



Comptroller General
of the United States

Washington, D.C. 20548

McAuliffe 1460801

Decision

Matter of: Crimson Enterprises, Inc.

File: B-243193.4

Date: June 12, 1992

Karl Dix, Jr., Esq., and Ivor J. Longo, Esq., Smith, Currie & Hancock, for the protester.
Marcus B. Slater, Jr., Esq., Fort & Schlefer, for Vinnell Corporation, an interested party.
Jeffrey I. Kessler, Esq., and Major Allan R. Pearson, Department of the Army, for the agency.
Susan K. McAuliffe, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest allegation that contracting agency, in evaluating proposals, should have attributed experience of proposed key personnel to experience of protester's organization is denied where the solicitation provided for corporate experience and key personnel to be evaluated separately.
2. Contracting agency satisfied the requirement for meaningful discussions of agency's concern about protester's lack of similar corporate experience where a discussion question addressed to the protester stated that its proposal indicated no history in family housing management, thereby leading the firm into the area of its proposal found weak and in need of amplification.
3. Award to offeror submitting slightly higher cost, technically superior proposal under request for proposals which gave greater weight to technical merit compared with cost is justified where contracting agency reasonably determined that acceptance of the proposal was worth the higher cost.

DECISION

Crimson Enterprises, Inc. protests the award of a contract to Vinnell Corporation under request for proposals (RFP) No. DAAD09-90-R-0019, issued by the U.S. Army Dugway Proving Ground, Utah, for housing maintenance and management

services for 646 family housing units. Crimson argues that the Army improperly evaluated proposals and failed to conduct meaningful discussions with the firm.

We deny the protest.

BACKGROUND

The RFP, as amended, was issued on an unrestricted basis and contemplated the award of a cost-plus-fixed-fee contract for a base period and 4 option years. Historically, the Army has awarded separate contracts for family housing maintenance and family housing management services at Dugway Proving Ground. The agency explains that due to inefficiencies and disruptions of service caused by having two separate contractors provide the maintenance and management services at Dugway, the two functions were combined for the first time in the current RFP. Crimson is the incumbent contractor for the maintenance and repair functions of this requirement; Vinnell is the incumbent contractor for the housing management functions of the RFP.

The RFP required the furnishing of all labor, administration, supervision, equipment, parts, materials, and supplies to perform the following services: (1) family housing management; (2) family housing administration and operation; (3) furnishing/furniture management; (4) family self-help program management and operation; (5) maintenance and repair to family housing equipment, appliances and facilities; (6) maintenance of family housing units, government administration buildings, and emergency generators; and (8) maintenance and repair of family housing playground equipment and other functions described in the solicitation's Performance Work Statement.

Award was to be made to the contractor that submitted the best overall proposal with appropriate consideration given to technical and cost factors. The RFP stated that the technical evaluation factors were significantly more important than cost, but that as the technical factors became more equal among proposals, cost would become more significant. The solicitation listed the following technical evaluation criteria (each factor was worth 30 points and included various subcriteria): (1) comprehension of specification requirements; (2) qualifications of key personnel; (3) corporate experience; (4) general management and direct services capability; and (5) quality control.

Ten proposals were received by the June 13, 1991, closing date, five of which (including Crimson's and Vinnell's) were considered acceptable and included in the competitive range. Crimson's initial technical proposal was ranked fourth of

the five proposals included in the competitive range; Vinnell's initial proposal was ranked highest technically. Discussions were held with the offerors in the competitive range and best and final offers (BAFO) were submitted by October 10, 1991. Technical and cost evaluations were conducted for each BAFO (cost evaluations included the application of a fixed amount for anticipated equipment costs); the cost realism analysis of each BAFO also included the application of a 4 percent escalation rate to proposed labor rates for inflation. The protester's BAFO, which offered the lowest evaluated cost, was ranked third technically (at 108 points of the available 150 points, representing a 25 point increase from its initial proposal score) of the four BAFOs submitted; Vinnell's BAFO, which offered the next lowest evaluated cost (which was less than 5 percent higher than Crimson's evaluated cost), was ranked highest technically at 139 points.

Although the Army technical evaluators found that Crimson's proposal indicated a thorough understanding of the maintenance requirements and a history of being able to respond admirably to the maintenance aspects of the RFP's Performance Work Statement, the evaluators significantly downgraded the protester's proposal due to the limited amount of family housing management experience contained in the proposal; Crimson's proposal was also downgraded for a lack of management staff stability, engineer/technician capabilities, and quality control. Although Crimson's proposed housing management supervisor (who was first proposed by Crimson in its BAFO and who is not a current employee of Crimson) was found to have some similar family housing management experience (for which Crimson's BAFO received a 30 percent increase under the key personnel criterion), the evaluators found this proposed individual's experience insufficient to merit an increase in Crimson's corporate experience score. (Crimson received 18 out of the 30 points available for corporate experience.) The contracting officer accepted the technical evaluators' findings and concluded that "[a]s a result of the limited management expertise, Crimson's proposal carries with it a meaningful and significantly higher risk of unsuccessful performance."

The evaluators found that Vinnell's proposal, which included information about its similar domestic and overseas housing management and maintenance contracts, "outlined a proven history of being capable of providing [A]rmy family housing management and maintenance services." Since Vinnell's evaluated cost was found to be slightly less than 5 percent higher than Crimson's evaluated cost, the Army determined

that the "advantages gained through Vinnell's superior expertise, is worth the minimal additional evaluated cost," Vinnell, whose proposal was found to offer the best overall value to the government, was awarded a contract under the RFP on December 12, 1991.

EVALUATION ISSUES

Importance of Management Functions

Crimson objects to the award on the grounds of an allegedly improper evaluation of proposals which, the protester contends, favored Vinnell, the housing management contractor. Crimson contends that since the majority of tasks (and related labor hours) listed in the RFP's Performance Work Statement relate to the contract's maintenance requirements, the maintenance functions of the RFP should have been assigned significantly greater weight than the management functions in the evaluation of proposals.

In response, the agency states that the management aspects of the requirement are at least as important as the maintenance functions. The agency further states that the RFP set forth the critical nature of, and the need for similar experience in, the family housing management services to be performed here--which include the supervision and planning of maintenance activities, as well as the provision of housing and furnishings to tenants. The agency also states that Crimson acknowledged the importance of housing management and stated in its proposal that "the ultimate goal, and our responsibility under this contract, is to manage the family housing program to insure quality housing with a maximum occupancy rate at all times."

We cannot agree with the protester's current position that the maintenance aspects of the RFP were significantly more important than the management aspects merely because more labor hours will be required to meet the maintenance requirements. Although the RFP did not state that the maintenance and management requirements were of equal or near equal importance, it is clear, as the agency points out, that each function is dependent upon the performance of the other. The RFP provided, and the agency's evaluation plan appropriately required, that the proposals would be evaluated, under each of the RFP's stated evaluation factors (including key personnel qualifications and corporate experience), for meeting both the management and maintenance requirements of the RFP. Accordingly, we reject the protester's contention that a significantly greater weight should have been afforded to the maintenance functions than the management functions. Rather, we think that weight was

properly given by the agency to the evaluation of each offeror's comprehension of the stated requirements and the offeror's capabilities and experience in both family housing management and maintenance.

Housing Management Experience and its Effect on Other Factors

Crimson contends that the agency improperly found that the firm lacked housing management experience, which determination adversely affected the firm's technical evaluation scores under each of the technical evaluation factors. In support of its position, the protester argues that the agency failed to award sufficient key personnel qualification points for the management experience of its proposed housing manager.¹

The evaluation and scoring of technical proposals is primarily the responsibility of the contracting agency; we will examine the record to ensure that the agency's evaluation was reasonable and consistent with the stated evaluation criteria. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115. Disagreement with an agency's judgment does not itself render the evaluation unreasonable. Id.

Based on our review of the record, including the RFP, the evaluation documents, the protester's proposal, and the submissions of the parties, we find that the agency's evaluation of the proposals was reasonable. The subfactors for the key personnel qualifications factor, as listed in the RFP, included: (1) previous work experience in similar projects; (2) education/relevant professional experience; and (3) definite plans for the assignment of key personnel. Crimson received 23 points out of the 30 points available

¹Crimson also argues that the agency conducted unequal evaluations of Crimson's and Vinnell's proposed key personnel since the maintenance supervisor proposed by Vinnell in its initial proposal allegedly did not have sufficient maintenance experience to meet the RFP's requirements but received as high a rating as Crimson's incumbent maintenance supervisor. We find this evaluation comparison by Crimson irrelevant to the award determination since Vinnell proposed a different maintenance supervisor in its BAFO (whose qualifications Crimson does not challenge), rendering the evaluation of the initially proposed individual academic. We do note, however, that the record supports the agency's determination that the initially proposed individual possessed significantly more maintenance experience than the mere "plumber" status alleged by the protester.

for this factor, but claims that additional points should have been granted for the experience of its proposed housing manager. Crimson's BAFO states that this individual has owned and operated an upholstery and renovation business for the past 5 years, and he has had relevant educational training and more than 20 years experience working at Dugway in various positions (including quality control officer, supervisory construction representative and distribution facilities specialist, facilities shop supervisor, construction inspector and housing maintenance manager).

The agency found that the addition of Crimson's proposed family housing manager in its BAFO warranted a 30 percent increase in score for key personnel from its initial submission. Although this individual was found to be trained and experienced in the maintenance field, he was found to have limited experience with the housing management requirements--engineering/long-range planning and overall management of housing areas were cited as areas of concern by the agency.

Based upon our review of the RFP's requirements and the resume of Crimson's proposed family housing manager, we find the agency's evaluation reasonable. Although this individual, as housing maintenance manager at Dugway from 1968 to 1977, has had some defense housing management training and performed housing management duties in the housing manager's absence, this experience was limited and gained at least 15 (and as much as 24) years ago. Since that time, this individual has operated in a supervisory maintenance capacity. Although his responsibilities in these positions included the oversight, inspection and management of various maintenance functions (including the management of supplies and equipment), he was not responsible for the overall long-range engineering, planning, budgeting and administration of the various housing management functions of the RFP's Performance Work Statement. We therefore find reasonable the agency's determination that this individual possessed "some" housing management experience (resulting in a 30 percent increase in score), but we find that neither he nor any other proposed key personnel exhibited sufficient training or housing management experience to warrant a significantly higher score, as Crimson suggests is appropriate, for the qualifications of key personnel criterion.

Crimson also argues that the agency improperly downgraded its proposal for lack of corporate housing management experience. The protester contends that although Crimson lacks "direct" housing management experience, its proposed housing manager's experience should have been attributed to the firm.²

The RFP stated that corporate experience would be evaluated on the basis of: (1) respected reputation in the field to which the proposal relates; (2) convincing assurance of specific managerial/technical competence for services as set forth in the Performance Work Standards; and (3) specific examples of similar services successfully completed. In response, Crimson submitted information regarding several of its previous family housing maintenance contracts, but the protester did not reference any previous or current housing management contracts. The evaluators found Crimson's corporate housing maintenance experience to be "above average," but its family housing management experience was found to be lacking; Crimson's proposal (after BAFOs) received 18 of the available 30 points for corporate experience. The agency states that additional points could not be assigned for this criterion "due to the degree of risk the government would assume without this [direct family housing management] experience."

The record shows, and we find, that the protester, as a corporate entity, did not demonstrate experience in the housing management field, as required; rather, it apparently relied on the experience of its key personnel, particularly its proposed housing manager, which, according to the protester, should have been attributed to its organization. The RFP, however, called for the evaluation of corporate experience separately from the experience of the individual employees, which was also evaluated. Since a firm's experience is different from its employees' individual experience, and since the RFP clearly provided for separate

²To the extent Crimson alleges that only Vinnell, as the incumbent family housing management contractor at Dugway, had the "unique" experience sought by the agency, we note that the RFP provided that offerors could equally demonstrate their corporate family housing management experience by listing any previous similar commercial (i.e., nongovernment) housing management projects, which experience Crimson apparently also lacks.

evaluation of these areas, we consider the evaluation here to be reasonable and proper. See Bardes Servs., Inc., B-242581, Apr. 29, 1991, 91-1 CPD ¶ 419.

MEANINGFUL DISCUSSIONS

Similarly, Crimson also protests that the agency failed to conduct meaningful discussions with the firm since Crimson was not told that the requirement for corporate housing management experience would not be fully satisfied by the protester's proposal of a housing manager (a key personnel position) with housing management experience at Dugway.

In order for discussions in a negotiated procurement to be meaningful, contract officials must generally point out weaknesses, excesses, or deficiencies in proposals (unless doing so would result either in disclosure of one offeror's technical approach to another or in technical leveling) and afford offerors an opportunity to revise their proposals to satisfy the government's requirements. Miller Bldg. Corp., B-245488, Jan. 3, 1992, 92-1 CPD ¶ 21.

During discussions, Crimson was advised that its "proposal indicates no history in family housing management." The record shows that at oral discussions, held September 19, Crimson stated that the firm had limited corporate experience in family housing management, but that Crimson planned to propose in its BAFO a housing manager who had relevant housing management experience. Crimson alleges that the agency misled the firm during discussions by stating that this individual would satisfy all of the RFP's housing management requirements (Crimson apparently contends that this alleged statement also encompasses all corporate housing management experience requirements). The agency denies having made such a statement.

Although Crimson attempts to diminish the awardee's corporate housing maintenance experience, stating that Vinnell's overseas experience is inapplicable to conditions at Dugway, the record shows that Vinnell, in addition to providing maintenance services at more than 30 overseas sites (involving more than 2500 units), currently performs housing maintenance at five domestic sites (involving more than 1200 units). Despite the protester's disagreement, given Vinnell's substantial similar housing maintenance and management experience, we find the agency reasonably rated Vinnell's proposal higher than Crimson's for corporate experience related to the overall RFP requirements.

We find that the agency's discussion pointing out the firm's lack of family housing management history reasonably informed the protester that its corporate experience was considered weak and in need of amplification. We believe that, even if the alleged agency statement was made, Crimson unreasonably concluded that the proposed individual's experience would fully satisfy the RFP's corporate housing management experience requirement since, as stated above, the RFP called for the evaluation of corporate experience separately from the experience of the individual employees. Consequently, we do not find that the record shows the agency violated its obligation to conduct meaningful discussions or that the protester was reasonably misled in any way regarding its lack of corporate housing management experience.

OTHER INCIDENTAL ISSUES

Crimson takes issue with additional miscellaneous areas of the technical evaluation and generally alleges bias on the part of the agency. However, in view of our conclusion, as stated above, that the record supports the reasonableness of the agency's determination that Crimson's lack of direct family housing management experience necessarily adversely affected its overall technical evaluation score since it reasonably posed a significant performance risk, we conclude that the comparative position of the protester's proposal to that of the awardee would not change significantly under the remaining evaluation factors. Given our finding, as discussed in detail below, that the evaluation of cost proposals was proper here, we find that the award to Vinnell, which submitted a technically superior, slightly higher-priced proposal, was reasonable without considering the additional evaluation factors. As for Crimson's allegations of bias, we do not find that the record in any way shows bias by the agency--the fact that Crimson disagrees with the conclusions or opinions of the evaluators does not establish agency or evaluator bias. See MGM Land Co.; Tony Western, B-241169; B-241169.2, Jan. 17, 1991, 91-1 CPD ¶ 50.

COST EVALUATION

Crimson challenges the agency's evaluation of its cost proposal. First, the protester alleges that the agency improperly applied a 4 percent escalation rate to Crimson's proposed labor rates instead of the 1-1/2 percent rate recommended by the protester. Crimson claims that the agency improperly applied the 4 percent escalation rate proposed by Vinnell to Crimson's proposal.

The agency states that during discussions all offerors were asked to escalate their labor costs for all option years by 4 percent. Crimson's BAFO did not reflect the application of any escalation factor, but recommended an escalation of 1-1/2 percent. The Army reports that at the time the cost evaluations were conducted, information was obtained from Army sources (including the Joint Logistics Commanders Interim Rates of Change for Pricing Increases in Executive Compensation, Salaries, Wages and Fringe Benefits, prepared by the Army Materiel Command in July, 1991) and the United States Consumer Price Index, which indicated that an escalation factor of 4 percent was appropriate for this contract. As such, all offers were evaluated for realism by applying the 4 percent rate--which was accomplished by multiplying a 1.04 factor to the first option year totals and each succeeding (adjusted) option year total. The same formula was applied to all offers, including Vinnell's proposed costs.

We find that the Army's upward adjustment of Crimson's proposed costs was appropriate. When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs of contract performance are not dispositive, since the offeror's estimates may not provide valid indications of the actual costs which the government is, within certain limits, required to pay. See FAR § 15.605(d). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. General Marine Indus. of N.Y., Inc.; Todd Pacific Shipyards Corp.; B-240059; B-240059.2, Oct. 18, 1990, 90-2 CPD ¶ 311. Our review of an agency's exercise of judgment in this area focuses on whether the agency's cost evaluation was reasonably based. Military Professional Resources, Inc., B-243548, Aug. 7, 1991, 91-2 CPD ¶ 135.

Here, the Army upwardly adjusted Crimson's proposed BAFO cost by a factor of 4 percent (applied over 4 option years). The same escalation rate, independently obtained by the Army from relevant sources, was equally applied to all offerors' proposed labor rates, and Crimson did not otherwise provide financial documentation to support its position that its costs would not be affected by the expected inflationary factors (i.e., represented by the 4 percent escalation rate requested of offerors) over the course of the contract. Under the circumstances, the agency was not required to rely

on Crimson's unsupported proposed costs and, in fact, as explained above, was obligated to determine what performance by Crimson would cost. Id; Signal Corp., B-241849 et al., Feb. 26, 1991, 91-1 CPD ¶ 218.

COST/TECHNICAL TRADEOFF

Finally, Crimson protests the agency's determination that Vinnell's higher technical score outweighed the cost savings (evaluated to be nearly 5 percent) offered by Crimson.

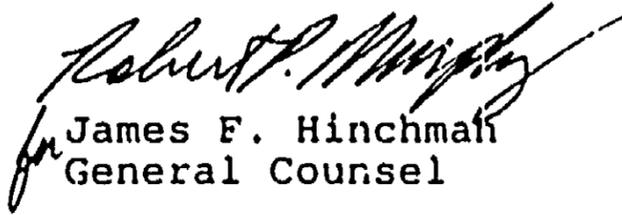
Although Crimson's evaluated costs were lower than that of the awardee, in a negotiated procurement there is no requirement that award be made on the basis of lowest cost. Agency officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost results. Cost/technical tradeoffs may be made, and the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the established evaluation factors. Environmental Health Research & Testing, Inc., B-237208, Feb. 9, 1990, 90-1 CPD ¶ 169. We will uphold awards to offerors with higher technical scores and higher costs so long as the contracting agency reasonably determines that the additional cost involved was justified considering the technical superiority of the selected offeror's proposal. Midwest Research Inst., B-240268, Nov. 5, 1990, 90-2 CPD ¶ 364.

Here, the solicitation indicated that technical quality was more important than cost. Moreover, consistent with that standard, the contracting agency, in our view, reasonably determined that a contract with Vinnell was worth the additional cost. In this respect, as the agency pointed out in its selection decision, Vinnell's evaluated cost was the

'Crimson also alleges that the agency improperly failed to consider that Crimson did not include equipment costs (except in calculating its phase-in costs which include a minimal amount for new vehicles) in its proposal. Crimson contends that as the maintenance incumbent, the protester's equipment is already available at Dugway without additional cost. The Army states that equipment costs were normalized. We find reasonable the agency's normalization of equipment costs here since the record shows that much of Crimson's equipment was found to be in unacceptable condition, and insufficient information was available for the agency to properly evaluate new equipment acquisition costs or the costs necessary to repair or improve any existing equipment's condition. Moreover, our review shows that equipment costs did not materially affect the selection decision.

next lowest after Crimson's (with only an approximate 5 percent difference in cost) and, under the technical factors, Vinnell's proposal was the highest rated (Crimson's proposal was rated third technically of the four BAFOs received.) We believe the risk associated with Crimson's lack of direct housing management experience was properly considered by the agency in its technical/cost tradeoff analysis. Under the circumstances, we conclude that the agency reasonably determined that the technical superiority of Vinnell's proposal justified the minimal additional cost involved.

The protest is denied.


for James F. Hinchman
General Counsel