



The Comptroller General
of the United States

Washington, D.C. 20548

Arzenoff

Decision

Matter of: Allied Management of Texas, Inc.
File: B-232736.2
Date: May 22, 1989

DIGEST

1. Agency determination that protester's proposed vehicle maintenance staff was insufficient was reasonable where the agency concluded, and the terms of the protester's proposal indicate, that more than four mechanics are required but the protester only proposed four.
2. Allegation that meaningful discussions were not conducted is based on protester's misinterpretation of a request for clarification of initial proposals incident to a competitive range determination; since the protester was properly not included within the competitive range, the agency was under no obligation to enter into discussions.
3. In evaluating the corporate experience of a new business, an agency may, but is not obligated to, consider the prior related experience of a principal corporate officer.
4. Where solicitation provided that technical merit would be paramount to price, agency reasonably excluded protester's low-priced proposal from the competitive range after two evaluations resulted in significantly lower technical scores than its five competitors.

DECISION

Allied Management of Texas, Inc., protests the award of a fixed-price contract to the American National Management Corporation under request for proposals (RFP) No. F41685-88-R-0013, issued by the Air Force for vehicle maintenance and operation services at Laughlin Air Force Base. The protester objects to the rejection of its lowest priced offer.

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We deny the protest in part and dismiss it in part.

The RFP was issued on May 6, 1988. Award was to be made on the basis of the offer determined to be the most advantageous to the government under four evaluation factors, each of which contained a number of subfactors. The factors listed in descending order of importance are: comprehension of requirements; organization and staffing; contract management; and experience. The RFP further provided that the technical considerations would be substantially more important than price.

The solicitation provided that the contractor would be required to provide all personnel necessary to perform in accordance with the requirements of the performance work statement (PWS) contained in RFP. While no minimum total number of mechanics was specified, the PWS referred offerors to work load estimates contained in several technical exhibits to the RFP. With regard to vehicle maintenance, technical exhibit 2 provided an historical summary of direct staff-hours for the period from October 1986 through November 1987; the number of direct staff-hours contained in that exhibit totaled 8053.8.

Additionally, offerors were required to submit a performance plan covering both vehicle maintenance and operations, a quality control program, and data relating to history with labor relations, performance on similar contracts and safety experience.

Six offers were received. Technical proposals were evaluated on an 1,800-point scale. Under the initial evaluation Allied Management was rated the lowest of the 6 with a score of 880.86, while American received a score of 1286.59.

Allied Management's proposal was principally downgraded because: its staffing chart indicated no fire truck or refueling mechanics and its proposed total of four mechanics was fewer than the evaluation panel thought necessary to service the fleet; the protester was a first-time offeror without contract performance history (for which it received no points under subfactors embracing labor relations history, current contract magnitude, corporate performance experience and safety experience); and its performance plan and quality control program were regarded as insufficient.

During the evaluation process, the Air Force provided offerors an opportunity to clarify their proposals in response to written questions. Among other things, Allied Management was asked to "address the need for fire truck and

refueling vehicle mechanics" in its staffing chart, and to clarify its performance plan and quality control program.

A subsequent evaluation yielded the following results:

<u>Offeror</u>	<u>Technical Score</u>	<u>Price</u>
A	1585.44	\$6,172,885
B	1578.65	\$5,921,718
American	1359.35	\$4,415,026
C	1317.12	\$4,788,630
D	1279.28	\$5,730,109
Allied Management	1082.08	\$3,948,029

While Allied Management showed improvement with respect to the vehicle operations portion of its performance plan, it received a less-than-acceptable score for its plan because of the maintenance portion. The protester's score for its quality control improved markedly and was within the acceptable range. On the other hand, the proposal continued to be rated as unacceptable for offering a total of only four mechanics; the evaluators further noted that while one fire truck and one refueling mechanic were now designated in the protester's revised staffing chart, the Air Force Manual (AFM 77-310) applicable to the solicitation required two refueling mechanics. Also, the protester continued to receive no score for the subfactors involving labor relations history, magnitude of current contracts, corporate performance and safety experience.

Citing the results of the second evaluation, the source selection authority decided to eliminate the protester's proposal from further consideration and to not include it in the competitive range because Allied Management had no reasonable chance of being selected for award. Following best and final offers from the remaining 5 offerors, American was awarded a contract on September 15 at a final price of \$4,379,790.

Allied Management's first principal objection to the evaluation of its technical proposal is that the historical work load data contained in technical exhibit 2 to the RFP indicated a need for only four mechanics and that, contrary to the erroneous assumptions of the agency evaluators, the protester in fact proposed a total of five mechanics. As further evidence that only 4 mechanics were needed, the protester points to its successful performance with that number of mechanics under a recently-awarded maintenance contract at another Air Force base with a fleet of 250 vehicles. It also argues that American was performing as the incumbent at Laughlin with a total of four mechanics.

In any event, the protester does not see the alleged staffing shortage as a significant problem under this fixed-price procurement. Allied Management also disputes the agency's reading of AFM 77-310 as requiring two refueling mechanics. According to the protester, the manual only requires the presence of two persons when a refueling vehicle is being serviced and provides that one of them can be the driver. The protester also points to its experience under its new contract as well as the incumbent's experience at Laughlin and alleges that, in both cases, only one refueling mechanic is being used. Finally, in this regard, Allied Management maintains that if, as the Air Force now states, it required a minimum of six mechanics at Laughlin, the agency should have corrected the allegedly misleading technical exhibit through meaningful discussions which, in its view, did not occur.

The Air Force responds that, while the total direct staff-hours contained in the technical exhibit "rounds out to four mechanics," these figures were direct hours actually required to perform the services and did not take into account such factors as vacation, sick leave, etc.--circumstances which, the agency states, indicate a need for more than the four mechanics proposed by Allied Management. In addition, the agency says that with two mechanics required for refueling vehicles and one for fire trucks, a total of four mechanics would leave only one to service the remainder of the Laughlin fleet. The agency also reports that the other offerors proposed between six and nine mechanics and that the incumbent used eight. As to the assertion that the protester actually proposed five mechanics, the agency points out that such a reading would have required the evaluators to assume that the protester's maintenance shopmanager was also going to perform as a mechanic--an explanation offered in the protest, but not in its proposal. The Air Force refers to AFM 77-310 as establishing the requirement for 2 refueling mechanics and further reports that past experience indicates that 1 refueling mechanic cannot handle the RFP requirement to insure that a minimum of 12 refuelers be operational at all times. Finally, the agency argues that its request that the protester address the need for fire truck and refueling mechanics was a sufficient indication of its concerns about the staffing proposed by Allied Management.

The evaluation of proposals and the resulting determination of whether an offer is in the competitive range are matters within the discretion of the contracting agency, since it is responsible for determining its needs and for deciding on the best methods of accommodating them. In reviewing an evaluation and competitive range determination, we will not

reevaluate a technical proposal but we will examine the agency's evaluation to insure that it was reasonable. Fairchild Weston Systems, Inc., B-230224.2, Dec. 19, 1988, 88-2 CPD ¶ 599. The protester must establish that an evaluation was unreasonable and this is not accomplished through its mere disagreement with the agency's judgment. Systems & Processes Engineering Corp., B-232100, Nov. 15, 1988, 88-2 CPD ¶ 478.

In our opinion, the Air Force reasonably determined that more mechanics were required to perform the services than Allied Management proposed and reasonably informed the protester of its concerns. Allied Management's reliance on technical exhibit 2 to establish that only 4 mechanics were required is unconvincing considering that its own proposal recognized that, given vacations, sick leave, etc., 1 mechanic could only be expected to perform 1,920 hours of direct labor per year; dividing the total hours contained in exhibit 2, i.e., 8053.8, by the protester's own figure of 1,920 shows that more than 4 mechanics are needed. Moreover, we believe that the Air Force has reasonably construed other RFP provisions regarding the maintenance of refueling vehicles^{1/} and fire trucks in concluding that a minimum of approximately six mechanics were needed to service both the specialized vehicles and the rest of the fleet. Allied Management's reliance on its experience under another contract and that of the incumbent at Laughlin to establish that the agency's technical determination was here unreasonable is misplaced since each procurement stands on its own. See Discount Machinery & Equipment, Inc.--Request for Reconsideration, B-230567.2, June 17, 1988, 88-1 CPD ¶ 580. In any event, as indicated above, the incumbent was using eight mechanics to perform the prior contract at Laughlin.

As for Allied Management's contention that it, in fact, proposed a total of five mechanics, our review of its proposal indicates otherwise. While it is true that the

^{1/} The Air Force reads AFM 77-310, vol. II, para. 1-33c., as establishing a requirement for two refueling mechanics while the protester maintains otherwise because the manual indicates that the vehicle operator can serve as the second person required. The "operator exception" to the two-person policy is, however, narrowly limited to circumstances where minor repairs are required after duty hours, and then only when the mechanic has a high skill rating. Thus, we agree with the agency's determination that the vast majority of circumstances contemplated by the RFP require two refueling mechanics.

protester's staffing charts include a maintenance shop-manager as alleged, there is no indication in the proposal that this manager would perform the duties of a mechanic. Moreover, we note that the detailed rationale accompanying Allied Management's staffing chart clearly indicates that it was proposing only four individuals to perform vehicle maintenance. Under these circumstances, we have no basis upon which to disagree with the Air Force's evaluation of the protester's overall staffing level.

The protester contends that the agency should not have been concerned at all about the size of its staff because Allied Management would bear any risks of an underestimate on a fixed-price contract. We disagree. In evaluating proposals for fixed-price contracts, it is reasonable for an agency to consider the risk of poor performance which may be occasioned by a contractor's miscalculation of the personnel resources needed to perform in accordance with the RFP requirements. See Burnside-Ott Aviation Training Center, Inc., et al., B-233113 et al., Feb. 15, 1989, 89-1 ¶ 155.

Finally in this regard, we believe that Allied Management's contention that the Air Force failed to conduct meaningful discussions with it concerning its staffing is based, in part, on a misinterpretation of the agency's request for clarification of initial proposals. The Air Force's letter, requesting that the protester clarify its proposal by, among other things, addressing the need for fire truck and refueling mechanics was not the initiation of discussions, but was a part of the evaluation process to determine which offers were to be included in the competitive range. Thereafter, the agency determined that Allied Management had no reasonable chance for award and did not include it in the competitive range. In these circumstances, the agency had no obligation to enter into discussions with the protester. Metric Systems Corp., B-218275, June 13, 1985, 85-1 CPD ¶ 682. We think that the request for clarifications was fair since it adequately indicated that staffing was an area in need of amplification. Under these circumstances, nothing more was required. See ALM, Inc., et al., B-217284 et al., Apr. 16, 1985, 85-1 CPD ¶ 433.

The protester next contends that, since it is a new business, the Air Force was obligated to consider the experience of its president as listed in its proposal in evaluating its offer under the subfactors of labor relations history, corporate performance history and safety experience. While an agency may, in appropriate circumstances, evaluate the corporate experience of a new business by reference to the experience of its principal officers, or a parent company, we have not held, as the protester

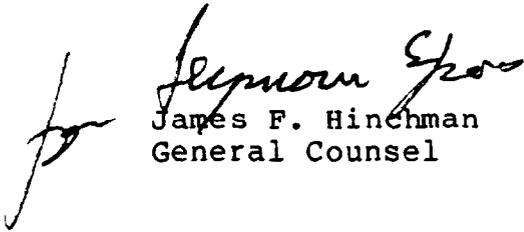
suggests, that an agency is obligated to do so in every case. See Data Flow Corp., et al., B-209499 et al., July 6, 1983, 83-2 CPD ¶ 57. In any event, in comparing the protester's proposal to the precise experience requirements set forth in the RFP, we note that the outline of contract experience provided for its president does not contain any of the details required in order for it to be credited under the areas of labor relations history or safety experience. Thus, we are provided with no basis for questioning the agency's rating of Allied Management under these subfactors. While the outline of the president's experience does provide information of the type required under the subfactor of corporate performance history, we note that the vehicle service contracts listed are, for the most part, of a smaller dollar volume than the Laughlin contract. Moreover, the solicitation had a separate subfactor for the evaluation of the experience of the firm's executives. Since the protester was given credit for its president's experience under that subfactor, we do not think that it need be credited twice for the same experience.

All of the other proposals received significantly higher scores than Allied Management's in two separate evaluations. An agency properly may determine whether or not to include a proposal in the competitive range by comparing the proposal evaluation scores and the offeror's relative standing among its competitors. See Interworld Maritime Corp., B-232305, Nov. 29, 1988, 88-2 CPD ¶ 531. In the circumstances of this procurement, then, we think the agency properly concluded that Allied Management's offer had no reasonable chance of being selected for award. Id. While the protester seems to believe that its low price warranted further consideration of its proposal, the solicitation made it clear that technical merit was the critical evaluation factor; and where a proposal is judged technically unacceptable, an agency is not obligated to consider a lower proposed price. See GLH, Inc., B-232156, Nov. 18, 1988, 88-2 CPD ¶ 490.

Finally, Allied Management raises several other issues. In its comments on the agency report, the protester for the first time contended that the agency was biased in favor of American because of the previous business relationship which allegedly existed between the company's president and a retired Air Force officer who is presently under indictment for unrelated offenses. In addition to being untimely raised under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1988), we will not attribute prejudicial motives to agency contracting officials on the basis of unsupported allegations, inference or supposition. See Systems & Processes Engineering Corp., B-232100, supra.

Systems & Processes Engineering Corp., B-232100, supra.
Also, the protester generally questions the evaluation of its quality control program because of the disparity in scores it received between the first and second evaluations. Since the record reflects that all offerors were initially evaluated low in this area and subsequently improved, and since Allied Management received a relatively high score for quality control in the second evaluation, we fail to see how it was prejudiced with respect to its quality control program. The protester also questions the propriety of the awardee's proposal to make use of some personnel from its grounds maintenance contract at Laughlin on its vehicle maintenance and operations contract. Contrary to the protester's speculation that such a practice is illegal, it is not, nor was it precluded by the RFP; consequently, we have no basis to question the agency's judgment that American's proposal was acceptable in this regard.

The protest is dismissed in part and denied in part.


James F. Hinchman
General Counsel