



Comptroller General
of the United States
Washington, D.C. 20548

REDACTED VERSION*

Decision

Matter of: Red River Service Corporation; Mark Dunning Industries, Inc.
File: B-253671.2; B-253671.3; B-253671.4
Date: April 22, 1994

Garreth E. Shaw, Esq., Bailey, Shaw & Deadman, for Red River Service Corporation; and Karl Dix, Jr., Esq., and George Papaioanou, Esq., Smith, Currie & Hancock, for Mark Dunning Industries, Inc., the protesters.
J. Hatcher Graham, Esq., for Robins Maintenance, Inc., an interested party.
Joseph M. Goldstein, Esq., Department of the Air Force, for the agency.
David Hasfurther, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency decision to make award to a higher-priced proposal was proper where the agency reasonably determined that the two lower-priced proposals by offering insufficient numbers of personnel showed a lack of understanding of the scope of the solicitation work requirements and that, consequently, the higher-priced proposal offered the "best value" since it provided a management approach that would ensure the satisfactory performance of the contract.

DECISION

Red River Service Corporation and Mark Dunning Industries, Inc. protest the award of a contract to Robins Maintenance, Inc. (RMI) under request for proposals (RFP) No. F09650-93-R-0103, issued by Robins Air Force Base, Georgia, for refuse collection and disposal services at the base. Red River contends that Red River's and RMI's proposals were improperly evaluated and that had the evaluations been properly

*The decision issued April 22, 1994, contained proprietary information and was subject to a General Accounting Office protective order. This version of the decision has been redacted. Deletions in text are indicated by "[DELETED]."

conducted Red River would have received the award. Dunning also contends that it would have received the award based on a proper evaluation of proposals.

We deny the protests.

The RFP was issued on June 1, 1993. The refuse collection and disposal services were solicited on a firm, fixed-price basis for a basic contract period (November 1, 1993, or the date of award, whichever is later, to October 31, 1994), four 1-year option periods, and a 6-month option period. The RFP required offerors to submit a proposal containing specified information regarding past performance of work that demonstrated the offeror's ability to perform the work being procured under the RFP. Offerors were to submit separate technical and price proposals and a volume containing financial statements and a discussion of how sufficient internal and external financial resources would be brought to bear on accomplishing the contract work, giving consideration also to unforeseen costs. The latter information was to include a discussion relating the financial information to the offeror's technical and price proposals.

Section M of the RFP set forth the evaluation criteria that would be used in the evaluation and award selection process. The evaluation process consisted of three types of criteria: specific, assessment, and cost/price. The specific and assessment criteria were of equal importance and cost/price was of less importance than the other two criteria. The following factors and subfactors, listed in descending order of importance, were to be evaluated as specific criteria:

AREA 1: TECHNICAL

ITEM 1. Management

- Factor 1: Approach
- Factor 2: Equipment
- Factor 3: Experience
- Factor 4: Personnel Qualifications

ITEM 2. Quality

AREA 2: FINANCIAL

The technical area (and its component parts) and the financial area were to receive three ratings:

1. A color/adjectival rating to depict how the offeror's proposal compares to the evaluation standards and RFP requirements.

2. A proposal risk rating to assess the risk associated with the offeror's proposed approach as it relates to accomplishing the requirements of the RFP.
3. A performance risk rating to assess the probability of the offeror successfully accomplishing the proposed effort based on the offeror's demonstrated relevant present and past performance.

Each of these three ratings was to receive equal consideration in making an integrated source selection decision.

There were two factors evaluated as assessment criteria: soundness of the approach adopted for performing the performance work statement (PWS) tasks, and understanding of PWS requirements and the degree to which compliance with those requirements could be expected. These two factors were assigned equal weight.

Finally, the RFP provided for evaluation of an offeror's price proposal for reasonableness, completeness, and realism in accordance with Federal Acquisition Regulation (FAR) cost and price analysis techniques. The RFP stated that award would be based on an integrated assessment of each offeror's proposal, which would include evaluation of general considerations--proposed contractual terms and conditions and the results of pre-award surveys if conducted--as well as the results of the evaluation of each proposal using the specific, assessment, and cost/price criteria. The source selection authority (SSA) would select the offeror whose proposal had the highest degree of credibility and whose performance could meet the government's requirements at an affordable price.

After the receipt of initial proposals, the proposals were evaluated, and on September 28 five proposals were determined to be within the competitive range. The agency then initiated discussions with the offerors of those proposals. During discussions, questionnaires based on deficiency reports and clarification requests were issued to the offerors for their response. Discussions continued until November 24, at which time the proposals were evaluated to ensure that meaningful discussions had been conducted. On the same date, offerors were requested to submit best and

final offers (BAFO) by November 26. Upon their receipt, the BAFOs were evaluated. The prices received from the three parties to this protest were:

	<u>BASIC</u>	<u>YEARLY OPTIONS</u>	<u>SHORT OPTION</u>	<u>TOTAL</u>
RMI	{DELETED}	{DELETED}	{DELETED}	{DELETED}
Red River	{DELETED}	{DELETED}	{DELETED}	{DELETED}
Dunning	{DELETED}	{DELETED}	{DELETED}	{DELETED}

On December 2, the SSA determined to make award to RMI at an estimated price of \$6,175,892.18. These protests followed.

In selecting RMI, the agency concluded that RMI's proposal was the most advantageous. The agency decided that the superiority of RMI's proposal in technical/management areas warranted the additional cost that would be incurred by an award to RMI. Specifically, the agency found that RMI's approach to managing, implementing, and organizing the work offered the highest degree of credibility of all the proposals. The agency determined that RMI proposed {DELETED} that would give full time to overseeing the contract. It also found that RMI's staffing was greater in number than other offerors' proposed staffing and that RMI's proposal to supplement this staff with eight maintenance supervisors employed under RMI's grounds maintenance contract with Robins--the supervisors would monitor the refuse containers and would alert RMI's manager to any problems--was advantageous.

In contrast, Red River's proposal was assessed with a moderate proposal risk and was rated marginal for the technical area. Most importantly, its response to the approach sub-factor under management, the most important technical factor, was seriously deficient. The number of staff proposed by Red River was deemed inadequate to accomplish the work and indicative of a failure to understand the substantial changes in the work from the prior contract--most importantly, the one requiring refuse pick-up on the basis of performance work standards rather than in accordance with a schedule. Further, the agency found that Red River did not offer to provide a required mechanic, but rather required that the drivers of its equipment be responsible for minor repairs, that its contract manager be a working supervisor, and that its quality control manager be an alternate contract manager. The agency believed that this management approach of dual processing responsibilities was a weakness.

According to the source evaluation documents, Dunning also failed to propose a sufficient number of staff in order to accomplish the work and, additionally, even failed to commit

itself to meeting the minimum qualification requirements applicable to the managerial, supervisory, and quality control personnel.

The evaluators rated Dunning a higher risk than RMI. While the agency does note that both protesters scored higher than RMI on experience because they both had experience on more than one relevant contract, the evaluators found that RMI had comparable experience gained during the 2 years of its grounds maintenance contract at Robins. Thus, the agency evaluators concluded that RMI had sufficient knowledge of the management requirements, government regulations, and heavy truck and hydraulic equipment requirements necessary to perform refuse collection and disposal. The agency also found that the strengths reflected in RMI's proposal would have been sufficient to overcome any weakness in RMI's experience.

Red River and Dunning contend that the agency failed to evaluate proposals properly and made an unreasonable technical/price tradeoff by awarding RMI the contract at its higher price despite its lack of experience in refuse collection and disposal.¹

We conclude that the agency's evaluation and source selection decision were reasonable. Although there were some differences between the ratings of the three firms in several of the evaluation factors areas, the primary basis for award to RMI was the agency's conclusion that Red River and Dunning offered inadequate manning to accomplish the RFP's work requirements.² Specifically, the evaluators found Red River's proposal [DELETED] inadequate to accomplish the requirement since, as indicated above, a large portion of the refuse pickups would be made on the basis of performance work standards rather than on the basis of scheduled pickups as was the case for the prior contract.

¹RMI's price was \$1.5 million more than the government's estimate, [DELETED] over the price of Red River (which had prior experience in this work through its predecessor, Midland Maintenance, Inc., the incumbent contractor), and [DELETED] over the price of Dunning (which had experience in this work through a previous contract with Robins).

²For example, under quality and financial, the evaluators did not conclude that there were significant differences among the three offerors. However, the differences in risk assessment were more significant; RMI received a [DELETED] rating compared to Red River's [DELETED] and Dunning's [DELETED] rating. However, again, the risk assessments are based primarily on Red River and Dunning's staffing problems.

The evaluators were also unable to satisfactorily determine what Red River meant when it proposed that its contract manager would be a "working" manager, or how the term "working" would affect the contract manager's duties under the RFP. The evaluators were not persuaded that the proposed use of the quality control manager as an alternate contract manager provided adequate coverage of these two key positions.

The evaluators also found the number of personnel [DELETED] proposed by Dunning to be insufficient, in particular because its proposal to use a [DELETED] and [DELETED] fragmented the duties of these key persons and did not dedicate one person for [DELETED] matters, which the agency believed was essential to the successful performance of the contract. Thus, although both Red River and Dunning asserted that the contract could be successfully performed with the number of personnel they were proposing, and with their proposed staffing approaches, and that a higher staffing level would be more costly than was required to perform the work, the agency was not satisfied that either of these offerors could properly perform the work with their proposed personnel and concluded that their staffing approaches showed a lack of understanding of the scope of the PWS. The protesters' assertions that their manning approach was sufficient to perform the work does not establish that the agency's view that their proposed manning was not sufficient is incorrect. We find no basis for concluding that the agency determination in this respect was unreasonable. See JB Indus., B-251118.2, Apr. 6, 1993, 93-1 CPD ¶ 297.

Where, as here, the RFP provides that technical considerations will be more important than cost, source selection officials have broad discretion in determining the manner in which they will make use of the technical and cost evaluation results in arriving at a source selection decision. University of Dayton Research Inst., B-245431, Jan. 2, 1992, 92-1 CPD ¶ 6. Such cost/technical tradeoffs are governed only by the test of rationality and consistency with the RFP's stated evaluation criteria. Miller Bldg. Corp., B-245488, Jan. 3, 1992, 92-1 CPD ¶ 21.

Although it is true that RMI's proposal is higher priced than those of Red River and Dunning, we think the agency reasonably determined that, in view of its evaluation of Red River's and Dunning's staffing numbers and approach, the award on the basis of RMI's higher-priced, but technically superior, proposal was reasonable. RMI was found superior because of strengths in its management approach, the most important technical factor, and its low risk rating. In contrast, the protesters' proposals were considered weak in their management approach and posed greater risk due to

staffing and management weaknesses. The fact that the agency could have also justified a different tradeoff decision does not establish that the decision that the agency did make was unreasonable.³ We conclude that the agency properly decided that RMI's technical superiority was worth the additional cost.

Finally, both protesters argue that the use for evaluation purposes of a target manning level without disclosing it to the offerors was improper. This is not the case. Generally, an agency is not required to disclose in the solicitation a manning level developed by the agency's evaluators and technical personnel to assess whether proposed personnel were adequate. Aerostat Servs. Partnership, B-244939.2, Jan. 15, 1992, 92-1 CPD ¶ 71. We have no reason to question the manning level since it appears to be reasonably based on the tasks in the RFP and reflected the agency's reasonable judgment concerning the number of staff needed to perform this contract. The protesters have not shown otherwise. This contract was based on meeting performance work standards, for example, removing rubbish from a receptacle when it was filled to a certain level, rather than on scheduled pickups as under the previous contract. The agency viewed the performance standards as requiring more staff and better monitoring and administration. Both Red River and Dunning were told in discussions that their

³While both protesters challenge various other aspects of the evaluation of RMI's and their proposals, on this record, it is clear that the selection decision was based on the differences in staffing numbers and approach. We cannot say that any of the other evaluation issues, even if resolved in the protesters' favor, would provide a basis for disturbing the award in light of our discussion above. For example, Red River objects to the agency's acceptance of RMI's summary statement contained in its BAFO that was intended to cure RMI's failure to identify acceptable minimum qualifications to which RMI would commit for supervisory, managerial, and quality control positions. RMI, in its BAFO, agreed to comply with the RFP's personnel qualification requirements. Under this RFP, we think the agency reasonably could accept the BAFO commitment since the RFP did not require resumes or the proposal of specific individuals, but required that minimum qualifications be adhered to for critical positions. Further, the protesters question RMI's experience in refuse collection. The RFP did not require direct, relevant experience as a prerequisite to award. The agency concluded that RMI's 2 years of experience on its ground maintenance contract included similar management, work force, equipment, and scheduling experience. It evaluated that experience as "comparable" to the protesters' experience. We have no basis to disagree with this conclusion.

proposals failed to provide for an adequate labor force to accomplish all tasks and asked questions about their manning approach. The two offerors chose to defend their approaches rather than increase their manning.

The protests are denied.

Robert F. Murphy
Acting General Counsel