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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Southwest Research Institute

File: B-299042.2

Date: March 23, 2007

Philip J. Davis, Esq., and William J. Colwell, Jr., Esq., and Jon W. Burd, Esq., Wiley Rein, LLP, for the protester.

Brent Curtis, Esq., Lt. Col. Kenneth Roth, and Thomas A. Biediger, Esq., Department of the Air Force, for the agency.

Jacqueline Maeder, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Cancellation of request for quotations (RFQ) was unobjectionable where agency reasonably determined that evaluation scheme did not reflect its needs, and that revising scheme would lead to enhanced competition.

DECISION

Southwest Research Institute (SwRI) protests the Department of the Air Force's decision to cancel request for quotations (RFQ) No. 174958, for boom operator/trainer simulation systems, and resolicit the requirement. SwRI argues that its proposal met all RFQ requirements, and that it should be issued a purchase order.

We deny the protest.

The RFQ was issued on September 19, 2006 to General Services Administration (GSA) Federal Supply Schedule (FSS) contract holders for software for the installation, integration, and testing of three boom operator weapons systems trainers, one boom operator simulation system, and one Distributed Missions trainer, all to be used in training personnel to operate the refueling boom on the KC-135 aircraft.¹

¹ The FSS program, which is managed and directed by GSA, is a simplified process of obtaining commercial supplies and services at prices associated with volume buying. Federal Acquisition Regulation (FAR) § 8.402(a).

The solicitation contemplated the issuance of a fixed-price purchase order to the vendor whose quotation represented the “best value” to the government considering price and the following technical evaluation factors: conformance to the description of supplies, transition plan, past performance, demonstrated capabilities, and escalation plan. Vendors were to have experience under 17 demonstrated capabilities subfactors, including, for example, designing, programming, and implementing basic, generalized, and optimized collision detection systems in simulation and real-time systems, and designing and implementing generalized physics-based simulations and real-time graphics special effects.

The agency received two quotations--from SwRI and QuantaDyn Corporation. The agency determined that QuantaDyn’s quotation represented the best value, and issued a purchase order to that firm on September 28. On October 20, following a debriefing, SwRI filed a protest with our Office challenging that decision. In response to that protest, the agency proposed corrective action and, by letter dated November 1, notified our Office that it would suspend work under the purchase order and reevaluate the quotations. We dismissed the protest as academic on November 9 (B-299042).

In its subsequent reevaluation, the Air Force determined that neither vendor met all 17 of the demonstrated capabilities subfactors. The Air Force determined that SwRI failed to meet the “implementation” aspect of the subfactors including, for example, those related to collision detection systems, because its quotation cited experience with a simulation project that had never been built, tested and fielded. Agency Report (AR), Tab 4, Contracting Officer’s Statement of Facts (COSOF), at 4; AR, Tab 23, Draft Technical Reevaluation, at 6. Based on the reevaluation results, the agency determined that the evaluation scheme for the 17 subfactors--which required a pass/fail determination rather than comparative judgments as to how well a vendor demonstrated these capabilities--was too restrictive. The Air Force concluded that the RFQ overstated its needs, and therefore canceled QuantaDyn’s purchase order and advised the vendors that it would issue a revised solicitation that incorporated clear and achievable evaluation criteria that would increase the potential for competition and ensure a fair and proper award. AR, Tab 4, COSOF, at 4.

SwRI challenges the cancellation on the ground that the agency is reading the RFQ more restrictively than warranted--the agency did have the leeway to make comparative judgments--so that cancellation was not necessary to meet the agency’s needs and enhance competition. SwRI further claims that its quotation did in fact satisfy the “implementation” requirements, and therefore was acceptable, because it had “implemented certain technical skills” in its design and development work, and a fielded product or system was not required. Protester’s Comments at 12. SwRI concludes that it should have been issued the purchase order.

A contracting agency need only establish a reasonable basis to support a decision to cancel an RFQ, Surgi-Textile, B-289370, Feb. 7, 2002, 2002 CPD ¶ 38 at 2, and may

cancel no matter when the information precipitating the cancellation first arises, even if it is not until offers (or, as here, quotations) have been submitted and evaluated. A-Tek, Inc., B-286967, Mar. 22, 2001, 2001 CPD ¶ 57 at 2-3.

The cancellation here was reasonable. We agree with the agency that the wording of the evaluation scheme for the 17 subfactors required specific experience and called for the evaluation under each subfactor on a yes/no or meets/does not meet basis. For example, as noted above, the RFQ's explanation to vendors of the evaluation criteria stated that the vendor "[m]ust have extensive experience designing, programming, and implementing basic, generalized, and optimized collision detection systems," and "[m]ust have experience designing and implementing generalized physics-based simulations." RFQ at 4. Contrary to the protester's general assertion that the agency had leeway to conduct a comparative evaluation under the subfactors, the RFQ's use of the language "must have" unequivocally made experience in these areas mandatory; we agree with the Air Force that a lack of experience performing different aspects of the described effort would require rejection of a quotation. This being the case, and given that neither quotation was acceptable due to the mandatory nature of the subfactors, it was entirely understandable that the agency would reconsider its need for the subfactors to be mandatory. The agency ultimately determined that a relaxed approach--under which vendors' experience would be evaluated on a comparative basis--would meet its needs, and also would enhance competition. In this latter regard, SwRI's and QuantaDyn's could be considered, and other vendors might also choose to compete (neither the protester nor the agency address this possibility). Under these circumstances, the cancellation was legally unobjectionable.²

SwRI contends that it should be reimbursed its quotation preparation costs and the costs of pursuing this and its prior protest. See Bid Protest Regulations, 4 C.F.R. § 21.8(e) (2006). However, the agency promptly--i.e., before the agency report and comments were filed--took corrective action in response to SwRI's original protest; we will not recommend reimbursement of protest costs in these circumstances. Information Ventures, Inc.--Costs, B-294567.2, Nov. 16, 2004, 2004 CPD ¶ 234 at 2. Further, since we have denied its protest of the cancellation, there also is no basis

² Because we have found the cancellation reasonable, the issue of the acceptability of SwRI's quotation is academic. Even if we agreed with SwRI that the quotation was acceptable, the cancellation would be justified in light of the agency's desire for greater competition. In any case, it appears that the agency reasonably determined that SwRI's quotation was unacceptable for failure to demonstrate "implementation" experience, as required under certain of the subfactor descriptions. In this regard, Webster's Ninth New Collegiate Dictionary (1987) defines "implement" as accomplishing, carrying out or giving practical effect to ensure actual fulfillment. SwRI's interpretation that simply using certain skills is inconsistent with this definition.

for recommending reimbursement of SwRI's quotation preparation costs or the costs of pursuing that protest.

The protest is denied.

Gary L. Kepplinger
General Counsel