



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Management Plus, Inc.

File: B-265852

Date: December 29, 1995

Charles W. Surasky, Esq., and Karl Dix, Jr., Esq., Smith, Currie & Hancock, for the protester.

Christopher Solop, Esq., Ott & Purdy, for KCA Corporation, an interested party. Col. Nicholas P. Retson, Maj. Michael J. O'Farrell, Jr., and Joseph M. Zima, Esq., Department of the Army, Office of the Judge Advocate General, for the agency. Sylvia Schatz, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably downgraded protester's proposal for failing to demonstrate corporate experience, where the protester, a newly formed corporate entity, 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

Management Plus, Inc. (MPI) protests the Department of the Army's award of a contract to KCA Corporation, under request for proposals (RFP) No. DAKF40-94-R-0002, for food and dining attendant services at Fort Bragg, North Carolina. MPI challenges the evaluation of its proposal.

We deny the protest.

The RFP contemplated the award of a cost-plus-fixed-fee contract for a base year, with four 1-year options. The solicitation stated that technical proposals would be evaluated based on the following four factors: (1) technical excellence; (2) management; (3) quality control; and (4) cost. Each technical factor contained various subfactors. The solicitation stated that the cumulative weight of the first three factors was somewhat more important than cost; technical excellence was somewhat more important than management; and quality control was substantially less important than either technical excellence or management. The RFP provided for award to be made to the responsible offeror whose offer conformed to the RFP and was considered most advantageous to the government.

Nineteen proposals were received by the closing time; seven of the proposals, including MPI's and KCA's, were included in the competitive range. Following written and oral discussions with the offerors, best and final offers (BAFO) were requested. The BAFOs were evaluated as follows:

	MPI	KCA
Technical Excellence	72.65	83.30
Management	68.24	85.46
Quality Control	83.15	87.00
TOTAL CONSENSUS ¹	71.95	84.53
EVALUATED COST	\$49,869,350	\$51,143,422

The Army determined that although MPI's proposal had the lowest evaluated cost, the technical strengths of KCA's proposal were worth the evaluated cost premium (\$1,274,072). The Army thus found KCA's proposal to be the most advantageous to the government and made award to the firm.

MPI challenges the Army's determination to award MPI's proposal only 7.5 of 15 available weighted points for technical experience related to functional areas, a subfactor of the technical excellence factor, and none of the 15 available weighted points for related management and contract experience, a subfactor of the management factor. MPI argues the Army improperly failed to consider under these subfactors the experience of three proposed key personnel--the contract manager (who is also president of MPI), the quality control manager, and the contract administrative manager--who, MPI contends, were highly qualified and had substantial experience during the past 5 years performing services similar to those required here with firms other than MPI.²

¹The final scores for each evaluation factor were not the average of the scores assigned by the individual evaluators, but instead were consensus scores.

²MPI also argues that the evaluation of its proposal was inconsistent with the Army's own source selection plan. However, alleged deficiencies in the application of an agency evaluation or source selection plan do not provide a basis for questioning the validity of the award selection; these plans are internal agency instructions and as such do not give outside parties any rights. Quality Sys., Inc., B-235344; B-235344.2, Aug. 31, 1989, 89-2 CPD ¶ 197. Rather, the agency is required to follow the evaluation scheme set forth in the RFP for the information of

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In reviewing protests against an agency's technical evaluation, we do not independently evaluate proposals or substitute our judgment for that of the agency; instead we review the record to determine whether the agency's judgments were reasonable and in accordance with the listed criteria and whether there were any violations of procurement statutes or regulations. Facilities Management Co., Inc., B-259731.2, May 23, 1995, 95-1 CPD ¶ 274. Here, we conclude that the evaluation was reasonable and consistent with the solicitation language.

The record shows MPI's initial technical and management proposals contained information on only the experience of its proposed key personnel under both subfactors; MPI did not demonstrate experience as a corporate entity because it was a newly formed company which had not previously performed any commercial or government contracts for food services. As a result, the Army gave MPI initial scores of 3 of 15 available weighted points under the technical experience subfactor and 0 of the 15 available weighted points under the related management and contract experience subfactor. When informed during discussions that its failure to describe the firm's corporate experience was viewed as a deficiency under these subfactors, MPI in its BAFO simply described in more detail the experience and qualifications of its proposed key personnel. Based on this information, the Army determined that MPI's key personnel had "excellent experience and qualities," and thus raised its BAFO score under the technical experience subfactor from 3 to 7.5 points; the Army did not award MPI any more points under this subfactor because its BAFO failed to indicate any corporate experience. Likewise, the Army did not raise MPI's score of 0 points under the related management and contract experience subfactor because MPI failed to describe any corporate experience performing contracts similar to the RFP here.

We find that the evaluation of MPI's experience was reasonable. While an agency may, in appropriate circumstances, evaluate the corporate experience of a new business by reference to the experience of its principal officers, or parent company, an agency is not obligated to do so in every case. See York Sys. Corp., B-237364, Feb. 9, 1990, 90-1 CPD ¶ 172; Allied Management of Texas, Inc., B-232736.2, May 22, 1989, 89-1 CPD ¶ 485; see generally Talon Corp., B-248086, July 27, 1992, 92-2 CPD ¶ 55. Here, the solicitation clearly indicated that the Army considered a firm's experience to be different from its employees' individual experience. The RFP described the technical experience to be evaluated under the technical experience subfactor as "that specific experience related to the functional areas, and includes direct experience of personnel, the company, or business entity, and

²(...continued)

potential offerors, and to conduct its evaluation in a manner that will reach a rational result. Id. Here, it is clear from the record that MPI's proposal was reasonably evaluated using the evaluation factors set forth in the RFP.

of any proposed subcontractors." In contrast, the solicitation included under the management factor separate evaluation subfactors for related management and contract experience and for qualifications of key personnel, and instructed offerors in responding to the related management and contract experience subfactor to "[d]escribe the company's background pertinent to performance of large service contracts during the past five years, especially contracts similar to this solicitation, and relate that experience to the requirements of this contract." Although the RFP stated that both corporate and personnel experience were to be evaluated under the technical experience subfactor, it only requested information concerning corporate experience under the related management and contract experience subfactor of the management factor and provided a separate personnel qualifications subfactor under the management factor. Thus, we believe that the RFP contemplated a separate evaluation of corporate and personnel experience. In these circumstances, we see no basis to question the agency's refusal to consider the experience of MPI's key personnel as a substitute for its lack of corporate experience, and the consequent downgrading of its proposal under the technical experience and the related management and contract experience subfactors. See Precision Elevator, Inc., B-259375, Mar. 20, 1995, 95-1 CPD ¶ 152.

MPI also argues that one of the evaluators improperly downgraded MPI's BAFO under the technical experience subfactor on the basis that it failed to state that MPI intended to hire the incumbent contractor's work force; according to MPI, its BAFO clearly states it intended to hire all of the incumbent's personnel.

Although the record shows that one evaluator apparently believed that MPI's BAFO did not state the firm intended to hire the incumbent contractor's personnel, when MPI's BAFO, in fact, did contain this statement, it does not appear that MPI suffered any competitive prejudice as a result of this error. See PHP Healthcare Corp.; Sisters of Charity of the Incarnate Word, B-251799 et al., May 4, 1993, 93-1 CPD ¶ 366 (competitive prejudice is an essential element that must be shown by a protester if it is to prevail in its protest). Even if this evaluator had known of MPI's stated intention to hire the incumbent contractor's personnel and had given MPI a higher score as a result, there is no basis for concluding that the evaluator would have awarded MPI the maximum score here. On the contrary, the record indicates that MPI's failure to demonstrate corporate experience was the primary reason for the evaluator's finding MPI's BAFO deficient under this subfactor, and the evaluator specifically states that he would not consider MPI's intention to hire the incumbent's work force as correcting this weakness. Further, nowhere in the consensus technical evaluation report was there any reference to MPI's proposal being considered deficient or weak because of a failure to commit to hiring the incumbent's work force; nor is there any other evidence in the record that the consensus evaluation panel took into account this individual evaluator's conclusion with respect to MPI's hiring plans in determining MPI's score under this subfactor. In any event, again the record indicates that the consensus panel, like the

evaluator, would not have given MPI's BAFO the maximum score or significantly increased its score under the technical experience subfactor, since the proposal had already earned 7.5 of 15 available weighted points under that subfactor and the panel considered MPI's BAFO deficient in this regard for failure to demonstrate corporate experience. Given MPI's significantly lower overall score under the more important non-cost factors, nothing in the record indicates that the one evaluator's misunderstanding of MPI's intention to hire the incumbent's work force deprived MPI of the award.

The protest is denied.

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