO serves as the primary point of contact for federal annuitants to obtain information relating to their benefits and to make changes to their retirement and insurance accounts. The RIO consists of three separate call centers located at different geographic locations and staffed by approximately 120 customer service specialists. The call centers are accessed by a single toll-free number that is "front ended" by an automated response system. Callers can bypass the call centers' automated system and speak with a customer service specialist. The specialist is

available to answer retirement-related questions and perform a number of transactions relating to an annuitant's retirement and health insurance accounts.

The RFP was issued on October 4, 2000 electronically through OPM's procurement website to acquire services necessary to handle "overflow" telephone calls to the RIO. The RFP contemplated the award of a fixed-priced, indefinite-delivery/indefinite-quantity contract. The contractor is required to establish and staff a call center to handle overflow telephone calls at an estimated 22,000 to 25,000 calls per month, process and transact a wide range of actions relating to the caller's account, and transmit these transactions to OPM's mainframe system on a daily basis and in a compatible format. RFP § C.2. The RFP provided that an offeror first must demonstrate that it has successfully completed at least three similar projects, one within the past year, and has successfully transmitted data to an outside entity. After offerors satisfied this initial go/no-go criterion, they would be evaluated under the following technical evaluation factors in descending order of importance:

- (1) Firm's Experience and Qualifications in Similar Projects
 - a. Corporate Experience
 - b. Personnel Experience
 - c. Past Performance
- (2) Understanding the Problem and the Approach to Solving the Problem
 - a. Operating Plan
 - b. Management Plan
 - c. Quality Assurance Plan

The RFP stated that the technical factors would be afforded a significantly higher weight than cost in selecting the successful offeror. Award would be made to the offeror whose proposal was determined most advantageous to the government, considering primarily the offeror's demonstrated technical excellence with price and other factors considered.

Seven offerors submitted proposals that were reviewed by a four-person technical evaluation panel (TEP). Only the proposals of ISTC and Spherix were determined by the contracting officer to have a reasonable chance of being selected for award. The agency subsequently found both proposals to be conditionally acceptable and included both proposals in the competitive range. The TEP identified several weaknesses in both proposals and sent both ISTC and Spherix discussion questions.

The TEP reviewed the offerors' responses to the discussions questions. As a result, ISTC's technical score increased from 83 points out of a possible 100 points to 92 points. Spherix increased its technical score from 91 points to 99 points.

On April 12, 2001, the agency held oral negotiations with ISTC and Spherix. The contracting officer informed ISTC that the purpose of the meeting was to discuss concerns the agency had with respect to ISTC's understanding of the requirement

because of its extremely low price. Specifically, the agency wanted to discuss with ISTC the T-1 telecommunications line requirement, staffing needs in the event of an emergency, and ISTC's understanding of the requirement for real-time display for monitoring activities. In responding to the agency's concerns, ISTC advised that of two alternate approaches it proposed in its initial proposal for interacting with OPM's database system it intended to implement the batch file transfer approach.¹ ISTC described a process in which OPM would ship a copy of OPM's entire annuitant database to ISTC daily, and ISTC would update the files to reflect the changes that were made as a result of telephone requests by annuitants, and then ship the files back to OPM in the evening for processing.

After the oral negotiations, OPM faxed both offerors letters summarizing the discussions and setting the date and time for final proposal revisions. In its fax to ISTC, the agency requested additional information as to how ISTC intended to obtain additional staff in the event of an emergency and asked that ISTC address its plan for providing a real time display for monitoring activities. ISTC timely submitted its proposal revisions. After evaluating ISTC's final proposal submission, the TEP reduced the total points awarded to ISTC from 92 to 81. The TEP concluded that ISTC's file transfer approach presented an unacceptable risk to contract performance and was totally impractical for a number of reasons, including security concerns related to allowing its database outside of OPM's control. The TEP also continued to question the viability of ISTC's plan for providing additional customer service specialists to handle OPM calls in the event of an emergency or disaster.

The TEP concluded that the Spherix proposal was technically superior to ISTC's. The agency determined that Spherix had experience in projects closely related to the current requirement and its overall technical approach and understanding of the agency's needs were superior to ISTC's. Although the evaluated cost for Spherix was 18 percent higher than ISTC, the agency concluded that Spherix's solid understanding of the agency's needs, overall technical approach and demonstrated performance of similar work outweighed the price difference. Award was thus made to Spherix on July 17, 2001.

On August 2, 2001, ISTC filed a protest with our Office. In that protest, ISTC argued that the agency had improperly evaluated its proposal, that the best value determination was not in accordance with the solicitation's evaluation criteria, and that the agency had failed to conduct adequate discussions. During a conference call to request that the agency further address the protester's allegation concerning the adequacy of discussions, our Office expressed concerns about whether the agency had conducted meaningful discussions with the protester. Specifically, it appeared that the agency had not discussed with the protester its position that the protester's

¹ In its initial proposal, ISTC proposed two alternate approaches: (1) direct access to OPM's database or (2) file transfer in batch mode.

proposed batch method for interacting with OPM's retirement system database was not acceptable. OPM subsequently decided to reopen discussions, request and evaluate proposal revisions, and make a new award decision. In light of the agency's actions, our office dismissed the protest.

OPM subsequently amended the solicitation to advise the two competitors that the batch file approach was not acceptable. The amendment, while not changing the award determination basis, provided further explanation in support of the evaluation factors as follows:

- A. Experience & Qualifications
 - (1) Corporate Experience
 - Relevance and Scope of Prior Process Operations
 - Relevance and Scope of Transaction Processing
 - Relevance and Scope of Data Transmissions
 - Extent Facilities are in Place
 - (2) Personnel Experience
 - Relevance of Prior Personnel Experience
 - Degree of Commitment of Staff to the Project
 - Staff Education Requirement
- B. Understanding the Problem
 - (1) Operating Plan
 - Awareness of Problem Areas
 - Feasibility of Proposed Approach
 - (2) Management Plan
 - Coordination and Monitoring Activities
 - Resource/Staffing Plan²

Discussions were reopened with both offerors and revised proposals were requested. In the discussion letter to ISTC, the agency advised ISTC that it had the opportunity to change its file transfer approach and asked ISTC to fully describe how it would handle the estimated 25,000 calls per month. Additionally, ISTC was asked to more fully describe how the company would obtain staff in the event of a disaster or emergency affecting the OPM telephone system, including where the staff

² Although not discussed in the record and not a protest issue, the amendment language omitted past performance as a specific evaluation subfactor under the first technical factor and quality assurance plan as a subfactor under the second technical factor.

would come from, how long it would take to obtain the necessary staff, and how long the staff would be committed to the project. Spherix was asked to consider reducing its price.

Final proposal revisions were received by October 31, 2001. Spherix elected not to revise its proposal or reduce its price. After evaluation of final proposal revisions, ISTC received 81 out of a possible 100 points. Since Spherix elected not to revise its proposal, the agency did not reevaluate its proposal, and therefore Spherix's initial evaluation score of 99 remained unchanged.

In reviewing ISTC's final proposal revision, the agency found multiple deficiencies in its proposed approach to interfacing with OPM's database. Specifically, the agency found that ISTC did not indicate whether the hardware and software it proposed to utilize for the interface with OPM's database would be located in the facility that would house the call center.³ The agency also determined that ISTC's online data entry approach posed a security concern. In addition, the agency noted that ISTC failed to describe in detail how it would handle the calls received in the event of emergency or disaster. The agency also found that ISTC's staffing plan did not adjust coverage for the increase of calls during peak call periods. Further, ISTC's proposal did not establish that ISTC possessed a sufficient number of personal computers and workstations to handle the OPM telephone calls. Finally, the agency expressed concern that the workstations ISTC planned to use would not be able to support the required graphic user interface.

In comparison, the agency found Spherix's proposal demonstrated a clear understanding of the needs of the project and proposed safeguards to address contingencies. For example, Spherix proposed back-up facilities in the event of an emergency or down time at its primary location or in the event of an emergency or disaster affecting the OPM telephone system. Additionally, Spherix's call center facilities included all necessary call center infrastructure and equipment, as well as furniture and workspace for staff. The agency found that Spherix's proposal demonstrated in-depth risk management and an acceptable contingency plan with the goal of uninterrupted services. The agency concluded that Spherix's proposal was technically superior to ISTC's and represented the best value to the government despite its associated higher price. On March 21, 2002, ISTC was notified that award had been made to Spherix. Following, a debriefing, ISTC filed this protest with our Office.

³ ISTC proposed to house the OPM call center at a location in Columbia, Maryland. However, ISTC also indicated in its final proposal revision that some of the equipment it planned to use in performance of the requirement was located in Lancaster, Pennsylvania and currently dedicated to other government projects.

The protester argues that the agency's evaluation of its revised proposal was unreasonable and disagrees with all of the evaluation findings discussed above. We have considered all of ISTC's allegations, many of which are unfocused and unclear, and find them without merit. Our review of the record shows that the protester's proposal was reasonably evaluated in accordance with the solicitation's evaluation criteria. We will limit our discussion in this decision to several representative issues.

The evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Federal Envtl. Servs., Inc., B-260289, B-260490, May 24, 1995, 95-1 CPD ¶ 261 at 3. In reviewing protests challenging an agency's evaluation of proposals, we will not substitute our judgment for that of the agency regarding the merits of proposals; rather we will examine the agency's evaluation only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria, and with procurement statutes and regulations. Honolulu Marine, Inc., B-245329, Dec. 27, 1991, 91-2 CPD ¶ 586 at 3. A protester's mere disagreement with the agency's evaluation does not render it unreasonable. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454 at 5.

With respect to the call center hardware location, ISTC argues that it demonstrated that the additional hardware would be installed at the call center site. The record shows that ISTC proposed initially that its call center would be located in Columbia, Maryland. In its final revised proposal, as explained above, ISTC indicated that some of the equipment to be used in performance of the requirement was currently located in Lancaster, Pennsylvania and was being used in support of other government projects. As noted by the agency, ISTC's revised proposal did not provide any details concerning whether or when it intended to move this equipment from Pennsylvania to Maryland, or how it would connect this equipment to the call center if it was not going to physically move the equipment. ISTC also failed to explain how it could make use of the equipment in Pennsylvania when it is currently dedicated to other government projects. The protester primarily argues that Exhibit 2-1 of its revised final proposal demonstrates that the new hardware would be installed with the existing equipment at its Columbia location. This exhibit is a diagram of the major components of the call center computer and telephone system. It does not address location of the systems. In any event, ISTC's revised proposal did not provide a plan or timeline for removal of the equipment from Pennsylvania to Maryland. Even in its comments to the agency report submitted in response to this protest, ISTC does not provide an explanation of how it intended to integrate and connect the equipment in the two facilities. Given these legitimate concerns, we think the agency reasonably downgraded ISTC for not adequately addressing how its equipment and facilities would satisfy agency requirements under the "Extent Facilities are in Place" area.

ISTC also argues that the agency unreasonably downgraded its proposal with respect to the on-line data entry operation on the basis of unwarranted security problems. The record shows that the agency's major concern with ISTC's approach was that it

lacked validation procedures. Specifically, the agency found that ISTC failed to describe how it would verify a caller's identity while OPM's database system was down. ISTC provided in its proposal that "[d]uring this period (in the event of an OPM system malfunction), every telephone call will be responded to by the [customer service specialist]. However, the caller's request will be recorded using the Online Data Entry System with the information on the callers and call content." Tab 9, ISTC's Revised Proposal at 8. ISTC maintains that its approach does not constitute a security risk. ISTC argues that its proposal provides for workstations to return to normal operations once the system is functioning, and the transactions recorded would be entered online.

The record shows that ISTC in its proposal never described a procedure for verifying a caller's identification in the event of the system malfunction. From ISTC's protest submissions, it appears that ISTC believed that this matter would be resolved during the transition period when OPM is obligated to provide the contractor with a password to access the OPM database. ISTC Additional Response at 4. However, ISTC's apparent willingness to address security issues after contract award does not explain ISTC's failure to address its proposed approach to verifying the identity of callers in the event the database was unavailable; nothing in its submissions to our Office explains how it plans to handle caller identification. Thus, the agency's downgrading of ISTC's proposal in the areas of the "Awareness of Problem" and "Feasibility of Proposed Approach" for not addressing this concern was reasonable.

ISTC also alleges that OPM in its reevaluation unreasonably and unfairly reduced its technical point score of 92 to 81 points.⁴ It is ISTC's position that instead of performing a complete revised proposal evaluation, the agency should have used 92 points as the base and then evaluated the results of the limited proposal revision to the following two issues: online processing approach and staffing plan. We do not find it unreasonable that the agency did not rely on any previous score as a starting point in its reevaluation of ISTC's proposal. In its revised proposal, for the first time, ISTC provided details with respect to its proposed direct access method for interacting with OPM's database system. In fact, while ISTC's revised proposal

⁴ ISTC also alleges that the agency improperly evaluated its price. The agency reports that ISTC's price was evaluated at a lower amount than proposed because the proposed price failed to take into consideration that the base year was only 4 months instead of a full year. As the agency points out, ISTC was not prejudiced in the agency's cost/technical tradeoff by being evaluated at a lower price.

was downgraded in several areas, ISTC's proposal also was rated higher in several areas. In our view, the record shows that the agency conducted a reasonable evaluation of ISTC's proposal based on ISTC's revised approach.

The protest is denied.

Anthony H. Gamboa
General Counsel