



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Salazar Associates International, Inc.

**File:** B-245999.2

**Date:** April 29, 1992

Donald P. Young, Esq., and Sean P. Morgan, Esq., Saul, Ewing, Remick & Saul, for the protester.  
James J. Griffin, for Griffin Albers Joint Venture, an interested party.  
Craig E. Hodge, Esq., and Major Allan R. Pearson, Department of the Army, for the agency.  
Roger H. Ayer, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

The contracting agency properly evaluated the protester's proposal as technically unacceptable and eliminated it from the revised competitive range, following discussions, where protester offered an unnecessary housing organization--which manifested to the agency the protester's lack of understanding of the solicitation requirements--and proposed unjustified and unacceptable staffing cuts; the evaluated deficiencies rendered unacceptable the protester's organizational structure, which was the primary technical evaluation criterion under the solicitation.

### DECISION

Salazar Associates International, Inc., protests the rejection of its proposal under request for proposals (RFP) No. DAAD09-90-R-0017, issued by the Department of the Army, Dugway Proving Ground, for a cost-plus-award-fee contract to provide base support services for a base year and 4 option years.

We deny the protest.

The RFP, as issued on January 2, 1990, required the following support services: (1) management and administration; (2) facilities engineering services; (3) engineering resource management; (4) operation of utilities systems; (5) roads and structures maintenance; (6) operation of the installation supply support activity; (7) transportation motor pool; and (8) grounds maintenance. The requested services were similar to those being provided by the

incumbent contractor with the exception of housing management/maintenance services, which were not included in this RFP because they had been broken out for a separate procurement.

The RFP, as amended, provided that proposals had to meet the government's requirements in each evaluation area to be eligible for award, and that award would be made on the basis of the "best buy" for the government. The RFP instructed offerors to submit technical proposals that tracked the format and sequence of the RFP's requirements, and warned offerors to fully explain any deviations they might make from that format. Offerors were advised that the RFP's technical evaluation factors were significantly more important than cost and listed the following technical factors: (1) experience and performance record for management and operation of similar operations; (2) management systems and administration procedures and plans; and (3) organizational structure and method of operation. The RFP stated that the organizational structure factor was "by far the most important" of the three technical factors. Subfactors of the organizational structure factor included: (1) proposed organization; (2) staffing by organizational element; (3) control within organizational element (span of supervision); (4) personnel qualifications; and (5) subcontractor's organizational staffing. Subfactors (1) and (2) were "by far the most important" and of equal value.

The RFP explained that, if the agency did not award on the basis of initial proposals, a competitive range would be established that would include only those proposals that the agency deemed to have a reasonable chance of being selected for award. The RFP cautioned that initial inclusion within the competitive range was no assurance that an offeror would remain in the competitive range, since discussions may reveal that an offeror no longer had a reasonable chance of being selected for award.

The agency received nine proposals by the closing date. Based on its evaluation of the proposals, the agency found four proposals clearly acceptable, three proposals marginal, and two proposals clearly unacceptable. Among the marginal proposals, Salazar's proposal was ranked the lowest and its cost was the second highest of the seven acceptable or marginal proposals. The contracting officer eliminated Salazar from the competitive range, finding that it had no reasonable chance of receiving the award because (1) the number and severity of the Salazar's proposal deficiencies was such that a major rewrite of its proposal would be necessary for the proposal to become acceptable, and (2) its proposed costs were high compared to the other offerors' prices and the government estimate. Salazar's principal technical deficiency concerned the most important technical

evaluation factor, organizational structure and method of operation. For example, Salazar had proposed an unnecessary housing organization to furnish services that the agency intended to procure under a separate contract. Salazar's proposal was also deficient in its format, its proposed plans and programs, and its staffing of most functional areas. Its proposal also raised concerns with regard to its technical expertise and management of the workforce.

Salazar protested to our Office its elimination from the competitive range. We dismissed the protest after the agency reconsidered and included Salazar's proposal in the competitive range.<sup>1</sup> Thereafter, the agency advised Salazar of the perceived deficiencies in its proposal and solicited a revised proposal responsive to the agency's concerns. Specifically, the agency notified Salazar of its proposal's cost and technical deficiencies. In this regard, the agency stated in pertinent part:

"1. Comply with provision L.24(D)(1)(a) of the solicitation which requires submission of proposed approach to meet each technical requirement of the statement of work, submitted in the same format and sequence as the specifications.

2. Your proposed plans and programs lack detail and do not provide sufficient information to determine acceptability. This includes quality control plan, property administration, environmental program, phase-in, management control system, and other plans that demonstrate knowledge and ability to perform this type of work.

3. Explain rationale for proposed staffing in each major functional area, including housing operations.

4. Staffing below key personnel is not sufficiently discussed.

5. Further describe your technical expertise and management of actual work force."

The agency evaluated Salazar's revised proposal and determined that the proposal remained noncompliant with respect to the RFP's most important criterion, organizational structure and method of operation. In this regard, it found that Salazar had still not recognized that major housing operations were not required, and this was indicative of

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<sup>1</sup>The agency advises that it only decided to include Salazar in the competitive range out of an abundance of caution.

Salazar's basic lack of understanding of the RFP requirements. In addition, Salazar made significant and unjustified manpower cuts in its revised proposal. Because of these evaluated deficiencies, the agency evaluated Salazar's revised proposal even lower than it had rated Salazar's initial proposal. Consequently, the agency eliminated Salazar's revised proposal from the revised competitive range as technically unacceptable.

Salazar protests the agency's evaluation of its revised proposal, contending that its proposal actually meets and exceeds the RFP's stated minimum requirements for organizational structure and staffing.

Our examination of an agency's decision to exclude a proposal from the competitive range begins with the agency's evaluation of proposals. Advanced Sys. Tech., Inc., Engr'g and Prof. Servs., Inc., B-241530; B-241530.2, Feb. 12, 1991, 91-1 CPD ¶ 153. Generally, the evaluation of technical proposals is a matter within the contracting agency's discretion since the agency is responsible for defining its needs and the best method of accommodating them. Science Sys. and Applications, Inc., B-240311; B-240311.2, Nov. 9, 1990, 90-2 CPD ¶ 381. In reviewing an agency's technical evaluation, we will not reevaluate the proposal, but will examine the record of the agency's evaluation to ensure that it was reasonable and in accord with stated evaluation criteria, and not in violation of procurement laws and regulations. Information Sys. & Networks Corp., 69 Comp. Gen. 239 (1990), 90-1 CPD ¶ 203. The offeror has the burden of submitting adequately written proposals and proposal revisions for the agency to evaluate, Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530, and an offeror's disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. United HealthServ Inc., et al., Jan. 18, 1989, 89-1 CPD ¶ 43. If the agency's evaluation of proposals is reasonable, and not violative of any law or regulation, there is nothing improper in an agency's making more than one competitive range determination and in dropping a firm from further award consideration. Advanced Sys. Tech., Inc.; Engr'g and Prof. Servs., Inc., supra.

As stated above, a major reason that Salazar's proposal was considered to lack understanding in the primary technical evaluation area, "organizational structure and method of operation," was its proposed use of a "housing" function,<sup>2</sup>

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<sup>2</sup>Salazar initially proposed a housing function overseen by a housing manager "responsible for the inspection and maintenance of housing facilities."

even though this function was not included as an RFP requirement. In this regard, the RFP section, C.1.1, expressly excluded "all aspects of maintenance, repair, and management of . . . Housing." The agency emphasized the exclusion of the housing requirement from the statement of work at a pre-proposal conference that Salazar's representatives attended,<sup>1</sup> and this pre-proposal conference advice was incorporated into the solicitation by amendment No. 0004.

Salazar disputes the agency's concerns about Salazar's proposed housing function. Essentially, Salazar contends that the agency is confusing form and substance; that the agency should have looked beyond the title assigned to the organizational structure in its proposal (i.e., "housing") and considered the structure's actual function. Salazar argues that it understood exactly what the RFP required, namely the performance of "functions related to building and housing maintenance" and "although Salazar titled these personnel as 'Housing', they were going to perform 'Building and Structures' functions." In its protest Salazar cites various sections of the RFP that it reads as requiring "an

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<sup>1</sup>The agency gave the following answers during the pre-proposal conference:

Question: Does it contain housing.

Answer: This contract has housing management, not maintenance.

Question: Housing excluded unless otherwise specified in the solicitation.

Answer: Yes, correct.

Question: Is there a potential to add Housing.

Answer: No.

Question: Have the man-hour figures for the entire [facilities engineering] . . . function . . . been adjusted to reflect the deletion of the Housing requirement from the contract and the addition of the grounds keeping effort?

Answer: The hours referenced do not reflect housing or grounds maintenance. The hours in the supply portion have been adjusted to reflect only the portion being contracted.

offeror to perform functions relating to building and housing maintenance." Salazar urges that its proposed housing function was a necessary organizational structure, and, at worst, an offer to provide somewhat more than the minimum required by the RFP. We disagree.

The record shows that the functions Salazar cites as involving housing maintenance are either inapposite or merely tangentially related to housing. For example, while Salazar references section C.1.6.4.3, which Salazar characterizes as "maintain all real property documents," the agency points out that there is no housing related requirement applicable to real property documents. In this regard, the entire section C.1.6 makes no mention of family housing and the cited subsection does not include the word "all." Another example is the section C.1.8.1.8.1 requirement to "maintain and process as-built drawings for all projects, including family housing," which the agency reports is an engineering services function that the contractor performs using agency provided information.<sup>4</sup> Thus, while the RFP required some minor administrative functions related to housing, neither Salazar's initial proposal nor its revised proposal addressed these matters.

Salazar's argument, that it intended to use the housing personnel in support of other required functions, ignores the RFP, which clearly excludes the kind of family housing program that Salazar proposed to support with its housing staff. As indicated above, Salazar's initial proposal inexplicably included a housing function. During discussions, the agency highlighted the housing organization deficiency by asking Salazar to explain its rationale for proposed staffing of housing operations. Salazar responded with a statement detailing all the unnecessary housing functions its proposed organization would provide. For example, notwithstanding Salazar's explanations in this protest, Salazar's revised proposal details how its housing manager would administer "the family housing program."

Thus, the agency legitimately found that Salazar's proposal evidenced a lack of understanding of the actual agency requirements in the area of organizational structure since Salazar's revised proposal appeared to be proposing unnecessary additional personnel to perform housing services that the RFP did not require, with no indication that the offered personnel would be used for anything other than

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<sup>4</sup>Salazar's revised proposal did not cite this section as a reason for its offering a housing operation function.

housing, or that they were provided to exceed the minimum requirement in some manner beneficial to the agency, as Salazar now claims. See Hill's Capitol Sec., Inc., B-233411, Mar. 15, 1989, 89-1 CPD ¶ 274 (the proposal of unnecessary functions, without explanation, can be considered in evaluating an offeror's understanding of the requirements).

Salazar contends that the agency's discussions were not meaningful with regard to the housing function. While the agency could have specifically told Salazar that it did not want the housing operation described in Salazar's revised proposal, an agency is only required to lead an offeror into areas of its proposal which require correction. Hill's Capitol Sec., Inc., supra. In so doing, an agency need only express its concerns in a manner that reasonably communicates the nature and gravity of the concerns. Mark Dunning Indus., Inc., B-230058, Apr. 13, 1988, 88-1 CPD ¶ 364.

We think the agency's specific reference to the RFP requirement for adherence to the RFP's format instructions (which if followed would have alerted the protester to the magnitude of its housing operations deficiency, since the RFP format did not include a housing function), together with the agency's specific request that Salazar justify, or explain the rationale for, its proposed housing operations staff, provided sufficient information to put Salazar on notice that its proposal's provision of an unnecessary housing function was noncompliant with the mandatory RFP requirements.

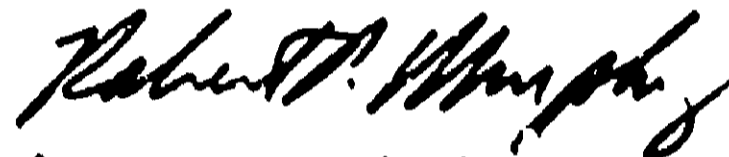
The agency also considered Salazar's proposal unacceptable because of the staffing cuts Salazar had made in its revised proposal. Salazar challenges the agency's characterization of the cuts as a deficiency on the grounds: (1) that the agency improperly based its determination on an undisclosed agency personnel estimate that the agency mechanically applied to the evaluation of Salazar's reduced staffing, and (2) that Salazar made the staff reduction to obtain a better organizational structure (i.e., "a streamlined management function") by removing an "unnecessary management layer." Salazar denies that it cut the staff, as the agency alleges, in an effort to lower its high costs.

Our review of the record confirms that Salazar made considerable cuts in proposed staffing in its revised proposal, and that Salazar did not adequately explain or justify these staffing cuts. The agency reasonably found that these undocumented reductions--that lowered Salazar's level of effort below that of any other offeror--were "well below" what the government considered adequate to perform the work. In performing this evaluation, the agency did not, as alleged by Salazar, simply compare Salazar's staffing to an

undisclosed government estimate, but instead evaluated Salazar's particular organization and staffing levels to ascertain if they could successfully accomplish the work. While Salazar asserts its organization is "streamlined," it simply did not justify its significant staffing cuts in its revised proposal. Indeed, the protester's explanations during the course of this protest still do not elucidate the personnel structure of Salazar's organization and how it will successfully perform the work. Therefore, we find reasonable the agency's determination that Salazar's proposal was unjustifiably understaffed.

Consequently, the agency reasonably found Salazar's proposed organizational structure and method of operation, which was the most important technical evaluation criterion, unacceptable because it evidenced a lack of understanding of the necessary work and was grossly understaffed.<sup>5</sup> Under the circumstances, the agency properly eliminated Salazar from the competitive range.

The protest is denied.

  
for James F. Hinchman  
General Counsel

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<sup>5</sup>As the one evaluator observed with regard to Salazar's organizational structure:

"I originally commented that I doubted [Salazar] could adequately perform. Now that they have provided clarification [through discussions], I am no longer doubtful. I am now sure they will not be able to adequately perform."