



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: PCT Services, Inc

File: B-279168

Date: May 12, 1998

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Marian E. Sullivan, Esq., and Patrick F. Corbin, Esq., Department of the Air Force, for the agency.
Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's past performance risk assessment is denied where the protester's performance risk rating was reasonably based on the agency's experience with the protester under prior contracts and performance questionnaire responses from other government sources, which reflected the protester's poor performance on other relevant contracts.

DECISION

PCT Services, Inc. protests the award of three contracts to Riteway, Inc. under requests for proposals (RFP) Nos. F41622-97-0030, F41622-97-R-0032, and F41622-97-R-0036, issued by the Department of the Air Force for commercial hospital aseptic management system (HAMS) services at three Air Force Bases (AFB). PCT contends that the agency's evaluation of its past performance risk was improper.

We deny the protest.

The RFPs, issued on November 18, 1997, provided for the award of fixed-price contracts for a base period and four 1-year options.¹ The RFPs stated that the awardee would be selected on a best value basis considering technical, past performance and price factors; the technical factor was considered most important,

¹The RFPs were issued to obtain HAMS services at MacDill, Hill, and Luke AFBs; the Hill AFB and Luke AFB solicitations were issued as total small business set-asides. The three RFPs have identical provisions regarding the preparation of proposals, the evaluation of proposals, and basis for award.

while past performance and price were considered equal in importance. The RFPs required offerors to submit present and past performance information for relevant contracts performed within the past 2 years and advised that the agency would conduct a risk assessment based on the offeror's past performance, rating them on a scale of not applicable, high, moderate, or low risk.² In assessing past performance risk, the RFPs stated that the evaluators would review the present and past performance information required by the RFPs, seek present and past performance information through the use of simplified performance questionnaires,³ and use data independently obtained from other government and commercial sources. Under the performance risk/price tradeoff set forth in the RFPs, award would be made to the lowest evaluated price, technically acceptable offeror if it received a low performance risk rating, but award could be made to other than the lowest priced offeror if that offeror received other than a low performance risk rating.

By the December 9 closing date, the Air Force received several proposals in response to each RFP. PCT was the lowest evaluated price offeror under each solicitation, but it received a moderate performance risk rating based upon the performance questionnaire responses and the evaluators' own knowledge of PCT's prior performance. PCT has five HAMS contracts with the Air Force, at Altus, Columbus, Dover, Patrick, and Kirtland AFBs. In assessing PCT's performance risk, the agency considered the responses received from Altus, Columbus, Dover, and Patrick AFBs; and from Brooke Army Medical Center (BAMC) and Fort Knox Army Hospital (both facilities were listed in PCT's past performance proposals). Altus AFB, Dover AFB, and Fort Knox Army Hospital each rated PCT's performance satisfactory overall. While Columbus AFB reported PCT's performance excellent in many areas, the firm's management performance was rated marginal because of its failure to meet payroll, to furnish and maintain the supplies necessary to perform, and failure to maintain a certified executive housekeeper at Columbus AFB from

²The definitions of the performance risk ratings were contained in Air Force Federal Acquisition Regulation Supplement, Appendix BB-305 (Jan. 15, 1995). A high risk rating means that "[s]ignificant doubt exists, based on the offeror's performance record, that the offeror can perform the proposed effort"; a moderate risk rating means that "[s]ome doubt exists, based on the offeror's performance record, that the offeror can perform the proposed effort"; a low risk rating means that "[l]ittle doubt exists, based on the offeror's performance record, that the offeror can perform the proposed effort"; and a not applicable rating means that "[n]o significant performance record is identifiable."

³The performance questionnaires, which measure customer satisfaction, are sent each year to AFBs where the HAMS services are being provided; they address numerous areas of contractor performance including, management, personnel, training, work scheduling, and infection control requirements.

1995 through 1997. Patrick AFB rated the firm's performance unacceptable in training, quality, and work scheduling; in the areas of management, housekeeping, and the medical facility plan it rated the firm marginal. At BAMC, PCT's performance was rated marginal in the areas of management, quality, work scheduling, and infection control requirements; other areas were rated satisfactory. The facility managers at Patrick AFB and BAMC stated, that given what they know now about PCT's performance, they definitely would not award to PCT if they had a choice. The Columbus AFB facility manager stated that he probably would not award to PCT again. In addition, the agency's contracting office reported problems in negotiating contract changes with PCT because PCT failed to submit timely and complete change proposals.

PCT was informed, during discussions, that it was assigned a moderate performance risk rating because of these reported deficiencies and the firm was given an opportunity to submit a response. In its January 13, 1998 response, PCT questioned some of the assessments and provided some additional information. For example, the protester questioned the comment made by the Dover AFB facility manager--that he would probably not award another contract to PCT--given his reported rating that PCT's performance was satisfactory in all areas. As to its performance at BAMC, PCT provided information regarding a recent successful inspection performed by the Joint Commission for the Accreditation of Health Care Organizations (JCAHCO) to refute the marginal ratings it received from the facility manager at BAMC. The agency analyzed PCT's response and concluded that the firm's submission provided no basis to disregard the facility managers' ratings. For example, the evaluators noted that JCAHCO inspections are conducted over a 1 week period every 3 years and concluded that the JCAHCO ratings did not necessarily represent PCT's daily performance at BAMC. The evaluators did disregard some negative past performance information after reviewing PCT's response. For instance, the evaluators disregarded the Dover AFB facility manager's comment that he would not make award to PCT again because it was not supported by his overall satisfactory rating of PCT's performance. However, since PCT did not rebut the major deficiencies identified in the performance questionnaire responses from Columbus AFB, Patrick AFB and BAMC, its performance risk rating remained unchanged.

The Riteway proposals were the next lowest-priced technically acceptable proposals. The agency evaluated the performance questionnaire responses submitted for the eight HAMS contracts Riteway has with the Air Force and assigned a low performance risk rating, given Riteway's reported overall performance. The contracting officer, who was also the source selection official, reviewed the evaluation findings and the performance information from the facility managers and concluded that Riteway's proposals represented the best value to the agency. His decision was based on his finding that Riteway's past performance indicated that Riteway was more likely to satisfactorily perform the required services as compared to PCT, whose past performance history created doubt as to

its ability to perform the proposed services in a satisfactory manner. The contracts were awarded to Riteway on January 21, 1998; this protest followed.

PCT protests that the agency's past performance risk evaluation was flawed, arguing that the agency failed to evaluate its present performance under three current contracts identified in PCT's past performance proposals. By failing to evaluate its present performance at Kirtland AFB, Altus AFB and BAMC, PCT claims, the agency violated the allegedly express representations in the RFPs that the agency would evaluate an offeror's performance under its past and present contracts.

In reviewing an evaluation of an offeror's performance risk, we will examine it to ensure that it was reasonable and consistent with the stated evaluation factors, since the relative merit of competing proposals is primarily a matter of agency discretion. Dragon Servs., Inc., B-255354, Feb. 25, 1994, 94-1 CPD ¶ 151 at 6. An agency's evaluation of past performance may be based on its reasonable perception of inadequate prior performance, even where the protester disputes the agency's interpretation of the facts. Pannesma Co. Ltd., B-251688, Apr. 19, 1993, 93-1 CPD ¶ 333 at 6. Here, we have reviewed the record in light of the protester's arguments and find that it reasonably supports the agency's evaluation of PCT's performance risk.

First, the protester maintains that the agency failed to obtain performance information from Patrick AFB regarding a custodial contract at that base, or from Kirtland AFB or Fort Knox Army Hospital regarding HAMS contracts at those locations, all of which were listed in its proposals; thus, the evaluators allegedly did not evaluate its proposals in accordance with the solicitation provision which required offerors to submit information on contracts considered relevant to demonstrate its ability to perform the proposed services. The agency was not required to check all references listed in each offeror's proposal. Questech, Inc., B-236028, Nov. 1, 1989, 89-2 CPD ¶ 407 at 3. The record shows that Kirtland AFB did not return the performance questionnaire that was sent to all AFBs, including Kirtland, in February 1997; and on three occasions, the contracting officer attempted to contact the facility manager at Kirtland by telephone but was unsuccessful in doing so. Thus, the agency did not ignore the Kirtland AFB reference; rather, the reference simply did not respond to the questionnaire. The record shows that of the five HAMS contracts PCT has with the Air Force, four facility managers provided responses which were considered by the agency, and there is nothing in the record to suggest that PCT's performance risk rating would have improved based on the Kirtland AFB reference.⁴

⁴Regarding PCT's performance at Fort Knox Hospital, the evaluation record contradicts the protester's allegation that this reference had not been contacted. As indicated by the earlier discussion, the responses received from the Fort Knox
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Next, PCT contends that the Air Force failed to evaluate PCT's past performance in accordance with the RFPs' requirements and the applicable regulations. The protester asserts that the agency should have requested updated performance information after the December 9, 1997 receipt of proposals. Had it done so, the protester states, the positive aspects of its present performance would have been reported, resulting in a past performance rating of low risk and the selection of PCT's proposals for award. The Air Force's position is that the performance information obtained from early 1997 was reliable, considering the facility managers' ongoing knowledge of, and experience with, the contractors' performance.

The RFPs stated that offerors' present and past performance of relevant contracts performed within the last 2 years would be evaluated by the agency to assess past performance risk. Our review of the evaluation documents show that the agency relied on performance information obtained in the 1997 survey of contractor performance at all AFBs. Since the RFPs specifically required the agency to evaluate past performance within the last 2 years to make an appropriate assessment, we find the agency's use of such data was consistent with the stated evaluation scheme and reasonable. Nothing in the RFPs required the agency to conduct a new survey, rather than rely on the past performance information already in hand.

While the protester argues that updated performance information would show that PCT's performance has improved, we do not think the agency's reliance on the 1997 questionnaire responses--the most current information available at the time of evaluation--was unreasonable. Moreover, as noted above, despite being apprised of the reported performance deficiencies during discussions, PCT did not demonstrate that the facility managers' ratings were inaccurate or address any actions taken to correct these reported deficiencies. PCT's response essentially disagreed with the facility managers' judgment of its performance. The agency based its performance risk rating on unrebutted information showing a marginal management rating at Columbus AFB, several marginal and unacceptable ratings at Patrick AFB, several marginal ratings at BAMC, and the statements of two of the facility managers that they definitely would not award to PCT if given the choice. Thus, the record

⁴(...continued)

contracting officer rated PCT's performance under its housekeeping services contract satisfactory. On the other hand, the agency reports that it did not request information from Patrick AFB regarding PCT's performance under its custodial contract because PCT's performance under its HAMS contract at Patrick AFB was considered more relevant than its performance under the custodial contract at the AFB. The protester has provided no basis for us to find the agency's decision in this regard unreasonable. Overall, then, PCT's satisfactory performance on relevant contracts at Altus and Fort Knox simply did not outweigh the negative performance information from the other military facilities.

reasonably supports the agency's decision that PCT's past performance posed a moderate performance risk.⁵ Accordingly, we have no basis to question the agency's source selection decision, since the contracting officer reasonably determined that, despite its lower prices, PCT's proposals did not represent the best value to the agency under the RFPs' performance risk/price tradeoff scheme.

The protest is denied.

Comptroller General
of the United States

⁵As to PCT's contention that the favorable JCAHCO inspection at BAMC should have been considered, we believe the Air Force was reasonable in concluding that JCAHCO ratings based on a 1 week performance period may not be representative of the contractor's ongoing performance. Those ratings thus do not provide a basis for our Office to conclude that the major deficiencies identified in the performance questionnaire responses were inaccurate and should not have been relied on by the Air Force.