



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Peter M. Coons, Inc.

File: B-255553

Date: March 10, 1994

Peter M. Coons for the protester,
Lynn W. Flanagan, Esq., United States Department of
Agriculture, for the agency.
Behn Miller, Esq., and Ralph O. White, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Agency evaluation of protester's proposal as technically unacceptable was reasonable where: (1) protester failed to provide sufficient detail in its submitted resumes to demonstrate how its proposed key personnel were qualified to perform the required claims processing services; (2) protester failed to propose any key personnel with required computer database experience; and (3) protester provided only generalized assertions for the bulk of its technical discussions.

DECISION

Peter M. Coons, Inc. (PMC) protests the award of a contract to Oliver & Hamilton (O&H) under request for proposals (RFP) No. ASCS-R-08-93DC, issued by the United States Department of Agriculture (USDA), for export claims processing services. PMC contends that the agency improperly rejected its proposal as technically unacceptable.

We deny the protest.

BACKGROUND

On May 17, 1993, the agency issued this RFP for an indefinite quantity contract based on fixed-price labor rates for a 1-year base period and four 1-year option periods. The RFP sought claims processing for the Commodity Credit Corporation's (CCC) GSM-102 Export Credit Guarantee Program and GSM-103 Intermediate Export Credit Guarantee Program. These programs assist in financing the export of agricultural products by guaranteeing payment to American exporters and American banks in the event foreign banks do not make

payment on behalf of foreign purchasing parties under specified letters of credit. Through the GSM-102 and GSM-103 programs, CCC guarantees payment to American exporters and American banks in the amount of 98 percent of the principal payments and a portion of interest payments due from foreign banks.

Under the solicitation, the successful contractor is to provide a project manager, senior claims processor, and numerous claims processor personnel to perform these services. The services being procured include: (1) claim receipt; (2) organizing claims for processing according to their chronological order; (3) reviewing claims for compliance with USDA and CCC regulations and working with claimants to correct documentation deficiencies; (4) performing issue resolution--which requires analysis to identify issues and needs, available payment options and recommendations, and implementing the policy and decisions of the CCC Controller/Treasurer; (5) preparing the requisite claim payment paperwork for the appropriate CCC official; (6) calculating late interest payments and preparing associated paperwork; (7) preparing daily, weekly, and monthly reports detailing claims received, processed, and paid to date; (8) reviewing, processing, tracking, and reporting notices of default received from claimants; and (9) assisting the CCC's Financial Management Division [FMD] in collecting payments from foreign banks.

In summary, the export claims processing services required by this solicitation require intricate detailed analysis and mathematical computations for a voluminous number of claims;¹ additionally, the successful contractor is required to use a computer network system, comprised of Lotus 1-2-3 software, Paradox database software, and other software associated with preparing written analysis--such as Wordperfect.

¹For example, the agency reports that since Iraq's invasion of Kuwait on August 2, 1993, the CCC has received almost 5,000 claims for default by Iraqi obligor banks. Also, government upheaval in the former Soviet Union is expected to generate approximately 220 claims each month over the next year--in addition to 500 claims currently awaiting processing--resulting from defaults related to these countries. Other countries currently generating hundreds of defaulting export claims requiring CCC's immediate attention are Suriname, Argentina, El Salvador, and Honduras. Applicable regulations require that interest to claimants begins to accrue within one day after the claim is received in "good order" by the CCC. Thus, timely processing by experienced claims personnel is critical in order to avoid potential late interest penalties.

The RFP required offerors to submit both a technical and a "Cost/Business" proposal. The solicitation provided that technical proposals would be evaluated under the following evaluation factors/subfactors--set forth in greater detail in the RFP, but paraphrased here--and corresponding point scheme:

TECHNICAL EVALUATION -- 185 POINTS

Factor:	MANAGEMENT PLAN	65
Subfactor:	Management Strategy	5
Subfactor:	Management Organization	5
Subfactor:	Reporting	5
Subfactor:	Quality Control	35
Subfactor:	Planning and Scheduling	15
Factor:	TASK ACCOMPLISHMENT	60
Subfactor:	Understanding of the Work	35
Subfactor:	Approach to Technical Problems	15
Subfactor:	Approach to Management Problems	10
Factor:	STAFFING	60
Subfactor:	Personnel Qualifications	35
Subfactor:	Staffing Plan	15
Subfactor:	Personnel Management Plan	10

Offerors were directed to organize their technical proposals according to these subfactors; in this regard, the statement of work set forth detailed descriptions of the minimum elements each offeror was required to demonstrate for each subfactor. With their technical proposals, offerors were also required to submit detailed resumes and letters of commitment for each proposed key personnel.

For the project manager position--and of relevance to this protest--the RFP set forth both a general experience and "specialized experience" requirement. First, the proposed project manager candidate was required to demonstrate "at least eight years [of] related professional work experience" in the following areas:

"Successful management of projects involving claims processing or other financial/analytical experience evidencing the Project Manager can manage as described, and;

"Management and supervision of technical personnel at the levels indicated [and]

"International trade, international banking, or Government guarantee programs; including knowledge of letters of credit and Interstate Commerce Commission 400 letter of credit

standards, and other applicable rules and regulations."

The solicitation further required proposals to demonstrate that the proposed project manager had at least 3 years of specialized experience in "processing claims for reimbursement requiring review of documents submitted evidencing compliance with set rules, and administration and supervisory experience as a Project Manager on projects comprised of claims processors or other financial analyst and supporting clerical personnel" and at least 1 additional year of specialized experience "in working with documentary international letters of credit with a bank or similar institution." The solicitation also emphasized that the project manager candidate should "possess effective oral and written communication skills to organize, plan, and direct" the required tasks.

With respect to claims processor personnel, the solicitation advised offerors that this position required candidates to have "a high degree of analytical ability due to [the export] programs['] complexity and the related issues of liability and legal sufficiency of support documentation." The job description for this position further advised offerors that "[a]t least one Claims Processor must have extensive experience in the use of Paradox and Lotus 1-2-3 software for preparing reports." Additionally, the solicitation required each claims processor candidate to have "[a]t least five years of professional work related experience" and one year of specialized experience "in the field of processing defaulted loan claims or other financial/analytical experience."

The RFP stated that award would be made to the responsible offeror whose proposal was considered most advantageous to the government, price and other factors considered. The solicitation further provided that technical factors "will have a slightly higher weight" than price in making the award decision.

By the June 17 closing date, offers were received from PMC and O&H--the incumbent contractor for these services.² In evaluating PMC's initial proposal, the TMET found PMC's proposed project manager technically unacceptable because he did not have 3 years experience as a project manager processing claims for reimbursement, and because he lacked

²Initially, the agency determined that PMC's proposal had been received after the actual closing date and therefore refused to consider it for award; however, after reviewing a June 25 agency-level protest filed by PMC, the agency decided to consider PMC's proposal.

the requisite 1-year experience working with documentary international letters of credit.

Additionally, while PMC proposed six claims processors in its initial proposal, the TMET determined that on the whole, the processors were deficient since PMC's resume descriptions did not adequately relate each individual's work history to the claims processing work required here. That is, while the initial proposal contained resume references such as "[candidate] has extensive experience in claims processing" no other description of the actual work performed by each individual was provided. The TMET also determined PMC's proposal to be weak because none of the proposed claims processors had extensive Paradox database experience as required by the solicitation.

While the inadequacy of PMC's proposed personnel was the primary basis for downgrading the firm's initial proposal, the TMET also evaluated several other significant weaknesses in PMC's initial proposal. The TMET determined that PMC had not adequately described its management organization; in particular, the TMET noted that PMC's organization chart did not show the lines of day to day operations and communication between the personnel. The TMET also downgraded PMC's proposal under the "Reporting" and "Quality Control" evaluation subfactors because two copies of the firm's submitted technical proposal were disorganized; this deficiency led the TMET to conclude that PMC's control methods were inadequate. The TMET further determined that PMC's process for preparing the required daily, weekly, and monthly claims reports was not well addressed.

Additionally, the TMET determined that PMC's initial proposal was weak with respect to the firm's discussion of its approach to anticipating and resolving potential technical and management problems. According to the TMET, the ideas set forth in these sections of PMC's proposal were overly simplistic and reflected PMC's lack of prior experience in claims processing work.

The TMET used the following system to rate initial proposals:

<u>Percentage of Points</u>	<u>Rating</u>
90 - 100 percent	Outstanding
80 - 89 percent	Exceeds Acceptable
70 - 79 percent	Acceptable
0 - 69 percent	Unacceptable

After evaluating PMC's initial proposal, the TMET assigned the proposal a score of 116.45 points, which was 62.9 percent of the available 185 points, and thereby

resulted in a rating of "unacceptable." O&H's initial proposal received a rating of "Exceeds Acceptable."

The TMET subsequently recommended to the contracting officer that PMC's proposal be excluded from further consideration. However, because PMC was within approximately 8 percentage points of being technically acceptable, the contracting officer decided PMC's proposal was susceptible of becoming acceptable and included PMC in the competition.

On July 22, the contracting officer reviewed the TMET's findings and prepared a list of technical questions for PMC. In this letter, the contracting officer advised PMC that its proposal failed to contain the required letters of commitment, that the firm needed to provide "the required quality control techniques that your company plans to employ," and that PMC's proposed project manager "does not appear to meet the RFP requirements." The contracting officer also issued separate discussion questions to O&H.

On August 6, PMC submitted a letter to the agency which proposed a new project manager, and which responded to the other questions set forth in the contracting officer's letter. After reviewing this response, the TMET again recommended to the contracting officer that PMC's proposal be excluded from further consideration. In particular, the TMET found that PMC's substituted project manager candidate was technically unacceptable since PMC's response did not adequately explain the individual's recent employment tasks, and because the resume indicated that this individual had not been involved in claims processing for 9 years.

Notwithstanding the TMET's recommendation, the contracting officer decided to give PMC one additional opportunity to revise its proposal to make it technically acceptable. On September 3, the contracting officer conducted separate oral discussions with PMC and O&H. During these discussions, the agency advised PMC that it needed to: (1) fix and review its organization chart; (2) provide additional information about its claims reporting process; (3) provide additional ideas for solutions to potential technical and management approach problems; and (4) review the qualifications of proposed personnel. In particular, the agency advised PMC that none of its proposed personnel met the solicitation's Paradox computer experience requirement.

Both PMC and O&H submitted their BAFOs by August 12. In its BAFO, PMC proposed a new staff of key personnel, and revised several other sections of its technical proposal. Notwithstanding these revisions, the TMET only increased PMC's point score in one technical subfactor category-- Personnel Qualifications; PMC's point score for this subfactor was increased from 6.4 points to 10.5 points.

Consequently, PMC's total point proposal score increased from an initial award of 116.45 points to a revised total point score of 120.65 points. Because this score only constituted 65.2 percent of the total available points, PMC's proposal remained technically unacceptable.

On September 30, after the TMET determined that PMC's proposal was still technically unacceptable, the contracting officer awarded the contract to O&H as the only technically acceptable, reasonably-priced offeror. On October 3, the protester filed an agency-level protest challenging the award decision. After attending an agency debriefing on October 13, PMC filed this protest with our Office, prior to resolution of its agency-level protest.

PROTESTER'S CONTENTIONS

In its protest, PMC contends that except for the project manager, the agency failed to inform the protester that PMC's other proposed personnel were deficient. PMC also contends that the agency's technical evaluation was unreasonable since its BAFO point score was not upgraded to reflect the revisions which the firm made in its proposal. Specifically, PMC argues that its BAFO offered new, more qualified key personnel, which should have resulted in a higher technical score. PMC argues that since the TMET did not improve PMC's score by the 8.8 points needed to become technically acceptable--even though the protester purportedly made substantial revisions in its technical proposal--or give PMC an additional opportunity to revise its BAFO through discussions, the evaluation was unreasonable, and improperly favored the incumbent.

ANALYSIS

Adequacy of Discussions

PMC argues that the agency never advised the protester that the six claims processor personnel proposed in its initial proposal were technically unacceptable. The contracting officer expressly denies this allegation and contends that PMC was told during the September 3 oral discussions to review the qualifications of its proposed staff.

Based on our review of the record, we conclude that the agency did, in fact, advise PMC of this weakness in its proposal. First, the record shows that after the September oral discussions, PMC proposed an entirely new staff. Since PMC ultimately proposed an entirely new claims staff in its BAFO, we conclude that it was advised that its claims staff was a weakness in its proposal. Moreover, in its comments on the agency report, PMC maintains that "[i]n a hope to satisfy the [TMET], we replaced our original staff."

Clearly, these facts reflect that PMC was on notice that its initially-proposed staff of claims processors was a weakness in its offer. Further, because we conclude that the September 3 negotiations generally conveyed to PMC that its original claims staff was deficient, we conclude that the discussions were reasonable and meaningful in this regard. See State Tech. Inst. at Memphis, B-250195.2; B-250195.3, Jan. 15, 1993, 93-1 CPD ¶ 47.

Personnel Qualifications Evaluation

PMC argues that the agency must have evaluated its proposed personnel under a more stringent personnel qualifications evaluation subfactor than specified in the solicitation. Even though the RFP provided that equivalent "other financial/analytical experience" would be fully considered, PMC maintains that it was unfairly rejected solely because it did not propose personnel with CCC program export claims processing experience. PMC also contends that the agency improperly penalized the firm for failing to propose an individual with extensive Paradox experience, and that the failure of PMC to propose such an individual was a minor deficiency.

The evaluation of proposals is within the discretion of the procuring agency since it is responsible for defining its needs and the best method of accommodating them, and must bear the burden resulting from a defective evaluation. See Orion Research, Inc., B-253786, Oct. 21, 1993, 93-2 CPD ¶ 242. In cases challenging an agency's technical evaluation, our Office will not independently reevaluate the proposals anew, but instead will examine the agency's evaluation to ensure that it was reasonable and in accordance with the RFP. Federal Micro Sys., Inc., B-251243, Mar. 18, 1993, 93-2 CPD ¶ 110. In this regard, a protester's disagreement with the agency's technical judgment, without more, does not show the agency's judgment was unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450; Tracor, Inc., B-250716.2, Feb. 23, 1993, 93-1 CPD ¶ 165. While an agency must document its technical judgments in order for us to determine whether those judgments are reasonable, see Amtec Corp., B-240647, Dec. 12, 1990, 90-2 CPD ¶ 482, the overriding concern in a technical evaluation is not whether every evaluation result can be precisely traced to an exact numerical score but whether the evaluation reasonably reflects the actual merits of proposals and the selection decision. See Contract Mgmt., Inc., B-251791.3, May 11, 1993, 93-1 CPD ¶ 376.

We think the record supports the agency's determination that PMC's BAFO failed to demonstrate compliance with the solicitation's personnel qualifications criteria. We also

conclude that the Paradox experience criteria is a significant personnel requirement.

As noted above, the solicitation required the proposed project manager to have at least 3 years of specialized experience in processing claims for reimbursement under set rules and regulations; at least one year of specialized experience relating to international trade, international banking, or Government guarantee programs, including knowledge of letters of credit and Interstate Commerce Commission 400 letter of credit standards, and other applicable rules and regulations; and effective oral and written communication skills to organize, plan and direct contractor support activities.

While the protester's proposed project manager's resume--its second replacement for this position--cites work on Federal Housing Agency (FHA) and Veterans Administration (VA) claims, there is no description of this individual's role in processing such claims, or showing of experience in ensuring compliance with program rules. Additionally, as noted by the TMET, the protester's BAFO does not explain the project manager's international trade and banking experience; instead, the protester's submissions generically state that this individual has "reviewed" letters of credit for the Resolution Trust Bank and "processed" international letters of credit for a federal credit union. The agency also downgraded PMC's BAFO for its failure to explain its proposed project manager's knowledge of credit and letter of credit standards, and other applicable rules and regulations. The agency further determined this candidate to be a weak project manager employee since he had held eight different jobs in the last ten years. Finally, because the protester asserted that its proposed project manager candidate had participated in writing the BAFO submission, and because the TMET found that the written description of the proposed personnel's experience did not address the specific requirements of the RFP, the TMET concluded that this individual lacked effective written communication skills.

With respect to the proposed claims processors, the record shows that the protester's BAFO submission similarly failed to enunciate how these individuals' educational backgrounds and work experience qualified them for the export claims processing tasks required here. For example, while several candidates apparently hold masters of business administration degrees, the protester's BAFO did not demonstrate how any of the candidates--including the Senior Claims Processor--have worked within parameters of claims authorities such as government regulations, laws, and procedural and authoritative handbooks. Additionally, except for repeating or "parroting" back generic references to the experience specifications, the protester's BAFO did not

describe any claims processor candidate's expertise in the field of processing defaulted loan claims, or describe the type of financial/analytical work performed. Finally, only three of the proposed six candidates had extensive experience in Lotus 1-2-3 software, and none of the proposed claims processors had extensive experience in Paradox database.

While PMC contends that the Paradox experience requirement in the RFP was minor, since only one claims processor had to have experience in this database, the record supports the agency's position that this expertise is essential to the contractor's successful and timely performance. The solicitation's report preparation requirements--and the agency's computer network--require the export claims processing contractor to design complex databases, perform queries, manipulate data, write scripts, and format reports using Paradox Application Language (PAL). The agency has submitted extensive documentation and examples of processed claims which unequivocally show that the existing programs cannot be used without extensive Paradox knowledge. In short, without the Paradox database, many of the required claims processing tasks cannot be performed.

In this case, from our review of the record, including PMC's and the awardee's proposal, the agency's substantial evaluation documentation, and the parties' arguments, we find no basis to question the scoring and final rating of PMC's BAFO as technically unacceptable. Given the generic detail in PMC's BAFO submission, and the solicitation's requirement for complex personnel qualifications, we find reasonable the agency's determination that PMC's proposed BAFO personnel were technically deficient.

Other Proposal Revisions

PMC also contends that other revisions made in its BAFO warranted at least an 8.8 point increase in its overall proposal score. In this regard, PMC points out that it filled in the required lines on its submitted organization chart to demonstrate the daily path of communication between staff members, and that it added several paragraphs to each section of its technical proposal. However, based on our review, we agree with the agency that none of these revisions substantively changed the proposal.

First, the record supports the agency's determination that the "modifications" in PMC's BAFO essentially consist of repeating the specifications, with little emphasis on staff expertise or technical detail. For example, under the Monitoring and Controlling Performance section, PMC added several sentences showing that the firm would "scan each arriving document and index it so that it may be retrieved

in an appropriate manner"; however, no further details of this index system were provided. Similarly, under the Reporting section, PMC set forth generic assertions without supporting detail; the BAFO states that "PMC anticipates delivery orders from FMD for ad hoc reports and will process them promptly." In sum, throughout its BAFO, PMC makes sweeping assertions such as it will "develop a custom error prevention system" or "develop new quality control procedures to minimize errors and ensure accuracy of deliverables" but does not provide any further specifics to substantiate these statements. In light of PMC's overly general proposal presentation, we think the agency reasonably refused to upgrade PMC's point scores for the other sections of its technical proposal.

While PMC suggests that the agency should have held another round of discussions to resolve any questions about PMC's personnel capabilities, or other proposal deficiencies, an agency is not required to reopen negotiations after BAFOs are submitted. See J.G. Van Dyke & Assocs., B-248981; B-248981.2, Oct. 14, 1992, 92-2 CPD ¶ 245. Consequently, based on the record before us, we think the agency reasonably concluded that the protester's proposal was technically deficient--particularly in the personnel qualifications area--and properly rated PMC's BAFO as technically unacceptable. See Sandaire, B-242301, Apr. 12, 1991, 91-1 CPD ¶ 370.

Finally, while the agency acknowledges that as the incumbent, O&H had direct knowledge of the daily operations of the CCC export claims processing programs, the agency was not required to mitigate any advantages O&H may have gained as a result of its incumbency. It is not unusual for an offeror to enjoy an advantage in competing for a government contract by reason of incumbency, and there is no requirement for agencies to equalize or discount such advantage, so long as the advantage is not the result of preferential treatment or other unfair action by the agency.³

³PMC claims that evidence of unfair, or unequal treatment can be seen in the fact that PMC's BAFO submission contains more detail than the proposal submitted by O&H for the previous procurement. While each procurement stands alone, we have reviewed the predecessor O&H proposal and note that for each of its proposed personnel--the crux of the requirement--O&H proposed using incumbent personnel who had been successfully performing this requirement for the predecessor contractor. Additionally, contrary to PMC's contentions, the O&H proposal was more detailed; for example, descriptions of proposed personnel's work experience included such specifics as "[h]e was responsible for the design configura-
(continued...)

See Bara-King Photographic, Inc., B-253631, Sept. 15, 1993,
93-2 CPD ¶ 169.

We have carefully scrutinized both the awardee's proposal and the corresponding evaluation documentation and conclude that there is no evidence that the awardee gained an unfair advantage here as a result of its incumbency.¹

The protest is denied.

Robert P. Murphy

for Robert P. Murphy
Acting General Counsel

¹(...continued)
tion and installation of IBM System 36 at GM automobile dealerships" or "[her] analytical strengths and her experience in insurance/defaulted loan processes will enable her to quickly grasp the essentials of CCC procedures."

⁴In its comments on the agency report, PMC suggested that the agency may have favored O&H as a result of office romances and marriages between O&H and staff personnel. The agency has denied the existence of such conflicts and maintains that none of the government employees involved with this procurement has either dated or married any O&H employees.