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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Information Systems Technology Corporation

File: B-289313

Date: February 5, 2002

Paul J. Chun for the protester.

Gilbert J. Ginsburg, Esq., for Aspen Systems Corporation, an intervenor.

Wilsie Y. Minor, Esq., Corporation for National and Community Services, 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

1. Protest that evaluation and source selection decision was flawed is denied where the record shows that the evaluation was reasonable and consistent with the evaluation factors.
 2. Protest alleging that agency failed to conduct meaningful discussions with protester by failing to advise protester of perceived weaknesses during the site visit is denied where record shows that written discussions prior to the site visit reasonably apprised protester of the areas of its proposal that were considered deficient, exchanges conducted during the site visit centered on the facilities, and agency subsequently requested and evaluated final proposal revisions which incorporated discussion responses.
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DECISION

Information Systems Technology Corporation (ISTC) protests the award of a contract to Aspen Systems Corporation under request for proposals (RFP) No. HQMCS0101, issued by the Corporation for National and Community Service (CNCS) for services at several CNCS offices to support efforts to provide awareness and access to the CNCS programs and departments. These support services include recruitment support consisting of providing "1-800" numbers and planning and conducting mailings; operators to take calls and provide information concerning the organization; promotional display management; and management and warehousing of recruitment, display and other agency materials. ISTC contends that the agency

failed to conduct meaningful discussions, erred in evaluating ISTC's technical proposal and failed to perform a proper cost realism analysis.

We deny the protest.

As amended, the RFP provided for award of a time-and-materials contract for a base year with four 1-year options. The RFP provided for award on a "best value" basis. The RFP also provided for the evaluation of cost reasonableness and a past performance evaluation. The technical factors consisted of understanding of requirement and technical approach, technical experience and similar work, personnel qualifications and corporate capability and facilities, all of which were of equal value.

The agency received seven proposals by the May 7, 2001 closing date. After the initial evaluation, three proposals, including those of ISTC and Aspen, were included in the competitive range. Written discussion questions were sent to each competitive range offeror and after a review of the responses submitted, site visits were scheduled. During the site visits there were oral discussions with offerors concerning the facilities, but no further discussions concerning specific weaknesses in the proposals. After the site visits, final proposal revisions were received and evaluated. With respect to the protester and the awardee, the final evaluations were as follows:

Offeror	Technical Score	Cost/Price	Past Performance
ISTC	77.4	\$9,698,398	Very Good
Aspen	96.4	\$8,998,347	Excellent

Agency Report (AR) encl. 19, at 2.

ISTC, the incumbent, has successfully performed the requirement for several years, and the evaluators determined that its proposal contained several strengths. However, the evaluators also noted several weaknesses, including ISTC's failure to provide an online catalog as required by the RFP, failure to recommend improvements /adjustments to the existing operations, and failure to provide a thorough overview of its communication systems with the contracting officer's technical representative (COTR) and other CNCS staff. Aspen received the highest overall technical score. The evaluators found numerous strengths in Aspen's proposal, although the evaluators did note several weaknesses not at issue here. Aspen's high technical rating was based on 12 evaluated strengths, which included Aspen's recommendations for improving procedures, its high level of understanding of the requirements, its in-house capabilities, its extensive display management experience, and its outstanding phase-in and training proposal. AR encl. 18, Technical Evaluation Memorandum, at 1-3.

The agency performed a cost realism analysis. As a baseline for projecting potential cost, the agency used historical data for the period June 1, 2000 through May 31, 2001. AR encl. 19, Source Selection Decision, at 5. The results of this analysis showed Aspen's cost would be higher than ISTC's proposed costs if Aspen actually incurred the hours used in the historical data. The contracting officer reviewed the cost realism analysis and examined Aspen's processes for achieving several of the requirements, which included efficiencies based on the technical "sophistication of their operations," and concluded that the lower number of hours proposed by Aspen was consistent with its methodologies for accomplishing the statement of work. Moreover, the contracting officer determined that even if Aspen incurred labor-hours during the life of the contract equal to those used in the cost realism analysis, thus resulting in additional costs, Aspen's technical strengths and overall superiority justified the additional cost. Consequently, the contracting officer determined that Aspen offered the best value to the government. ISTC was notified of the award to Aspen on October 18, 2001. Following a debriefing, ISTC filed this protest with our Office.

The protester's primary challenge to its proposal evaluation is based on its contention that the weaknesses identified during the debriefing were fabricated by the evaluators and unsupported. For example, the protester contends that the agency erroneously concluded that its proposal placed a great deal of quality control burdens on agency personnel, that its proposal did not address training and development of telephone operators, and did not give sufficient attention to the monitoring of the quality of services. The protester also contends that it was penalized as the incumbent for not proposing operation improvements.¹

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

¹ISTC also objects to the specific point scores given by the evaluators to both offerors for each evaluation factor. Point scores are only guides to intelligent decision making by source selection officials. Beyond the mere point scores, the real issue is whether the competing proposals offer differing levels of technical merit, a question that is essentially a matter for the judgment of the agency evaluators. Deborah Bass Assocs., B-257958, Nov. 9, 1994, 94-2 CPD ¶ 180 at 4.

disagreement with the agency's evaluation does not render it unreasonable. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454 at 5.

Our review of the record shows that the protester's proposal was reasonably evaluated in accordance with the solicitation evaluation criteria. Contrary to the protester's characterization that the agency fabricated bases for downgrading its proposal, the record shows that ISTC submitted an acceptable proposal that simply was not rated as high as the awardee's with respect to understanding of the work, technical approach, and facilities. Each evaluator produced a detailed narrative assessment of each proposal under each evaluation factor. For example, the evaluators noted ISTC's strengths as "training program is well defined," "quality assurance plan is effective and responsive to fluctuations," "addressed need to be flexible and however responsive" and "thoughtful and well-organized staffing plan." AR encl. 18, Technical Evaluation Memorandum, at 2. However, the evaluators noted several weaknesses in ISTC's proposal that involved ISTC's failure to provide details concerning its training program, quality assurance plan and proposed warehouse enhancements. Although the protester disagrees with these weaknesses, the record supports the reasonableness of the agency's evaluation. The agency simply found ISTC's proposal to be lacking in detail and not as innovative as the awardee's. More specifically, the evaluators found Aspen's proposal to be technically superior because it contained a large number of significant advantages. Id. at 1.

We also note that, prior to ISTC filing its protest, the evaluators, in response to an ISTC letter questioning the weaknesses identified at the debriefing and agreed to review ISTC's concerns regarding the evaluation. The evaluators concluded that their original evaluation was correct. For example, the evaluators confirmed that while ISTC's training program was well defined, it was "extremely flat," lacking detail on execution and implementation. The evaluators also reiterated that ISTC's quality assurance plan was based solely on internal monitoring and did not address the tracking of the quality of the output over time. Moreover, the evaluators confirmed that the quality assurance plan placed a great deal of responsibility for quality control on the CNCS personnel. Further, the evaluators explained that while ISTC provided for enhancements to its warehouse, it did not provide enough details concerning the specific improvements. AR encl. 24, Evaluator Review of ISTC Concerns. The evaluators believed that ISTC was in a position to recommend more effective and efficient practices to better manage workload, but had not done so. The evaluators again concluded that, in comparison to ISTC's proposal, the Aspen proposal was more complete and presented new and innovative approaches to managing the workload with excellent technological recommendations. In our view, the record supports the reasonableness of the agency's position that, although ISTC submitted an acceptable proposal, Aspen's proposal contained more significant strengths and was more innovative.

ISTC also argues that the agency failed to conduct meaningful discussions because the areas of perceived weakness in its proposal were not brought to its attention

during the site visit, when there was an opportunity for oral discussions, or in the final proposal revision request.

Agencies are required to conduct meaningful discussions with all offerors whose proposals are within the competitive range, but they are not required to conduct all encompassing discussions, or discuss every element of a proposal receiving less than the maximum rating. Volmar Constr., Inc., B-270364, B-270364.2, Mar. 4, 1996, 96-1 CPD ¶ 139 at 4; DAE Corp., B-259866, B-259866.2, May 8, 1995, 95-2 CPD ¶ 12 at 4-5. Agencies are obligated only to lead offerors generally into those areas of their proposal needing amplification within the context of the particular procurement. Creative Mgmt. Tech., Inc., B-266299, Feb. 9, 1996, 96-1 CPD ¶ 61 at 4. As discussed below, we find that discussions here satisfied that standard.

The record shows that the protester was advised of the concerns the evaluators had through written technical questions on June 25, with responses due by July 11. AR encl. 10, Discussion Questions. Specifically, ISTC was requested to address the solicitation's requirement for a display catalog; to provide an online catalog as required; to describe how ISTC would automate the Display Management/Ordering via the CNCS website; to define a thorough overview of communication systems for each task with the COTR and other CNCS staff; to address the solicitation's requirement for a project manager; to define ISTC's plan for training and development of operators; and to explain how quality of services will be monitored/controlled. It is clear that the agency reasonably identified its concerns to the protester during discussions.

The protester contends discussions were inadequate because the agency failed to reiterate its concerns during the site visit. However, the CNCS was not obligated to raise its concerns at this point; the agency did not reevaluate proposals based on the discussion questions until it received revised final proposals. The agency reports that the primary purpose of the site visit was to allow the evaluators the opportunity to see the actual facilities where most of the work would be performed. As explained above, the record shows that the protester was apprised of the agency's concerns, and the protester had an opportunity to respond to those concerns. Ultimately, the evaluators found that the protester's final revised proposal, while acceptable, was not as detailed and innovative as the awardee's, and that the awardee's proposal was technically superior to the protester's. We think the agency's actions here were unobjectionable. See Rockwell Int'l Corp., B-261953.2, B-261953.6, Nov. 22, 1995, 96-1 CPD ¶ 34 at 15.

ISTC further argues that the agency's cost realism analysis demonstrated that Aspen's estimated labor and other direct costs were higher than ISTC's. As described above, the agency performed a cost realism analysis primarily using historical labor hours as the baseline for cost realism. Based on the cost realism adjustments using historical labor hours, the agency estimated that ISTC's proposed cost was realistic and was the lowest overall proposed cost. Based on the historical data, Aspen's cost was adjusted upward to \$11,434,898. However, after reviewing the

cost analysis and examining Aspen's processes for achieving several of the objectives of this requirement, the contracting officer determined that the hours proposed by Aspen were consistent with Aspen's methodologies for accomplishing the requirement. The contracting officer specifically identified several advantages in connection with Aspen's equipment and facilities that it believed "would produce . . . efficiencies that would lead to reduced labor hours." AR encl. 9, Source Selection Decision, at 5. The contracting officer further concluded that even if Aspen incurred labor-hours during the life of the contract equal to those used in the cost realism analysis, Aspen's technical superiority justified the additional cost.

Agencies enjoy a relatively broad discretion in making best value tradeoffs; such tradeoffs are governed only by the test of rationality and consistency with the stated evaluation factors. GTE Hawaiian Tel. Co., Inc., B-276487.2, June 30, 1997, 97-2 CPD ¶ 21 at 16-17. In our view, the source selection was reasonable and consistent with the terms of the solicitation. As explained above, the record shows that the contracting officer reasonably concluded that Aspen's proposal was the best value based on its technical strengths, even if Aspen's cost were adjusted upward based on the historical labor hours.

The protest is denied.

Anthony H. Gamboa
General Counsel