



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Centro Management, Inc.

**File:** B-249411.2

**Date:** December 2, 1992

Christopher Solop, Esq., Ott, Purdy & Scott, for the protester.

Maj. Bobby G. Henry, Jr., Department of the Army, for the agency.

John Van Schaik, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Contracting agency adequately conducted discussions regarding agency's concern with the staff and hours proposed for particular labor categories where a discussion request addressed to the offeror instructed it to reexamine the staff and hours proposed for the categories in question.

2. Award to offeror submitting higher-priced, technically superior proposal under request for proposals which gave greater weight to technical merit than to price is justified where contracting agency reasonably determined that acceptance of the superior proposal was worth the additional cost.

### DECISION

Centro Management, Inc. protests the award of a contract to Applied Management & Services, Inc. under request for proposals (RFP) No. DAKF06-91-R-0001, issued by the Army for dining facility attendant services. The procurement was conducted competitively pursuant to section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. III 1991).<sup>1</sup>

<sup>1</sup>Section 8(a) of the Small Business Act authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. Federal Acquisition Regulation (FAR) § 19.805 and 13 C.F.R. § 124.311 (1992) provide for and govern competitively awarded contracts set aside for  
(continued...)

We deny the protest.

#### BACKGROUND

The RFP contemplated the award of a firm, fixed-price contract for a 1-year base period and 3 option years. The solicitation stated that award would be made to the responsible offeror whose proposal conformed to the solicitation and was most advantageous to the government, price and other factors considered. The solicitation also stated that price would be less important in the selection decision than technical considerations and that price would not be determinative unless "two or more offerors are judged to have submitted technical proposals that are essentially equal in technical merit." However, the RFP also stated that "no award shall be made to an offeror offering superior technical capabilities with prices so incongruously high in relationship to historical cost and other offered prices, that such an award would negate the advantages of an award based on technical superiority."

The solicitation included the following evaluation factors, listed in descending order of importance: (a) technical approach, staffing and management; (b) the quality proposal; (c) experience of the offeror in rendering same or essentially the same nature and scope of services; (d) the offeror's approach to mobilization of the necessary resources to perform commensurate with the established milestones.

Ten firms submitted proposals. The Army evaluated the proposals and sent letters to the offerors identifying deficiencies in their proposals and established a competitive range of nine firms. Because of various problems not related to the protest which occurred during the evaluation, several proposal evaluations were conducted and a subsequent round of oral discussions were held with each of the offerors. After receipt of best and final offers (BAFO), the proposals were again evaluated and scored. Before deciding to award the contract, the contracting officer eliminated from consideration six of the competitive range proposals as a result of their high prices or relatively low technical scores. The initial and BAFO technical scores and BAFO prices for the three remaining proposals were as follows:

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<sup>1</sup>(...continued)

section 8(a) qualified concerns. We review competitive 8(a) procurements to ensure that they conform to applicable federal procurement regulations. See Morrison Constr. Servs., Inc., 70 Comp. Gen. 134 (1990), 90-2 CPD ¶ 499; New Life Group, Inc., B-247080.2, May 22, 1992, 92-1 CPD ¶ 463.

	Initial score	BAFO score	BAFO price
Applied	84.2	94.52	\$9,192,028
Centro	82.9	78.07	\$7,995,791
Empire Management Inc.	77.4	77.18	\$6,258,884

Although the score assigned to Centro's BAFO was 78.07, the agency reports that after the protest was filed it discovered a mathematical error and that Centro's BAFO technical score should have been 82.57.

In making the selection, the contracting officer noted that Applied's proposal reflected superior technical merit, as indicated by its score, which was the highest assigned. In addition, the evaluation record shows that Applied's proposal was rated very high under each of the technical evaluation factors and that its technical methodology, its quality control plan and its management plan were considered to be particularly strong. Although Centro and Empire offered prices below that proposed by Applied, the contracting officer determined that the technical superiority and the lower performance risk represented by Applied's proposal justified the additional cost. In this regard, the contracting officer noted that Applied's proposed price was \$1,466,112 below the government's estimate for the work and was fourth low among those firms submitting BAFOs.

With respect to Centro, the evaluators primarily were concerned that its proposal included an insufficient number of clerical workers and area managers and insufficient labor hours for food sanitation specialists. Although the mathematical error in Centro's score was not discovered until after the award and therefore Centro's technical score was considered to be only 78.07 instead of 82.57, the contracting officer subsequently determined that this error had no effect on the selection decision since Applied's proposal was in fact superior.

#### PROTEST ALLEGATIONS

Centro argues that the selection of Applied's higher priced offer was improper for several reasons. First, Centro argues that its proposal was in fact technically equal to that of Applied, and thus it was entitled to the award under the RFP evaluation scheme. In support of this premise, Centro maintains that the evaluators' conclusion that its staffing level and labor hours were too low was simply

erroneous and that these alleged weaknesses in Centro's proposal were not properly addressed during discussions. Further, in this regard, Centro argues that the final score assigned to its proposal was mistaken and that if the proper score had been given to it, the firm's proposal would have been, along with Applied, in the "excellent" range under the agency's technical evaluation plan.

Next, according to Centro, even if Applied's proposal was properly rated higher than the protester's, it was not worth the additional \$1,196,237. In this connection, Centro argues that the Army failed to consider whether Applied's price was "incongruously high in relationship to historical cost and other offered prices," as required by the solicitation. For example, Centro states that the agency did not specifically compare Applied's price to Centro's to determine if the awardee's price was too high and that such a comparison would have led to a determination that an award to Applied was not worth the additional cost.

#### ANALYSIS

We first address Centro's allegation that its proposal was technically equal to that of Applied. Centro argues that its proposal was unreasonably criticized because of the evaluators' belief that its proposed staffing did not demonstrate that the firm had an understanding of the requirements of the solicitation. In this respect, the evaluation record shows that the evaluators were concerned that Centro's BAFO proposed insufficient clerical workers, area managers, and inadequate labor hours for its food sanitation specialists. According to the evaluation record, Centro's proposal of a single clerical worker was seen as insufficient because this position is required to be staffed during the 14 hours that the dining facilities are open. Also, the evaluators concluded that Centro's proposal of a single area manager was not sufficient; the evaluators believed that two area managers were required. With respect to food sanitation specialists, the evaluators concluded that Centro's labor hours were understated by 34 percent. The evaluators were concerned that these weaknesses would pose a risk to Centro's satisfactory performance of the contract.

Centro, however, notes that while its staffing level for food sanitation specialists was low in relation to the agency's estimate of the hours necessary to perform, the agency admits that the estimate, which was based on the incumbent contractor's staffing level, was high. Centro states that it has more than 23 years of military food service experience and that its staffing estimate was based on its assessment of the hours necessary to perform the contract. According to Centro, the evaluation of its

proposal did not include an analysis of whether its proposed staffing was adequate for the approach it proposed but rather was simply based on a comparison to the government's estimate.

The evaluation of technical proposals is primarily a matter within the contracting agency's discretion which we will not question unless we find the evaluation to be unreasonable or inconsistent with the RFP's evaluation criteria. Microwave Solutions, Inc., B-245963, Feb. 10, 1992, 92-1 CPD ¶ 162. The protester's disagreement with the agency's conclusion does not render the evaluation unreasonable. Tate-Griffin Joint Venture, B-241377.2 Jan. 7, 1992, 92-1 CPD ¶ 29.

As Centro points out, the Army's estimate was based on the level-of-effort of the incumbent contractor and agency officials thought that the estimate was "on the high side both in terms of labor hours and total price." Nonetheless, contracting officials thought that the estimate was still useful for comparison purposes. The manning level proposed by Centro in its BAFO was below the government's estimate to such an extent, 34 percent, that the proposal was considered deficient since it included no explanation that convinced the evaluators that the firm could successfully perform the contract. Although Centro disagrees with the agency's judgment that its proposed manning level was not sufficient and points out that the estimate was considered to be high, Centro offers no explanation at all as to how its approach would allow it to perform the contract with 34 percent fewer labor hours than had been used under the incumbent contract. Centro's disagreement with the agency's evaluation of the labor hours necessary to perform the contract does not render that evaluation unreasonable. Tate-Griffin Joint Venture, supra. Centro also does not explain how its proposed use of a single area manager and a single clerical worker would have been sufficient for contract performance. Under the circumstances, we conclude that the evaluation of Centro's proposal has not been shown to be unreasonable.

Centro also argues that its proposal was technically equal to Applied's proposal since, when its score was corrected, both the Centro and Applied proposals were in the "excellent" range under the Army's technical evaluation plan. Although Centro's corrected score placed it in the "Excellent" range under the technical evaluation plan, the agency did not consider the proposals to be equal. Centro's corrected score is only 82.57 compared to Applied's score of 94.52. More importantly, independent of the scores and adjectival ratings, the evaluators considered the Applied proposal to be superior particularly in light of Centro's staffing weaknesses. Based on our review of the record, we think that judgment was reasonable.

Centro also argues that the oral discussions conducted with it were unnecessary and that it was misled by those discussions into believing that its proposal was deficient when in fact it was not.

After written discussions, the agency conducted oral discussions with each of the competitive range offerors. As Centro points out, the agency's record of the oral discussions shows that, among other issues, contracting officials instructed both Centro and Applied to "reexamine" their proposed staffing and labor hours for food sanitation specialists, administrative personnel, and shift leaders. As Centro also notes, neither firm was told that it should increase or decrease proposed staffing or hours in these areas; they were simply told to reexamine those areas.

In response to oral discussions, Centro states that it assumed that its labor hours for the food sanitation specialist category were too high and it reduced those hours. Centro argues that the oral discussions conducted with it were unnecessary since its initial proposal included the proper number of labor hours. In addition, according to the protester, both it and Applied were left to guess whether the agency considered their hours overstated or understated; Applied guessed correctly and increased its hours and Centro guessed wrong and decreased its hours. Centro argues that the Army's instruction to "reexamine" its hours was misleading and that the agency failed to hold adequate discussions since it did not specifically inform the firm to increase its hours.

We think the Army properly raised this matter in discussions. Although Centro argues that the oral discussions with it were unnecessary, the record shows that before the oral discussions the evaluators considered Centro's staffing for the food sanitation specialist labor category to be deficient by 18 workers and also considered the firm's administrative staff to be deficient. Since the evaluators considered this a major weakness, it was an appropriate matter for discussions.

We also conclude that the discussions which the Army conducted with Centro regarding its labor hours were adequate. Discussions are adequate where the agency leads offerors into the areas of their proposals considered deficient. Contract Servs. Co., Inc., B-246585.3, May 7, 1992, 92-1 CPD ¶ 427. Centro was orally instructed to reexamine the staff it had proposed for food sanitation specialists, administrative personnel and shift leaders. We think that instruction directed Centro to the areas of concern to the evaluators. There is no indication that Centro asked agency officials whether it should increase or decrease its hours or staff and although contracting

officials could have specifically told the firm to increase its hours, to have done so would have defeated a purpose of the discussion request, which was to discover if Centro understood the requirements of the solicitation. See Environmental Health Research and Testing, Inc., B-243702.2, Oct. 29, 1991, 91-2 CPD ¶ 389. Under the circumstances of this case, we think the agency's conduct of discussions with Centro was neither improper nor misleading.


Centro also argues that Applied's proposal, even if it was technically superior, was not worth the extra \$1,196,237. In a negotiated procurement there is no requirement that award be made on the basis of lowest price. Agency officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results. Price/technical tradeoffs may be made, and the extent to which one may be sacrificed to the other is governed only by the test of rationality and consistency with the established evaluation factors. Grey Advertising Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; Midwest Research Inst., B-240268, Nov. 5, 1990, 90-2 CPD ¶ 364; Miller Bldg. Corp., B-245488, Jan. 3, 1992, 92-1 CPD ¶ 21. We will uphold awards to offerors with higher technical scores and higher prices so long as the results are consistent with the evaluation criteria and the contracting agency reasonably determines that the price premium involved was justified considering the significant technical superiority of the selected offeror's proposal. PECO Enters., Inc., B-232307, Oct. 27, 1988, 88-2 CPD ¶ 398.

Here, the solicitation specifically stated that technical quality was more important than price and, therefore, reasonably indicated that the Army was willing to pay a premium for a technically superior offer. Thus, an award based on Applied's higher priced, superior technical proposal was consistent with the solicitation so long as the technical difference was sufficiently significant to outweigh Applied's price advantage. Midwest Research Inst., supra.

Although the agency rated Centro highly, the evaluators and the source selection authority concluded that Applied's proposal was superior. In this respect, the evaluators considered Centro's proposal deficient because it did not provide adequate staffing while Applied's proposal offered sufficient staffing for the required work and was seen as strong in other areas, such as technical methodology and quality control and management plans. The evaluators also considered Applied's proposal to involve substantially less performance risk to the government. Moreover, the contracting officer determined, as the solicitation required, that Applied's price was not "incongruously high in relationship to historical cost and other offered prices"

and, in fact, was \$1,466,112 below the government's cost estimate for the contract.<sup>2</sup> Under the circumstances, we see nothing unreasonable in the agency's determination that Applied's proposal was worth the higher cost.

The protest is denied.

  
for James F. Hinchman  
General Counsel

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<sup>2</sup>Centro also argues that even if its proposal was lower rated than Applied's as a result of its staffing, since the solicitation called for a fixed-price contract, its staffing would not result in a risk to the government as Centro would still be obligated to perform the contract at the price it proposed. It is true that due to the fixed-price nature of the contract, Centro would be bound to perform at its offered price whether or not its proposed staffing was sufficient to achieve effective performance. Nonetheless, the agency concluded that there was a risk that the quality of performance by Centro would be threatened by the firm's inadequate staffing and by the firm's lack of understanding of the requirements which agency official believed was reflected by its inadequate staffing. See Burnside-Ott Aviation Training Center, Inc.; Reflectone Training Sys., Inc., B-233113; B-233113.2, Feb. 15, 1959, 89-1 CPD ¶ 158. We think these concerns were reasonable and consistent with the evaluation scheme set forth in the solicitation which stated that technical merit was more important than price.