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Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: AudioCARE Systems

File: B-283985

Date: January 31, 2000

David Reimer for the protester.

Col. Nicholas P. Retson and Maj. Robert W. Clark, Department of the Army, for the agency.

Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency did not provide protester a fair opportunity to compete under simplified acquisition for automated patient appointment reminder system is denied where, although the agency considered an inappropriate price comparison, the record shows that the agency evaluated all information received from the vendors and, with full understanding of the actual pricing, reasonably determined that the selected system represented the best value to the government.

DECISION

AudioCARE Systems protests the issuance of delivery order No. DADA09-99-F-0638 by the Department of the Army to Advanced Scientific Supply for a Solvetech System automated patient appointment reminder system for the Great Plains Regional Medical Command under simplified acquisition procedures. AudioCARE contends that agency did not provide it a fair opportunity to compete for the order.

We deny the protest.

In an effort to install and standardize its automated patient appointment reminder system at all of its hospitals, the Great Plains Regional Medical Command sought quotes for and reviewed the systems supplied by Solvetech and AudioCARE because at least one of each system was installed at a hospital in the region. Contracting Officer's Statement at 1. The Solvetech system is offered by Advanced Scientific under a Defense Personnel Support Center

(DPSC) Decentralized Blanket Purchase Agreement (DBPA). Id. Both vendors were contacted and requested to provide information on their systems, and the price to provide the system to six hospitals in the region. The agency requested a quote from AudioCARE for five complete systems and an upgrade to the existing AudioCARE system at the Bayne Jones Army Community Hospital at Ft. Polk. Telephone Hearing, Jan. 21, 2000. Advanced Scientific provided a listing of Solvetech equipment needed and pricing for six full systems, and AudioCARE provided an equipment listing and pricing for five full systems and one upgrade. Agency Report, Tab G. Advanced Scientific's quote for the Solvetech system for the six locations was \$99,925 and AudioCARE's quote was \$95,760.

Because both systems are able to provide the same basic service, price was the major factor in selecting the system for the Great Plains region. Contracting Officer's Statement at 1. Maintenance costs and price savings from having a standard system were all taken into consideration in the price evaluation.¹ Id. According to the agency, it was decided, in the interest of "fairness," to consider only those sites that did not currently have a Solvetech or an AudioCARE system in place in comparing the relative prices. Id. Considering the price for the five sites where neither equipment was already being used, Solvetech's price was \$85,450 and AudioCARE's price was \$92,160.

Under the technical evaluation, the agency determined that since the Solvetech system uses Microsoft SQL, which is widely known and used, as its database management software, Solvetech's quote represented the better technical value to the government. Agency Report, Tab G. The agency states that SQL allows Great Plains system personnel to enter into the database and write their own reports without having to contact the vendor. AudioCARE, on the other hand, uses a MUMPS system to obtain data, which, according to the agency, requires extensive expertise in that language in order to extract ancillary information on the patient demographics and other data mining operations. The agency concluded that the Solvetech system offered several advantages in that it allows the system administrator at each site to change any of the settings for call monitoring, unique reporting requests and any of the normal system adjustments such as calling schedules. Moreover, the agency concluded that Solvetech does not have to be called for any changes made to the system and does not need to be involved in the operation of the system, but is available to provide assistance or perform maintenance on the system. With the AudioCARE MUMPS system, the agency states, the user must rely on the vendor for any new and unique

¹ Great Plains currently has three Solvetech systems installed at hospitals in the region that are not covered by this acquisition.

reporting requests. Further, the agency found that the Solvetech system had been certified to ensure that patient information would be secure and the AudioCARE system had not yet been certified. Based on the evaluated prices and the ability of the Solvetech system to better manipulate the data in the system, Solvetech's system was determined to be the better buy. In addition, the agency viewed it as an advantage that award to Advanced Scientific for the Solvetech system will result in all sites in the Great Plains region having a single, standardized system. Consequently, on September 18, 1999, the agency issued a delivery order under the DPSC DBPA to Advanced Scientific for \$99,925, the price for providing the system at the six hospital sites.

The protester argues that the evaluation process heavily favored Solvetech. The protester also argues that its price was improperly evaluated and given the emphasis placed on price, it should have received the award at its price of \$95,760.²

Where, as here, simplified acquisition procedures are used, contracting agencies may properly use innovative approaches so as to award contracts in the manner that is most suitable, efficient and economical in the circumstances of each acquisition. FAR § 13.003(g), (h); Cromartie and Breakfield, B-279859, July 27, 1998, 98-2 CPD ¶ 32 at 2. Our Office reviews allegations of improper agency actions in conducting simplified acquisitions to ensure that the procurements are conducted consistent with the concern for fair and equitable competition that is inherent in any federal procurement. Huntington Valley Indus., B-272321, Sept. 27, 1996, 96-2 CPD ¶ 126 at 2.

The principal objection raised by the protester is that it quoted a price of \$95,760 for systems for the six sites, which is lower than the delivery order of \$99,925

² The agency argues that our consideration of this protest is precluded by 10 U.S.C. § 2304c(d) (1994), which provides that "[a] protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract which the order is issued." The agency points out that the protester does not argue that the order increases the scope, period, or maximum value of the contract, or implements a "downselect" that results in the elimination of one of the vendors to which a delivery order contract has been issued from consideration for future orders. However, here the agency was not simply selecting an indefinite-delivery, indefinite-quantity (ID/IQ) contractor or BPA holder for issuance of a delivery order; instead, it conducted a competition between a vendor that was on the DPSC DBPA and one that was not. Where a competition is held between an ID/IQ contractor (or BPA holder) and another vendor, we do not believe the statutory bar on protests applies.

issued to Advanced Scientific. As explained above, the agency did not include the cost of a system for the Bayne Jones Army Community Hospital at Ft. Polk in its price analysis because AudioCARE already had a system there and was only proposing a system upgrade (priced at \$3,600) to support additional calling volume. The agency states that it believed it would be unfair for either vendor to have its price for a new system evaluated for a site that currently has a system from the competing vendor. The agency also determined that, if AudioCARE had included in its quotation a price for a full system for Ft. Polk, the resulting total price for AudioCARE equipment would have been \$113,760. Agency Report, Tab G.

In our view, it was inappropriate for the agency, on the one hand, to request quotes from the vendors for equipment for six locations and to issue a delivery order based on the prices for all six locations, and, on the other hand, for price evaluation purposes, to consider prices for only five locations. Procuring agencies do not have the discretion to announce one evaluation scheme and then follow another in the actual evaluation. Technical Support Servs., Inc., B-279665, B-279665.2, July 8, 1998, 98-2 CPD ¶ 26 at 3. The record shows that, had the agency compared the quotes based on the prices proposed for all six locations, as requested by the agency, then the protester's quote would have been low.

Nonetheless, based on the record here, the selection of the Solveteck system is unobjectionable. The agency solicited quotes orally, which is allowed under FAR §13.106-1(c), and while vendors were told that price would be the predominant consideration in the selection decision, vendors were also advised that other factors, such as life-cycle costs, standardization and ease of data extraction would also be considered. Telephone Hearing, Jan. 21, 2000. After evaluating price and technical considerations, the agency reasonably determined that the Solveteck system represented the better value.

The evaluation of quotations, like the evaluation of proposals, is within the discretion of the procuring agency, since it is responsible for defining its needs and the best method of accommodating them, and must bear the results of a defective evaluation. Orion Research, Inc., B-253786, Oct. 21, 1993, 93-2 CPD ¶ 242 at 3. Where an agency's technical evaluation is challenged, our Office will not independently weigh the merits of quotations or proposals; rather, we will examine the evaluation to ensure that it was reasonable and consistent with stated evaluation factors. Integrity Private Sec. Servs., Inc., B-255172, Dec. 17, 1993, 93-2 CPD ¶ 332 at 3. A protester's mere disagreement with the agency's conclusions does not render them unreasonable. Id.

The technical evaluation here was unobjectionable. The agency reviewed the equipment listings of the systems being offered and concluded that the Solveteck solution employed a more user-friendly database software and was certified as being security compliant. The protester generally disagrees with the

agency's conclusion that the protester's software database requires extensive expertise in MUMPS and maintains that some site managers have an excellent working knowledge of MUMPS. The protester further contends that the Solvetechnology security compliance certification is meaningless. While the protester disagrees with the agency's findings with respect to the technical evaluation, the record here shows that throughout the evaluation process, the agency reasonably believed that the Solvetechnology system offered several advantages which made it a technically superior alternative. The protester's disagreement with this reasoned conclusion does not call it into question.

In performing its evaluation, the agency explicitly recognized that for the relevant six locations, Advanced Scientific's quote was \$99,925, while AudioCARE's quote was \$95,760. Agency Report, Tab G. The agency noted that, since Ft. Polk had an existing AudioCARE system, it required only an upgrade, which resulted in AudioCARE's quoted low price. Id. While, as explained above, the agency's analysis improperly concluded that Solvetechnology's quote was low, the record demonstrates that, throughout the evaluation process, the agency recognized the actual, approximately \$4,000, price advantage associated with the AudioCARE system, but selected the Solvetechnology system because of the advantages associated with its software. In our view, this tradeoff is unobjectionable under the circumstances presented here.

The protester also argues that, because of the agency's overriding desire to have a single, standardized system, the agency never gave fair consideration to the AudioCARE system. The record simply does not support the protester in this regard. The agency sought quotes from AudioCARE and performed a price and technical evaluation. Moreover, it was clear from the January 21 telephone hearing that the selection decision was accomplished through careful and thorough consideration of the equipment offered by both vendors. To the extent the protester speculates that the agency's evaluation was biased in favor of the Solvetechnology system, we find no basis to support the speculation. Government officials are presumed to act in good faith, and we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6. In addition to producing credible evidence showing bias, the protester must demonstrate that the agency bias translated into action that unfairly affected the protester's competitive position. Id. Here, the record establishes the reasonableness of the agency evaluation, and there is no basis to infer bias or bad faith.

The protest is denied.

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