

DECISION



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Proc II
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-196158

DATE: January 24, 1980

MATTER OF: Sogitec, Incorporated DLG-03689

DIGEST:

1. Rejection of proposal which does not conform to specification requirement is proper, even though offeror asserts its nonconforming proposal for data conversion represents modern, state-of-the-art approach that would be significantly less costly to Government. Any complaint concerning specifications should have been filed prior to closing date for receipt of proposals.
2. Agency determinations regarding technical merits of proposals will be questioned by GAO only upon showing of unreasonableness. Where record shows strong disagreement between agency evaluators and offeror concerning minimum effort necessary to accomplish work, value and relevance of offeror's prior experience and reliability of offeror's technical approach, but does not demonstrate that evaluators' position is unreasonable, evaluation and resultant award to higher-rated offeror will not be disturbed.
3. Agency may properly utilize its own reasonable estimates of manhours needed to perform work to measure offerors' understanding of requirements.

DLG-03698 Sogitec, Incorporated (Sogitec) protests award of a contract by the Central Intelligence Agency to Atlantic Associates, Inc. (Atlantic) under request for proposals (RFP) No. 9-79A. The solicitation requested fixed-price proposals to convert hardcopy data into machine readable magnetic tape format. Sogitec contends its technically sound proposal offering the lowest price should not have been rejected by the agency. AGC00210

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The RFP informed offerors award would be made to that responsible offeror whose offer conforming to the solicitation would be most advantageous to the Government, price and other factors considered. The right to accept other than the lowest offer was specifically reserved. The RFP stated that while cost proposals would be used to assess an offeror's understanding of the requirements and the validity of its approach, cost would be of less importance than the combined technical and management evaluation factors.

Sogitec's initial proposal provided for using optical character recognition equipment and for keying entries directly from raw data without use of a Data Conversion Form required by the specification, which mandated transcribing to the form prior to keying. Sogitec was informed its proposal was deficient because it did not stipulate a data transcription task and did not provide an estimate of manhours by labor category. The agency then amended the RFP to make clear that the requirement to transcribe the entries meant to handwrite them. In its best and final offer, Sogitec submitted an Option A which provided for such handwritten transcription and an Option B which retained the approach of direct keying without transcribing. The price for Option B was less than half of the awarded contract price.

Sogitec's Option B approach was found to be unacceptable because it did not provide for handwritten data transcription as required by the solicitation. Option A, while acceptable, received the lowest technical evaluation score among the four competing proposals. This low score reflected the evaluators' concerns that Sogitec had no prior experience in library conversion activities, that its estimate of manhours for the data preparation phase was less than half of the agency's internal estimate, and that the proposal was weak in certain areas and reflected a lack of understanding of the complexity of what was required. Atlantic, which received the second highest technical rating, was awarded the contract on the basis of its high overall numerical scores which indicated that on the basis of both technical and price considerations, that firm's proposal was most advantageous to the Government.

Sogitec's major complaint is that the agency rejected its Option B proposal without considering that it reflected a current state-of-the-art approach and that the handwritten

transcription approach was unnecessary. The determination of the minimum needs of an agency and the methods of accommodating them, however, are properly the responsibility of the agency. Maremont Corporation, 55 Comp. Gen. 1362 (1976), 76-2 CPD 181. Here the agency believes the handwritten requirement is essential to insure accuracy since the data entries come from many different libraries, each using its own format, and in various states of legibility. While Sogitec contends that it offered a more modern and improved approach obviating the handwritten transcription step, it has not shown, on this record, that the agency's insistence on the transcription is without a rational basis. In any event, the specifications required the handwritten transcription and the agency therefore was required to reject any proposal that did not conform to those specifications, regardless of the lower price that might be associated with such a proposal. Any objection Sogitec has regarding the requirement should have been filed prior to the closing date for receipt of proposals or, after the RFP was amended, prior to the next closing date for receipt of revised proposals. 4 C.F.R. 20.2(b)(1) (1979).

With respect to its Option A proposal, Sogitec defends its own manhour estimate, asserts the value of its prior experience and questions how the awardee could have a stronger technical approach than Sogitec offered.

We point out that it is not the function of our Office to evaluate the technical merits of proposals or to substitute our judgment for that of the procuring agency as to which offeror should have received the award. Therefore, technical evaluations and award determinations by procuring agencies will be questioned by our Office only upon a clear showing that they were arbitrary or unreasonable or inconsistent with the established evaluation factors. Group Operations Incorporated, 55 Comp. Gen. 1345 (1976), 76-2 CPD 79. While it is clear that there is much disagreement between Sogitec and the agency, we find no basis for concluding that the agency's determinations were unreasonable or otherwise improper.

First, with regard to the agency's internal estimate of required manhours, the agency reports that based on its own experience, it estimated 2.5 minutes for handwritten

transcription, 1.25 minutes for review and editing each entry and six productive hours in an eight hour workshift for a total of five minutes per entry for the data preparation phase, whereas Sogitec estimated it would take approximately two minutes for the same tasks. Sogitec states that its manhour estimate was based on simulating actual production, asserts that the variance in estimates "should have nothing to do with the award evaluation," and questions the relevance of the agency's concern with manhours when a fixed-price contract was to be awarded.

The propriety of an agency's use of its own independent estimates as an aid in determining the acceptability of proposals is well established. Such estimates may pertain both to cost, Raytheon Company, 54 Comp. Gen. 169 (1974), 74-2 CPD 137, and to items which contribute to costs such as required manhours. 53 Comp. Gen. 240 (1973). These estimates are entitled to great weight and an agency's reliance on them will not be disturbed so long as they are reasonable. Teledyne Lewisburg, Oklahoma Aerotronics, B-183704, October 10, 1975, 75-2 CPD 228.

Although Sogitec apparently believes it can accomplish the work with significantly less manhours than the agency thinks is necessary, it has not shown that the agency's estimate and reliance thereon is unreasonable. At best, there is a difference in judgment, and of course the agency's good faith judgment must prevail in situations such as this. Consequently, we cannot object to the agency's use of its own best estimate of manhour requirements. The fact that a fixed-price contract is involved does not negate the propriety of the agency's actions -- the agency's concern was not with what the awardee would be legally bound to do under a fixed-price contract, but with the offeror's understanding of what would be required. (The technical evaluation panel felt that "it is unrealistic to expect a high quality product" to result from the time Sogitec proposed to devote to data preparation.)

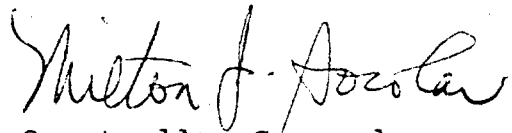
With respect to prior experience, Sogitec concedes that it had no library conversion experience, but refers to its work with aerospace technical manuals and asserts that it "stated that it has several employees with much experience

in library conversion jobs." The agency evaluators found, however, that Sogitec's aerospace engineering background was not "very applicable" to the current project and that the Sogitec proposal did not show that Sogitec's employees had a library conversion background. The record supports the evaluators' position on the latter point and the former point, of course, is a judgment matter within the discretion of the evaluators.

Finally, the evaluators believed Sogitec's approach was weak because of the low manhour estimate and because of Sogitec's plan for detecting keying errors, which the evaluators considered to be unreliable for the amount of data involved. That judgment has not been shown to be unreasonable.

In short, we find that the agency properly rejected Sogitec's nonconforming Option B and that the evaluation of Sogitec's Option A has not been shown to be unreasonable.

The protest is denied.



For The Comptroller General
of the United States