



Comptroller General  
of the United States

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Washington, D.C. 20548

## Decision

**Matter of:** Crown Logistics Services

**File:** B-253740

**Date:** October 19, 1993

Jesse W. Rigby, Esq., Clark, Pattington, Hart, Larry, Bond, Stackhouse & Stone, for the protester.

Jeffrey H. Rohrer, Esq., Department of the Army, for the agency.

Barbara C. Coles, Esq., and Christine S. Melody, Esq., Office of the General Counsel, CAO, participated in the preparation of the decision.

### DIGEST

1. Agency reasonably excluded protester's proposal from the competitive range where proposal was so lacking in detail and otherwise deficient that it would have required substantial revision to be made acceptable.

2. Protester's contention that agency deviated from the evaluation criteria in the solicitation, which provided that staffing and cost were the two most important evaluation factors, by not taking its proposed costs into account before concluding that its proposal was technically unacceptable and excluding it from the competitive range is denied since a technically unacceptable proposal may be excluded from the competitive range regardless of the weight accorded cost in the solicitation and regardless of the offeror's lower proposed costs.

3. Contention that agency's decision to exclude the protester's proposal from the competitive range was made in bad faith is dismissed where the record establishes that the rejection was properly based only on the presence of numerous deficiencies in the protester's proposal.

### DECISION

Crown Logistics Services protests the rejection of its proposal under request for proposals (RFP) No. DABT31-91-R-0012, issued by the Department of the Army for logistical support services at Fort Leonard Wood, Missouri. The protester contends that the agency improperly excluded its proposal from the competitive range.

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

The RFP, issued on March 6, 1992, contemplated the award of a cost-plus-award-fee contract for logistical support services in the following areas: supply support, maintenance and repair of equipment, vehicle operations, rail transportation, troop issue subsistence support, and maintenance assistance and instruction. The RFP advised offerors that their overall proposals should consist of a separate proposal for each of the RFP's evaluation factors, namely, staffing, cost, quality control, and transition and phase-in/phase-out. The RFP stated that staffing and cost were more important than quality control, which was more important than transition and phase-in/phase-out.

To facilitate the evaluation of proposals, the RFP stated that all necessary information in the form of narrative, graphics, matrices, and supplemental material should be organized by these functional areas: (1) general requirements; (2) supply support; (3) troop issue subsistence activity; (4) maintenance and repair of equipment; (5) vehicle operation; (6) rail transportation services; and (7) other tasks. The solicitation stated that award would be made to the offeror whose proposal represented the highest degree of realism and whose performance was expected to best meet the government's requirements.

Crown, along with other offerors, submitted proposals by the November 10 closing date; a most efficient organization (MEO) study was also conducted to determine the costs of in-house performance. The agency's technical evaluators gave each proposal a color/adjectival rating<sup>1</sup> and a point score based on 1,000 total available points. After reviewing Crown's proposal, the evaluation team determined that it should be excluded from the competitive range. This decision was based in part on the team's conclusion that Crown's proposal, which had received a color/adjectival rating of red/unacceptable under each evaluation factor, was technically unacceptable because the company had not demonstrated any understanding of the performance requirements. The evaluators further concluded that in order to be acceptable, the proposal would need to be rewritten.

As a preliminary matter, the protester generally contends that the agency improperly considered factors which it argues were not stated as evaluation factors in the solicitation but were, in its assessment, factors that

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<sup>1</sup>Proposals were evaluated as blue/exceptional; green/acceptable; yellow/marginal; or red/unacceptable.

were a part of the agency's internal evaluation plan. Although the protester does not provide specific examples of instances where the agency used an internal plan to downgrade its proposal, it appears that the firm is objecting to the agency's detailed evaluation of the firm's capability to meet the various requirements set forth in the RFP's performance work statement.

The record establishes that the agency evaluated the technical merit of the protester's proposal in accordance with the stated evaluation factors. To facilitate its review, the agency evaluated the proposals in seven major functional areas--which were listed in the solicitation as, for example, general requirements, supply supports, etc.--to determine the merits of the offeror's proposed staffing, quality control plan, and transition plan. The seven major functional areas were divided into "subfunctional" evaluation areas and were also evaluated.

To the extent that the protester asserts that the agency improperly evaluated "subfunctional requirements," the contention is unpersuasive because the RFP plainly advised offerors that they would be evaluated. For example, one of the "subfunctions" under the general requirements area was "management plan." Section C-1.6 of the RFP, entitled "management plan," provided that "the contractor shall submit a management plan to the contracting officer with his proposal." In addition to the requirement for submission of this information in the performance work statement, section L.26 of the RFP specifically advised offerors that "[w]here the performance work statement requires submission of plans and schedules, [offerors should] submit [this information] in the section of the proposal" to which the information is applicable. It also advised offerors that the staffing proposal should consist of a narrative and supporting data that addressed the technical requirements of the performance work statement. Since Crown was on notice that submission of such information as, for example, the management plan was required, it was imperative that the firm either include such discussion in its proposal or timely object to the requirement prior to the closing date.

The protester contends that the agency improperly determined that its proposal was technically unacceptable and, thus, outside the competitive range based on informational deficiencies in its proposed labor matrix. Although the protester concedes that the matrix was not organized by functional area and did not contain an identification number for each employee as required by the RFP, the protester argues that the deficiencies were minor formatting defects which could have been clarified in its best and final offer. In the alternative, the protester argues that

the information missing from its matrix can be found in other sections of its proposal, namely, its manpower matrix and other organizational charts.

The evaluation of proposals and resulting determination as to whether a particular offer is in the competitive range are matters within the discretion of the contracting agency, since it is responsible for defining its needs and determining the best method of accommodating them. Network Sys. Solutions, Inc., B-249733, Dec. 14, 1992, 92-2 CPD ¶ 410. The agency is not required to include in the competitive range a proposal that is technically unacceptable as submitted and would require major revisions to be made acceptable. TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37. In reviewing challenges to an agency's competitive range determination, our Office does not independently reevaluate proposals; rather, we examine the evaluation to determine whether it is reasonable. Consultants & Designers, Inc., B-247923.2, July 22, 1992, 92-2 CPD ¶ 40. Based on our review of the record, we conclude that the agency reasonably excluded Crown's proposal from the competitive range.

As a preliminary matter, the record establishes--contrary to Crown's position--that the protester's failure to submit required information under the staffing evaluation area was only one of several reasons the agency cited when it ultimately decided to exclude the proposal. Essentially, the protester ignores the numerous deficiencies the agency found under each technical evaluation area of Crown's proposal. For example, under the staffing area, the agency concluded that Crown's proposal did not evidence a clear understanding of the requirements called for under the solicitation. This was based not only on its determination that Crown failed to comply with the RFP requirement to identify employees by identification number and to organize its matrix by functional area, but also on its conclusion that Crown proposed insufficient staffing to perform the tasks, and that its proposal contained an incomplete training program as well as inadequate work control methods. As for the quality control area, the agency found that Crown's proposal contained several disadvantages which included, for example, the absence of a corrective action plan to ensure prevention of recurring problems. Finally, the agency found that the protester's transition/phase-in/phase-out proposal also presented several weaknesses that included, but were not limited to, the failure to submit a detailed transition and phase-in plan. Our review of the

record confirms the existence of these deficiencies as well as others cited by the agency.<sup>7</sup>

With respect to the protester's specific claim that the agency improperly downgraded its proposal under the staffing evaluation area, although the protester correctly argues that other organizational charts in its proposal show its proposed method of performing the work called for under the RFP by functional area, the protester incorrectly asserts that the agency could have ascertained employee identification numbers from other matrices submitted with its proposal. We have reviewed the protester's manpower matrix and its other organizational charts and have not found any information in these documents that responds to the agency's requirement for employee identification numbers. To the contrary, we discovered that these documents contain inconsistencies in regard to proposed staffing levels. For example, while the protester's staff labor matrix and its tables establish that the protester proposed 34 supply clerks, the areas in which these clerks would perform their duties are unclear because 3 of the protester's tables show 3 different crews to which the clerks will be assigned: one shows 12 crews; one shows 11; and yet another lists only 9 crews.

By failing to comply with the RFP requirement that the staffing matrix distinguish employees by identification numbers and further separate them by functional areas, the protester also failed to demonstrate that it clearly understood the required tasks; which employee would be responsible for accomplishing them; and that it proposed adequate employee coverage. Given the other deficiencies in its staffing proposal, namely, understaffing, we have no basis to question the reasonableness of the agency's determination, since the inconsistencies in the number of supply clerks assigned to each crew and, thus, the protester's failure to demonstrate what tasks each clerk would accomplish, precluded a determination that the

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<sup>7</sup>The protester initially argued that the evaluation of its technical proposal was improper because, in its opinion, its proposal demonstrated that it proposed sufficient staffing to accomplish the tasks called for in the RFP; its quality control plan, which it claims was based on extensive experience, has been used in connection with similar contracts; and its proposed transition team was "highly experienced." The agency rebutted these arguments in its agency report. The protester, in its comments on the agency report, did not address these issues; therefore, we deem them abandoned. See Heimann Sys. Co., B-238882, June 1, 1990, 90-1 CPD ¶ 520.

protester's proposed assignment of supply clerks was technically sound.

With respect to the agency's assessment of its staffing level deficiencies, the protester generally argues the agency "should have made adjustments" rather than reject its proposal. In support of this position, the protester references the language in section L.33 which provides:

"If information in the (s)taffing proposal and the (c)ost proposal is considered inadequate to accomplish (g)overnment (c)ontract requirements, i.e., unrealistic, an appropriate adjustment will be made by the source selection board for evaluation purposes only. For example, if the proposed staffing in the initial cost proposal is considered too low, an appropriate adjustment will be made and costed accordingly."

To be reasonable, an interpretation of a solicitation provision must be consistent with the solicitation when read as a whole and in a reasonable manner. Air Prep. Tech., Inc., B-252833, June 14, 1993, 93-1 CPD ¶ 459. We do not think that the RFP provision on which the protester relies reasonably can be read to call for the agency to make acceptable a technically unacceptable proposal through adjustments to the offeror's proposed staffing and associated costs; rather, the clause notifies offerors that the agency evaluators will make an adjustment to an understated cost proposal solely for cost evaluation purposes where the technical proposal is acceptable. The protester's interpretation of section L.33 effectively would shift the responsibility for preparing an acceptable proposal from the offeror to the agency, and is inconsistent with the contracting officer's responsibility to establish a competitive range composed only of those proposals that on their own merit have a reasonable chance of being selected for award. See Federal Acquisition Regulation § 15.609(a).

The protester also argues that the agency's evaluation reflected an improper departure from the stated evaluation criteria, which provided that cost and staffing were the two most important evaluation factors. The protester contends that the agency did not allocate adequate weight to its proposed costs, but rather improperly decided to allocate 54 percent of the total 1,000 points to staffing.

The protester's contention lacks merit. While the solicitation did provide that staffing and cost were the two most important evaluation factors, it also stated that cost would not be numerically scored. More importantly, the protester incorrectly concludes that its proposed costs should have been factored into the agency's decision

regarding whether its proposal should have been excluded from the competitive range. As discussed above, the agency properly determined that the protester's proposal was technically unacceptable. It is appropriate to exclude a technically unacceptable offer like the protester's from the competitive range regardless of its lower proposed costs and regardless of the weight accorded to cost in the solicitation.<sup>3</sup> See International Mktg. Enters., Inc., B-246232, Feb. 24, 1992, 92-1 CPD ¶ 222.

The protester next argues that the agency's decision to exclude its proposal from the competitive range was made in bad faith. In support of its allegation, the protester contends that the agency's evaluation documents demonstrate that the evaluation board did not impartially evaluate its proposal. Prejudicial motives will not be attributed to contracting officials on the basis of unsupported allegations, inference, and supposition. Sys. & Processes, Eng'g Corp., B-232100, Nov. 15, 1988, 88-2 CPD ¶ 478. Here, there is no evidence in the record that supports the protester's speculation that the agency's evaluation was other than impartial. Rather, the protester merely infers bad faith because several of the independent evaluation forms contained the same paragraph which described the protester's failure to comply with the RFP requirement for submission of employee identification numbers in the staff matrix. In doing so, the protester clearly ignores the fact that its proposal did contain this obvious informational deficiency. In sum, the protester's contention is based on unsupported inference and supposition, which is insufficient to prove its claim. See Monarch Enters., Inc., B-233303, et al., Mar. 2, 1989, 89-1 CPD ¶ 222.

Similarly, the record does not support the protester's assertion that the agency's decision to exclude its proposal was made in bad faith because the protester's staffing and cost projections were lower than the incumbent's and the government's projections.<sup>4</sup> In its agency report, the

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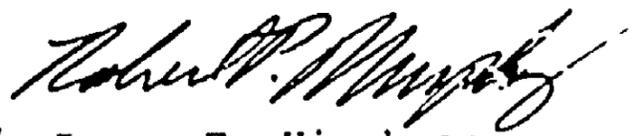
<sup>3</sup>Although the protester does not allege that the agency's actual evaluation of its cost proposal was improper, we note that the agency's overall evaluation of the protester's proposal did include consideration of the firm's proposed costs.

<sup>4</sup>The agency's evaluation of the offerors' proposed costs included a comparison of an independent government estimate (IGE) with their proposed costs. The agency also prepared an MEO cost estimate which, unlike the IGE, was not used in the evaluation to compare costs associated with contractor

(continued...)

agency rebutted this allegation and explained that prior to evaluations, it reminded the evaluation team of the "necessity to cast aside personal biases. . . ." Despite this explanation and the agency's statement that no party associated with the preparation of the MEO cost proposal was involved in the evaluation of any of the offerors' proposals, including the protester's, the protester infers that bad faith was the cause of its rejection. As discussed above, the protester ignores the fact that its proposal properly was rejected because it required substantial revision to be acceptable. Since the protester has not provided any evidence that establishes that the rejection resulted from the agency's specific intent to harm the firm, we have no basis to consider this claim further.

The protest is denied in part and dismissed in part.

  
for James F. Hinchman  
General Counsel

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<sup>4</sup>(...continued)  
performance, but instead reflected the costs associated with in-house performance.