



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: GCI Information Services, Inc.

File: B-282074

Date: May 28, 1999

Robert M. Nutt, Esq., for the protester.
Thomas F. Williamson, Esq., Stacey L. Valerio, Esq., and Mary D. Walsh, Esq., Morgan, Lewis & Bockius, for TeleSec CORESTAFF, an intervenor.
Terrence J. Tychan, National Institutes of Health, for the agency.
Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that in evaluating offerors' experience agency applied an allegedly undisclosed criterion of whether offerors had handled a volume of shelving comparable to that required under the solicitation is denied where the solicitation put offerors on notice that similarity of experience would be considered.
2. Protest that the contracting agency misevaluated the protester's proposal under the criterion of understanding the requirement is denied where record shows that the evaluation was reasonable; protester's mere disagreement does not render the agency's judgment unreasonable.

DECISION

GCI Information Services, Inc. protests the award of a contract to the incumbent contractor, TeleSec CORESTAFF, under request for proposals (RFP) No. NHLBI-OR-P-98-250, issued by the Department of Health & Human Services, National Institutes of Health (NIH), National Heart, Lung and Blood Institute, for library support services for the NIH Bethesda Campus library and potentially for other federal government libraries throughout the Washington metropolitan area.

We deny the protest.

The RFP, issued on September 8, 1998, contemplated the award of a fixed-price labor hour contract for a base year with four 1-year options to provide library support

including the “qualified personnel, materials and services” required for the complete maintenance and collection control of library materials at the NIH library, and potentially also for other federal libraries as required by individual task orders/work assignments. RFP § B.1. The RFP provided for a best value award, listing the evaluation factors in order of importance as technical, cost and past performance and stating that all evaluation factors other than cost or price, when combined, were significantly more important than cost or price. RFP § M.1. The RFP went on to list the following technical evaluation factors and assigned weights for technical proposal evaluation purposes:

1. Staffing and Key Personnel Qualifications and Experience	45 Points
2. Similar or Related Experience	35 Points
3. Understanding the Requirement	20 Points
Total Possible Points	100 Points

RFP § M.3.

With respect to the “understanding the requirement” evaluation factor, the RFP required that proposals provide a detailed plan indicating how each aspect of the statement of work was to be accomplished. RFP § M.3.A. This plan was to include strategies, technologies, and methodologies that would be used to meet the project objectives. Id. For purposes of the “similar or related experience” factor, offerors were required to furnish a discussion of the similarities and differences of this proposed effort versus other contracts that they had performed. RFP § M.3.C. The RFP elsewhere provided that past performance would be evaluated after determination of the competitive range. RFP § M.5.

The agency received three proposals by the closing date, of which two, GCI’s and TeleSec’s, were included in the competitive range. Written discussions were held, and final proposal revisions were requested and received. TeleSec’s and GCI’s revised proposals were evaluated and received technical point scores of 99 and 92, respectively. TeleSec’s proposed price for the first task order, the NIH library, was \$[deleted] and GCI’s was \$[deleted]. Source Selection Statement, Jan. 22, 1999, at 6, 12, 14. The two proposals were equally rated as acceptable under the past performance factor. The contracting officer concluded that TeleSec’s proposal was technically superior to GCI primarily because TeleSec had a long history of successfully performing services similar to those required at the NIH library, while GCI was determined not to have experience handling volumes comparable to that indicated here in the statement of work (SOW). Recommendation for Award, Dec. 28, 1998, at 1. Further, TeleSec’s proposal showed a clear understanding of the requirement, while GCI’s proposal reflected that the offeror lacked a full understanding of the requirements. Id. The agency concluded that the difference in

cost did not outweigh the technical superiority of the TeleSec proposal. Source Selection Statement, Jan. 22, 1999, at 14. On January 20, 1999, award was made to TeleSec. After requesting and receiving a debriefing, GCI filed this protest with our Office on February 17, 1999.

GCI argues that the agency's evaluation of its proposal was flawed and reflects the application of criteria which had not been specifically set forth or called for in the solicitation. GCI asserts that this flawed evaluation caused it to lose points under the factors of "similar or related experience" and "understanding the requirement."¹ GCI also makes the general allegation that the technical evaluation was flawed because no specific guidance was provided the evaluators as to how to determine the appropriate assignment of the available points within each criterion. Protester's Comments at 2. GCI also complains that it appears that the agency used TeleSec's proposal as the comparison standard and scored GCI's proposal against it.

The evaluation of technical proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16 at 5. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation only to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. MAR, Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367 at 4. An offeror's mere disagreement with the agency does not render the evaluation unreasonable. McDonnell Douglas Corp., B-259694.2, B-259694.3, June 16, 1995, 95-2 CPD ¶ 51 at 18.

The record shows that the members of the technical evaluation group (TEG) were instructed to complete a technical evaluation form for each proposal documenting their observations concerning the strengths and weaknesses of each proposal with direct reference to the technical evaluation criteria in the RFP. Memorandum from

¹GCI also objects to the evaluation of its proposal under the "staffing and key personnel qualifications and experience" factor and questions the basis for it receiving a score of only 44.5 out of a possible 45 points. The record shows that GCI did not receive a perfect score under this evaluation factor because one evaluator determined that GCI's proposed supervisor was overqualified, which could possibly result in that individual seeking other more suitable employment. We see nothing unreasonable in the nominal downgrading of GCI's proposal because it proposed an individual reasonably determined to be overqualified and thereby posing a potential problem. See Diversified Technical Consultants, Ltd., B-250986, Feb. 22, 1993, 93-1 CPD ¶ 161 at 3-4. We also note that TeleSec's proposal, which did not have any weaknesses or deficiencies under this criterion, received a comparable point score of 44.33.

the Contract Specialist to the Project Officer and the Members of the Technical Evaluation Group (Oct. 19, 1998) (Oct. 19 Memorandum). The evaluators were specifically instructed that it was “imperative that discussions and subsequent acceptability and unacceptability of each proposal be compared only against the technical evaluation criteria in the Solicitation and not against another proposal.” *Id.* at 1. There is no evidence in the record that the evaluators did anything other than evaluate the proposals in accordance with the evaluation criteria. Further, to the extent GCI argues that the evaluators somehow failed to follow internal agency instructions for reviewing technical proposals, alleged deficiencies in the application of an agency evaluation 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. Management Plus, Inc., B-265852, Dec. 29, 1995, 95-2 CPD ¶ 290 at 2 n.2.

With respect to the allegation that the agency failed to provide the evaluators with a precise point scoring methodology, the Federal Acquisition Regulation (FAR) § 15.305 provides that evaluations may be conducted using any rating method or combination of methods, including color or adjectival ratings, numerical weights, and ordinal rankings. The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation must be documented in the contract file. Here, as noted above, the evaluators were instructed to document their observations concerning the strengths and weaknesses of each proposal with direct reference to the technical evaluation criteria in the solicitation. Evaluators were also advised to evaluate each proposal in conformity with the technical evaluation criteria and not to determine that one proposal was superior and set that up as the standard; nor were they to use their own criteria or scoring system. Oct. 19 Memorandum, attach. 3, at 1. The record shows that each evaluator reviewed GCI’s proposal and its responses to discussions concerns and reasonably rated the proposal, consistent with the RFP evaluation criteria. While the evaluators differed slightly on the ratings provided each proposal, disparate scoring among evaluators by itself does not suffice to establish an improper evaluation. Unisys Corp., B-232634, Jan. 25, 1989, 89-1 CPD ¶ 75 at 6.

GCI makes the particular allegation that the agency improperly downgraded GCI’s proposal under the similar or related experience factor because the agency evaluated the magnitude of GCI’s volume-handling experience on a single-location versus an aggregate-location basis. GCI maintains that this constitutes the application of an unstated evaluation factor and “smacks of pre-selection” because the evaluation approach “gave no firm other than TeleSec a reasonable or fair chance of being selected.” Protester’s Comments at 5.

This argument is without merit. The RFP specifically required offerors to provide a brief discussion of the similarities and differences of this proposed effort versus other contracts performed. RFP § M.3.C. The SOW provided that during fiscal year 1997 the library shelved 932,000 volumes, photocopied 3,056,000 pages, processed 413,000 document delivery requests and processed 308,000 volumes through the self service

copy center, and that during that period, 77,600 materials were shelved each month. RFP attach. 10. In the initial evaluation, the evaluators recognized that GCI performed library activities at 15 federal government libraries and currently supports 64 nationwide government work sites performing project tasks similar to those required here. During negotiations, GCI was requested to quantify the volume of work performed for shelving, circulation, interlibrary loan and bindery activities, as well as to provide the number of items circulated per day and the number of interlibrary loans per day on each contract. Negotiation Letter, Dec. 15, 1998. GCI's response demonstrated that while it had, in fact, performed under contracts requiring similar or related duties, it had not performed under any contract at a single site a high volume of services comparable to that called for with respect to the NIH requirement.

After the review of GCI's responses during discussions, the evaluators concluded that while GCI appeared capable of processing some large volumes of work, GCI did not have experience in servicing a workload comparable to the NIH library. We see nothing improper in the agency's evaluation here. In assessing whether a prior contract should be considered "similar," it is reasonable for the agency to consider the similarity of the prior contracts to the RFP requirement with respect to volume of workload and, particularly in view of the questions posed to GCI during discussions, GCI was on notice of the agency's intent to consider this element in its evaluation of GCI's experience. The RFP clearly placed offerors on notice of the volume of activity at the NIH library and that this would be taken into consideration in the evaluation of prior contracts. GCI's experience in performing high volume contracts at a single library was reasonably taken into consideration under the RFP criterion of similar or related experience. See EastCo. Bldg. Servs., Inc., B-275334, B-275334.2, 97-1 CPD ¶ 83 at 3-4. The greatest volume of shelving performed by GCI at the Environmental Protection Agency library was approximately 300,000 volumes, which is less than 50 percent of the NIH volume. GCI's Revised Technical Proposal. To the extent this evaluation criterion may have given TeleSec a competitive advantage, an agency is not required, in seeking competition, to construct its procurements in a manner that neutralizes the competitive advantage that some potential offerors (including incumbent contractors) may have over others by virtue of their own particular circumstances. Group Techs. Corp.; ElectroSpace Sys., Inc., B-250699 et al., Feb. 17, 1993, 93-1 CPD ¶ 150 at 13. In sum, we see nothing improper in the evaluators taking into consideration in its evaluation of GCI's experience the fact that GCI had not performed any contracts which were similar with respect to the "single site" volume needs anticipated at the NIH library.

GCI next argues that it received only 17 of the 20 available points for the "understanding the requirement" evaluation factor and was improperly downgraded for failure to adequately describe the process of "journal shifting."

In its initial evaluation, the agency recognized that GCI had an understanding of the scope of library operations and that its proposal included many of the procedural and

quality control measures to successfully complete the work. However, several weaknesses were noted, such as GCI's proposal to unnecessarily verify 10 items on each side of an item during shelving and GCI's failure to discuss the requirement to move the older journals to a lower floor during the annual shifts of journals as required in the SOW, as a result of which GCI's proposal received an aggregate score of 16. During discussions, GCI was advised about its failure to address certain requirements, including the annual shifting of older journals from the upper level to the lower level.

In the final evaluation, the evaluators found that GCI had addressed most of their concerns; however, it was determined that GCI still did not provide an in-depth explanation on questions related to understanding the requirements such as how the annual shift of journals would be conducted. GCI maintains that, in accordance with the solicitation, in response to the agency's concerns about shifting, it promised that its on-site supervisor would coordinate the annual shift of older volumes of journal titles to the lower floor and that the on-site supervisor would work with the NIH library staff to review and discuss the volume of materials to be moved and to determine the level of effort and time required to complete the task. GCI contends that any deduction in the rating assigned its proposal for its lack of journal shifting information lacked a rational basis given the fact that TeleSec's proposal was deficient if judged by the same standard applied to GCI. The protester maintains that TeleSec did not offer a journal shifting plan, while GCI fully explained how it did shifting of its volumes, and promised to coordinate with the project officer to make it happen, yet GCI's proposal received a lower score than TeleSec's. GCI contends that this disparate treatment of GCI was unfair and prejudicial.

Contrary to the protester's argument, the record shows that TeleSec did provide a more detailed discussion of the specifics of the shifting process. In particular, TeleSec provided [deleted]. TeleSec further provided that [deleted]. Based on the details provided by TeleSec in its proposal about the shifting process, coupled with the agency's knowledge that, as the incumbent, TeleSec had successfully performed this requirement in the past, we believe the agency reasonably evaluated TeleSec's proposal as being superior in this area. While we agree with the protester that it did discuss the shifting requirement, it did not provide details concerning the necessary personnel and resources needed to perform the annual shift of journals from the upper level to the lower level of the library. In sum, the record provides a reasonable basis for the agency's downgrading of GCI's proposal under this evaluation factor, and for its determination that TeleSec's more detailed proposal was superior to GCI's under this factor.

Finally, GCI challenges the agency's price/technical tradeoff determination premised on its contention that the two proposals were essentially equal and therefore price should have been the determining factor. However, as explained above, TeleSec's proposal was reasonably evaluated as technically superior to GCI's proposal. TeleSec's proposed price was \$[deleted] and GCI's was \$[deleted]. In a negotiated procurement, agency officials have broad discretion in determining the manner and extent to which they will make use of technical and price evaluation results. Price/technical tradeoffs may be made; the extent to which one may be sacrificed for the other is governed by the test of rationality and consistency with the established evaluation factors. General Servs. Eng'g. Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44 at 9. Where, as here, the RFP indicates that technical considerations are more important than price considerations, selection of a technically superior, higher-priced proposal is proper where the record shows that the price premium was reasonably found to be justified in light of the proposal's technical superiority. Dynamics Research Corp., B-240809, Dec. 10, 1990, 90-2 CPD ¶ 471 at 2.

Here, the agency determined that TeleSec's proposal was technically superior based on the fact that it demonstrated that TeleSec clearly understood the contract requirements, TeleSec's key personnel had experience which exceeded the requirements, and TeleSec had a long history of successfully providing similar or related experience commensurate with the RFP requirement. Although GCI's proposed price was lower, the agency reasonably determined that the cost savings were outweighed by TeleSec's demonstrated superiority. In these circumstances, GCI's contention that price should have been determinative is misplaced, and the record provides no basis to question the award determination.

The protest is denied.

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