



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Raven Services Corporation

File: B-231639

Date: August 23, 1988

DIGEST

Agency properly selected a higher-priced, higher technically rated proposal where the request for proposals advised that technical factors were more important than cost and the agency reasonably determined that the higher-priced proposal had technical advantages that were worth the additional cost.

DECISION

Raven Services Corporation protests the award of a contract to Ogden Allied Eastern States Maintenance Corporation under request for proposals (RFP) No. GS-11P87MJC0080, issued by the General Services Administration (GSA).

We deny the protest.

On August 7, 1987, the agency issued the RFP for commercial facilities management service, including operation, maintenance and architectural/structural maintenance/repair and janitorial, landscaping and parking management services at a new office building known as the Silver Spring Metro Center, Silver Spring, Maryland. The contract is for 1 year, with four 1-year option periods. The RFP provided that the agency would award a firm-fixed-price contract to the responsible offeror whose offer conforming to the solicitation was most advantageous to the government, cost or price and technical factors considered^{1/}; the solicitation provided further that technical factors were more important than cost, except that as proposals became more equal in technical merit, cost would be more important. The RFP also identified the following technical evaluation factors, in descending order of importance: management and plan of operation, experience, key personnel, phase-in/phase-out

^{1/} Certain special services were to be provided on a cost reimbursable basis with an award fee.

plan, subcontracting plan and contract financing. The most important factor, management and plan of operation, was comprised of four criteria: operating plans, quality assurance plan, work schedule and organization plans.

Four offerors submitted initial proposals on October 14, 1987. The agency eliminated one firm from the competitive range, and conducted discussions with the three remaining offerors. The agency requested that best and final offers (BAFOs) be submitted by March 9; on March 30, in view of a revision of building occupancy dates (and phase-in periods), the agency requested a second round of BAFOs due on April 6, 1988.

In the second round of BAFOs, the protester submitted the lowest proposed price--at \$2,703,090, nearly 8 percent less than the awardee's proposed price. Because it believed that the protester had failed to include the cost of 16 hours of daily utility service in its proposal, the agency adjusted the protester's price upward by nearly \$100,000 to about 3.3 percent less than the awardee's offer. The source selection evaluation board determined that the proposal revisions did not alter the initial technical rating of the awardee's offer which was rated 25 percent higher than the protester's offer. Despite the protester's slight cost advantage, the source selection official concluded that the awardee's proposal was worth the additional expenditure involved because the awardee's operating plan provided for a project manager whose time would not be split among additional duties and offered significantly greater hours of operation and maintenance staffing per year when compared to the protester's offer. Furthermore, the source selection official found that the awardee had more experience in janitorial services, landscaping and parking management, offered a specific quality assurance plan (which the protester did not) and scored substantially higher in the area of key personnel. Award was made to Ogden.

The agency notified the other offerors of the award and the protester received a debriefing on May 23 at which Raven learned for the first time that the agency had unilaterally corrected the protester's offered price. The agency allegedly also advised the protester that its technical score was "near the top." On June 6, Raven filed this protest, objecting to the agency's evaluation of its price and alleging that the agency had improperly awarded a contract to a higher-priced offeror whose proposal offered no technical advantage commensurate with its higher price.

In negotiated procurements, unless the solicitation so specifies, there is no requirement that the award be based

on lowest price; rather, the contracting agency has discretion to make cost/technical tradeoffs consistent with the stated evaluation scheme and to select a higher-priced, technically superior proposal if doing so is deemed to be worth the extra cost to the government. Transaction Response Management, Inc., B-228938.3, Apr. 4, 1988, 88-1 CPD ¶ 336. Our Office will not question the agency's decision regarding the significance of the difference in technical merit unless the decision is shown to be unreasonable or inconsistent with the solicitation evaluation criteria. Daggert Properties, B-227635, Oct. 22, 1987, 87-2 CPD ¶ 384. The instant solicitation provided that technical quality would be more important than cost, except that as proposals became more equal in technical merit, cost would become more important. Here, the agency found a significant difference in technical merit among proposals and so long as that finding was reasonable, the agency was justified in emphasizing technical considerations, rather than cost. See CACI, Inc.--Federal, B-225444, Jan. 13, 1987, 87-1 CPD ¶ 53.

The protester suggests that the record does not support a determination of Ogden's technical superiority which merits the expenditure of the extra cost of Ogden's proposal. We disagree. Despite the contrary impression apparently conveyed at the debriefing, we find no evidence that the agency considered the protester's proposal to be close to, let alone equal to, that of the awardee in technical merit.^{2/} In this connection, under facility management and plan of operation, the most important technical factor, Ogden's proposed approach included a project manager and supporting clerical and engineering staffing which the agency found both sound and cost effective. In comparison, Raven offered an approach which the agency concluded would not allow the project manager to devote full-time to facilities management because his time would be split among additional duties and which would not be as cost effective as Ogden's approach. Also, as indicated previously, Ogden offered significantly greater hours of operation and maintenance staffing than Raven proposed. Thus, the agency expressed greater confidence in Ogden's planned staffing coverage for handling all operation and maintenance needs including service calls, repairs and emergencies compared to

^{2/} The primary function of a debriefing is not to defend or justify selection decisions but to provide unsuccessful offerors with information that would assist them in improving their future proposals. Mutual of Omaha Insurance Co., B-203338.2, Sept. 24, 1982, 82-2 CPD ¶ 268. See also Fairchild Weston Systems, Inc., B-229843.2; B-229843.3, June 3, 1988, 88-1 CPD ¶ 525.

Raven, which of the three offerors in the competitive range, offered the least coverage.

In the second and third most important technical areas, experience and key personnel, the agency found that Ogden had more experience in janitorial services, landscaping and parking management and rated Ogden's key personnel higher. Specifically, the evaluators questioned the qualifications of certain Raven key personnel and the experience of the project manager in handling a facility of the size involved here. The record further shows that Ogden submitted an acceptable quality assurance plan specific to the building involved; Raven provided an example of a general, non-site specific plan which did not discuss certain tasks and deferred providing a specific plan until transition (startup). The agency found that Ogden's technical and cost proposal reflected a better quality of service and a better understanding of contract requirements. The record shows that Ogden was rated highest in the above discussed technical categories and was rated highest overall.

After examining the record in its entirety, we find the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria and that the contracting officer's determination to make award to a higher technically rated offeror, notwithstanding the protester's lower price, was also reasonable.

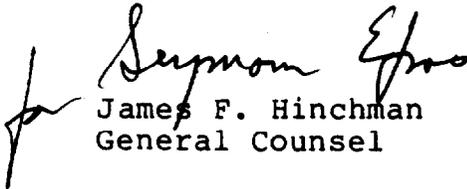
The protester also argues that even if the agency determined the awardee's proposal to be superior to Raven's, such a decision is not rational because the services involved here are simply not technically complex; they consist of trash and snow removal, lawn care, janitorial services, maintenance and repairs, and there simply cannot be much difference in the technical merit of acceptable offers. To the extent that the protester argues that the evaluation scheme reflects more than the government's minimum needs, its argument is untimely; a protest against an alleged impropriety in a solicitation which is apparent prior to the closing date for receipt of initial proposals must be filed prior to the that closing date. 4 C.F.R. § 21.2(a)(1) (1988). The agency's heavy emphasis on technical factors was apparent from the face of the solicitation, so that Raven should have protested the matter prior to the date for

receipt of initial proposals.^{3/} Brown & Root Service Corp.,
B-227079.3, Mar. 31, 1988, 88-1 CPD ¶ 324.

With regard to the protester's contention that the agency's technical evaluation cannot be rational because no meaningful distinction can be made between firms offering nontechnical, noncomplex services, we find this contention without merit. As indicated above, the agency found significant differences among the proposals. The agency found that Ogden offered a superior approach to managing the building, greater operation and maintenance staffing coverage, more experienced key personnel and a specific quality assurance plan. We think that these are legitimate grounds to differentiate the offers and are reasonably related to the selection of a contractor which can successfully operate and maintain a new building.

Regarding the adjustment of the protester's price, the agency asserts that since the evaluation scheme provided that price would not be a significant evaluation factor unless technical proposals were equal in merit and since the agency specifically determined that Ogden's proposal was significantly superior to Raven's, the protester was not prejudiced by the adjustment to its price. In view of the small dollar amount involved relative to the significant technical advantage enjoyed by Ogden, we have no basis to question the agency's position in this regard.

We deny the protest.


James F. Hinchman
General Counsel

^{3/} We also note that the agency reasonably justified its emphasis on technical factors. The agency points out that some of the work is technically complex, for example, maintaining mechanical and elevator equipment, and that the failure to properly maintain this equipment poses safety problems. We further note that this is a first time commercial facilities management contract for a new building which, in our view, would justify GSA's emphasis on technical quality in maintaining such a facility.