



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

DOCUMENT FOR PUBLIC RELEASE

A protected decision was issued on the date below and was subject to a GAO Protective Order. This version has been redacted or approved by the parties involved for public release.

Matter of: Navales Enterprises, Inc. d/b/a A Plus Services Unlimited

File: B-276122

Date: May 13, 1997

Theodore M. Bailey, Esq., for the protester.

John E. Lariccia, Esq., and Laurie Stiteler, Esq., Department of the Air Force, for the agency.

Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency conducted meaningful discussions with the protester regarding its staffing level where during discussions the agency reasonably informed the protester that its proposed staffing may not be sufficient and requested the protester to address this concern.

DECISION

Navales Enterprises, Inc. d/b/a A Plus Services Unlimited, protests the rejection of its proposal by the Department of the Air Force, San Antonio Air Logistics Center, under request for proposals (RFP) No. F41650-96-R-0008 for the maintenance and repair of military family housing at Kelly Air Force Base. A Plus contends that the Air Force failed to conduct meaningful discussions, as required, prior to rejecting its proposal as technical unacceptable.

We deny the protest.

The RFP was issued on August 21, 1996, as a section 8(a) set-aside. The RFP contemplated the award of a fixed-price contract, with certain materials, parts, and supplies to be reimbursed at cost by the government, for a base period of 1 year with 3 option years.

The evaluation scheme in the RFP provided for a best value award; however, only proposals determined technically acceptable with regard to certain listed technical factors, either initially or as a result of discussions, were to be considered for award, which was to be based on price and performance risk. The technical factors were evaluated with regard to the offeror's compliance with, understanding of, and soundness of approach in meeting the requirements stated in the performance work

statement (PWS) and the solicitation. Offerors were cautioned to submit sufficient information to enable the technical evaluators to fully ascertain each offeror's capability to perform all the requirements. One of the technical areas for evaluation was "PLANNING," for which offerors were required to submit a manning and staffing plan that demonstrated a clear understanding of the tasks in the RFP's PWS.

The Air Force received [DELETED] proposals, including A Plus's, by the November 18 due date. In the "Capacity to Meet the Requirements" section of its proposal, A Plus presented its staffing manning plan, which provided for a total of [DELETED] FTEs (Full-Time Equivalent--2,080 hours per year) positions for this contract. In its manning chart, A Plus noted that the stated FTEs did not constitute the actual number of personnel to be deployed. A Plus also included an organizational chart in its proposal which provided a synopsis of the responsibilities of corporate officials and employee classifications by position and title.

The agency's technical evaluator rated A Plus's proposal as unacceptable because, among other things, A Plus "provided a confusing staffing and manning plan with inadequate FTEs and provided no assurance or indication their plan could meet the requirements" of the PWS. Nonetheless, the Air Force apparently determined that the proposal was "reasonably susceptible of being made acceptable," and in a letter dated December 20, 1996, the contracting officer informed A Plus that its "[t]echnical proposal was found to be deficient in the following areas, and that additional information is needed to complete our review."

"(a) Your offer failed to address an adequate manning and staffing plan, that demonstrated a clear understanding of the PWS, inasmuch as:

"(1) Manning Chart - Indicates [DELETED] Full Time Employees. Organization chart indicates [DELETED] Full Time Employees. Need to verify which is the correct number to adequately meet the requirement of the PWS.

.

"(3) Staffing Manning Plan - Incomplete, need to verify sufficient number of people."

The letter offered A Plus an opportunity to correct these and other listed deficiencies, and stated that no further discussions were anticipated.

A Plus submitted a written response to the contracting officer's discussion letter on December 30. With regard to item (a)(1), A Plus explained the manning chart was based on FTEs to be utilized for this contract, which it increased to [DELETED],

but that the manning chart did not indicate the actual number of personnel to be deployed. A Plus also replaced the original organizational chart with an organizational chart which showed an average number of [DELETED] personnel (including part-time) A Plus proposed to deploy for this contract. In response to item (a)(3), concerning A Plus's staffing manning plan, A Plus stated that it included the number of estimated personnel to be deployed by position and title in its organizational chart.

The Air Force evaluated A Plus's response, and with regard to items (a)(1) and (3), determined that A Plus proposed inadequate staffing to accomplish the work, and that because its proposal "still confused the issue" and failed to explain how it would meet the requirements with its proposed staffing, the Air Force believed that A Plus did not understand the RFP requirements and had not developed a sound approach to meeting the requirements. Based on this (and other, less significant reasons), A Plus's proposal was rejected as technically unacceptable.

The gravamen of A Plus's protest is that the Air Force did not conduct meaningful discussions with regard to its staffing level. Discussions, when they are conducted, must be meaningful and must not prejudicially mislead offerors. SRS Technologies, B-254425.2, Sept. 14, 1994, 94-2 CPD ¶ 125 at 6. Although discussions need not be all-encompassing, an agency is required to point out weaknesses or deficiencies in a proposal as specifically as practical considerations permit so that the agency leads the offeror into areas of its proposal which require amplification or correction. E.L. Hamm & Assocs., Inc., B-250932, Feb. 19, 1993, 93-1 CPD ¶ 156 at 3-4. An agency may not mislead an offeror, through the framing of a discussion question, into responding in a manner that does not address the agency's concerns. Price Waterhouse, B-254492.2, Feb. 16, 1994, 94-1 CPD ¶ 168 at 9.

A Plus argues that the Air Force's December 20 discussion letter was deficient because it failed to inform A Plus of the agency's paramount concern, based on the government estimate of [DELETED] personnel required to perform the contract, that A Plus's proposed staffing level was unacceptably low, but instead focused on the apparent discrepancy between the staffing and organizational charts; this assertedly misled A Plus into believing that it merely needed to verify the correct number of personnel it was proposing or to explain why the total on its staffing and organizational charts did not match. A Plus also contends that the Air Force's request that A Plus verify that there were a sufficient number of people in its staffing manning plan needs to be viewed in the same context, *i.e.*, another way of asking A Plus to choose between the [DELETED] and [DELETED] figures, in its manning and organizational charts, respectively.¹

¹Although A Plus raised other issues concerning the Air Force's evaluation of its staffing plan, such as the Air Force's apparent concerns over cross-utilization of
(continued...)

The protester relies on our decision in Professional Servs. Group, Inc., B-274289.2, Dec. 19, 1996, 97-1 CPD ¶ 54 at 4, to argue that since the staffing level proposed by A Plus was considered by the Air Force to be a deficiency, the agency was required to provide A Plus with the opportunity to either change its staffing level or persuade the agency that its lower level of staffing could satisfy the agency's requirements. In that case, we found that an agency had failed to conduct meaningful discussions where it merely sent a generic request to all offerors to provide more detailed staffing plans in a particular format and "never once hinted to [the protester] that its proposed staffing was inadequate." Id. at 3.

By contrast, here, the Air Force's December 20 discussion letter revealed the agency's concerns with A Plus's proposed staffing level. Under heading (a) of the letter, the contracting officer informed A Plus that its "offer failed to address an adequate manning and staffing plan that demonstrated a clear understanding of the PWS." In this context, it should have been reasonably apparent to A Plus that in asking it in item (1) to verify which is the correct number of employees it was proposing--the [DELETED] indicated in the manning chart or the [DELETED] indicated in the organization chart--"to adequately meet the requirement of the PWS," and by informing it in item (3) that its staffing manning plan was incomplete and that A Plus needed to verify that a "sufficient number of people" were in its staffing manning plan, the Air Force was questioning the sufficiency of A Plus's proposed staffing level. Indeed, in A Plus's December 30 response to the Air Force's discussion letter, A Plus stated that it had "made appropriate changes to ensure adequate staffing to satisfy the requirements of the [PWS]." Accordingly, the record shows that the discussions conducted here were adequate because the Air Force led A Plus into the area of its proposal considered deficient and of primary concern to the agency. See D'Wiley's Servs., Inc., B-251912, May 11, 1993, 93-1 CPD ¶ 377 at 4-5; Centro Management, Inc., B-249411.2, Dec. 2, 1992, 92-2 CPD ¶ 387 at 6-7.

The protest is denied.

Comptroller General
of the United States

¹(...continued)

employees and use of part-time employees, the record confirms that the central reason that its proposal was considered unacceptable was its low overall staffing level and its failure to persuade the agency that the work could be done with its proposed staffing. Thus, we need not address A Plus's other contentions.