



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Sterling Services Incorporated
File: B-242217
Date: April 9, 1991

Walter Bull for the protester.
Will Rose for Tecom, an interested party.
Millard F. Pippin, Department of the Air Force, for the agency.
David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that awardee failed to offer the required minimum manning established by the specifications is denied where the protester was not prejudiced by any relaxation of the requirement.

DECISION

Sterling Services Incorporated protests the Department of the Air Force's award of a contract to Maytag Aircraft Corporation, under request for proposals (RFP) No. F05604-90-R-A060, for transient aircraft services at Peterson Air Force Base in Colorado Springs, Colorado. Sterling contends that Maytag's proposal failed to offer the required minimum manning levels established by the specifications.

We deny the protest.

The solicitation requested proposals to furnish for a base year and 4 option years transient aircraft services, including meeting arriving aircraft and leading the aircraft into assigned parking spots, positioning staircases required for entry and exit from the aircraft, refueling and defueling, otherwise inspecting and servicing the aircraft, debriefing and briefing aircrews, and preparing the aircraft for departure. Sterling's protest concerns Maytag's compliance with the minimum manning levels established by the solicitation with respect to particular services, including:

- "5.1.3 The contractor shall provide a minimum of two employees to support the ground handling requirements for each [VIP] transient aircraft.

. . . A third employee will be required to operate the staircase when required.

"5.2 . . . The Transient Control Center shall be manned at all times with a dispatcher.

"5.4,2 Refuel or defuel aircraft as required. . . . Contractor shall provide a minimum of two personnel for each aircraft refueling operation. Refueling vehicle operator shall not be used to make up transient alert's two-man requirement. Aircrew members may substitute for the contractor's aircraft maintenance requirement. . . ."

Following issuance of the RFP, one prospective offeror asked the agency whether solicitation paragraph 5.1.3 established:

"a minimum requirement of two Aircraft Servicers on-the-spot prior to the arrival of a VIP aircraft, and Aircraft Servicers in the transient alert vehicle to meet the aircraft as it exits from the taxiway, and a refueling vehicle operator standing by in the refueling vehicle."

The agency amended the solicitation to include the following response:

"This is a minimum requirement; however, refuelers and refueling vehicles will be available upon request. In most cases, a refueler standing by in the refueling vehicle is not required. Also, a third employee is required to operate a staircase truck when needed."

However, when asked whether "the number of employees identified for arrival and departure services [under paragraph 5.1.3] include the driver of the follow-me vehicle" used to lead aircraft to their assigned parking spots, the agency informed offerors that the driver was a "separate individual."

The solicitation provided for award to be made to the low, technically acceptable offeror. Four proposals were received. After discussions with offerors, all proposals were found technically acceptable. Maytag then submitted the low best

and final offer (BAFO), \$3,401,227, and Sterling the next low BAFO, \$3,985,040. Award therefore was made to Maytag.

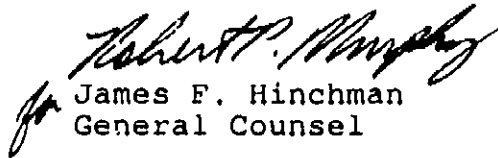
Sterling alleges that Maytag proposed insufficient personnel to satisfy the minimum manning levels established by the specifications, and that its proposal therefore should have been rejected as technically unacceptable. Maytag proposed to man the 2300-to-0700 hours shift with a minimum of three personnel--a shift leader, dispatcher, and aircraft servicer --and to supplement these personnel where necessary by holding over personnel from the prior shift or, in the event of an unexpected aircraft arrival, by recalling personnel. Although agency technical evaluators initially found that Maytag was proposing an insufficient number of personnel to meet the refueling/defueling requirement, and rejected relying on recalled personnel on the basis that the time lag for recall would be too long, the agency ultimately determined that Maytag's proposed approach was acceptable. This determination reflects the agency's interpretation that the solicitation required a minimum manning of as few as two personnel--the dispatcher and the operator of the "Follow Me" vehicle used to lead aircraft to their designated parking spots--and as many as five or more personnel--in the event a VIP aircraft arrives and requires an external staircase and refueling or defueling. Sterling interprets the RFP as requiring at least four full-time personnel at all times--one dispatcher, two aircraft servicers, and one refueling vehicle driver. Sterling, which based its proposal on this interpretation, argues that this minimum requirement cannot be met by Maytag's approach of recalling personnel.

To the extent that aircraft must be refueled or defueled, we agree that the specifications require the presence of at least four personnel (a dispatcher, two aircraft servicers, and at least one refueler). However, while it appears Sterling's full staffing approach to meeting this requirement is the one originally contemplated by the Air Force, it is also true that the RFP does not prohibit Maytag's proposed use of recalled personnel for refueling/defueling of unexpected transient aircraft.

In any case, even if Sterling is correct that the Air Force relaxed the requirement by making award to Maytag, it is clear that Sterling was not prejudiced by relaxation of the requirement. In this regard, had all offerors been advised during discussions that they could meet the refueling/defueling requirement with recalled personnel, and had Sterling responded by reducing its proposed manning for the graveyard shift from four to three, the number proposed by Maytag, this would have resulted in a decrease in Sterling's total proposed man-hours of no more than approximately 6.2 percent. We have reviewed in detail the cost proposals of Sterling and Maytag,

and based on that review and the fact that Maytag's price was 14.65 percent lower than Sterling's, there is no basis for concluding that Sterling would have altered its proposal enough to offset Maytag's advantage (and Sterling does not so argue) had it been given the opportunity to respond to a relaxed requirement. In these circumstances, relaxation of a solicitation requirement does not provide a basis for sustaining a protest. See Cryo Med, B-241605, Feb. 22, 1991, 91-1 CPD ¶ ____.

The protest is denied.


for James F. Hinchman
General Counsel