



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Precision Elevator, Inc.

File: B-259375

Date: March 20, 1995

Robert F. Burdin for the protester.
Paul Grabelle, Esq., and Philip Kauffman, Esq., Department
of Veterans Affairs, for the agency.
Christine F. Davis, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. An agency properly downgraded the protester's proposal for presenting an inadequate emergency staffing approach, where the protester merely identified employees who resided near the contract location.
2. An agency properly downgraded the protester's proposal for presenting insufficient evidence of corporate experience, where the protester apparently relied upon the qualifications of its proposed personnel to establish its corporate experience, but the solicitation provided for a separate evaluation of corporate and personnel experience.

DECISION

Precision Elevator, Inc. protests the evaluation of its proposal and the award of a contract to Millar Elevator Service, Co. under request for proposals (RFP) No. 523-15-94, issued by the Department of Veterans Affairs (VA), for elevator maintenance and repair services at the VA Medical Center, Boston, Massachusetts.

We deny the protest.

The RFP, issued on an unrestricted basis, contemplated the award of a firm, fixed-price contract for a base year with 2 option years. The RFP established a best value evaluation scheme, in which the evaluation of the technical proposal was worth 80 percent and the price proposal 20 percent of the available points. Technical proposals were evaluated on a 100-point scale against four evaluation factors: emergency staffing approach (40 points), corporate experience (20 points), personnel qualifications (20 points), and availability of spare parts (20 points). The RFP provided a formula to derive an offeror's price

score, where the low-priced proposal, including options, would earn the maximum number of price points and the remaining proposals would earn a relative percentage of those points.

Three firms, including the protester and the awardee, submitted proposals. The agency conducted a round of discussions with all offerors and requested best and final offers (BAFO). After BAFOs were received, the agency completed its final ranking of proposals. Precision submitted the lowest-priced proposal at \$723,724, while Millar submitted the next low-priced proposal at \$771,325. In terms of technical merit, Millar's highest-rated proposal earned 92 points; the third offeror's proposal earned 86 points; and Precision's proposal earned 57 points. Considering both technical and price factors, Millar's proposal earned 111 points, the third offeror's proposal earned 104 points, and Precision's proposal earned 77 points. Based upon the evaluation results, the agency determined that Millar's proposal represented the best value under the RFP evaluation scheme.

By letter dated October 31, 1994, the VA notified the protester that Millar had been selected for award. The letter advised the protester of the major technical weaknesses in its proposal that precluded it from receiving award, notwithstanding its somewhat lower price. In particular, Precision was advised that it had not presented sufficient evidence of its experience in performing similar contracts and that it had not demonstrated its ability to ensure emergency coverage based upon its staffing approach. Precision protests these evaluated weaknesses.

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. Chaffins Realty Co., Inc., B-247910, July 8, 1992, 92-2 CPD ¶ 9. In cases where an agency's technical evaluation is challenged, our Office will not independently weigh the merits of proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. EG&G Flow Technology, B-251785, Apr. 16, 1993, 93-1 CPD ¶ 326.

¹Precision earned 7 of the available 20 points under the corporate experience factor, and 24 of the available 40 points under the emergency staffing approach factor.

With regard to the evaluation of Precision's proposal under the emergency staffing approach factor, this factor required offerors to demonstrate that they had sufficient, available staff:

"to respond to any emergency within four (4) hours and . . . to handle multiple simultaneous failures of the equipment listed in [the RFP schedule of services and supplies]."

Precision's discussion of its staffing approach was limited to identifying four employees, who were located within a 20-mile radius of the contract site and who would be available, on a rotation basis, to respond to emergency situations. Apart from identifying these employees, Precision's proposal did not describe in any way its technical approach to responding to the specific emergency situations identified in the RFP, even after VA brought this deficiency to Precision's attention during discussions.² Based upon our review of the record, we think that the VA reasonably questioned the protester's ability to provide emergency coverage consistent with the RFP requirements. Although Precision insists that "there could be no doubt of [its] staff's ability to respond," this amounts to nothing more than mere disagreement with the agency, which does not establish that the evaluation was unreasonable. See DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36.

Precision also disputes the agency's determination that its proposal did not establish the protester's corporate experience in performing similar contracts. The corporate experience factor required offerors to list four contracts they had performed in support of the same type of elevator equipment identified by this RFP. Precision only listed two prior contracts, and the protester, in describing these contracts, did not demonstrate that either involved relevant elevator maintenance and repair services. As a result, the agency concluded that the protester did not adequately demonstrate the experience required by the RFP.

Precision alleges that the agency's conclusion is unwarranted because the four employees proposed for this contract possess significant relevant experience. However, the RFP in this case provided for the evaluation of the offeror's corporate experience separately from the experience of individual employees. Since the RFP clearly provided for a separate evaluation of the offeror's

²In comparison, the awardee proposed 30 local employees available for emergency calls and described how it would ensure that sufficient, knowledgeable personnel were drawn from this pool to respond to specific emergencies.

experience apart from its employees' individual experience, the agency reasonably concluded that the protester, as a corporate entity, did not demonstrate the experience necessary for performance of this contract. See Advanced Resources Int'l, Inc., B-249679, Nov. 18, 1992, 92-2 CPD ¶ 357; Bardes Servs., Inc., B-242581, Apr. 29, 1991, 91-1 CPD ¶ 419.

Finally, Precision's protest indicates an expectation of an evaluation preference owing to the protester's status as a Veteran-owned, small business concern. The protester points to a clause in section K of the RFP, "Representations, Certifications, and Other Statements of Offerors," which required offerors to represent whether they were Veteran-owned, small businesses. This clause, however, does not establish an evaluation preference in favor of Veteran-owned, small businesses. In the absence of such a preference, Precision's proposal was not entitled to greater evaluation credit as a result of the protester's status. See Rodriguez & Assocs., B-245882.2, Feb. 21, 1992, 92-1 CPD ¶ 209.

The protest is denied.

\s\ Ronald Berger
for Robert P. Murphy
General Counsel

³In its comments to the agency report, Precision protested that it should have been asked during discussions to provide additional information. This issue could have been raised in Precision's initial protest, since the agency's October 31 rejection notice disclosed this deficiency. Although this issue is untimely, see 4 C.F.R. § 21.2(a)(2) (1995), Precision has not shown how it was prejudiced by its failure to receive a question in this area, since the protester does not allege that it has additional corporate experience beyond what was provided in its initial proposal. See Nicolet Instrument Corp., B-258569, Feb. 3, 1995, 95-1 CPD ¶ ____.