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United States General Accounting Office
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Decision

Matter of: Si-Nor, Inc.

File: B-290150.4; B-290150.5

Date: February 4, 2003

Sam Z. Gdanski, Esq., for the protester.
Johnathan M. Bailey, Esq., and Theodore M. Bailey, Esq., for Red River Service Corporation, the intervenor.
Capt. Gregory A. Moritz, Department of the Army, for the agency.
Sharon L. Larkin, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably downgraded protester's proposal where protester did not provide information required by solicitation or sufficient to demonstrate its understanding of the requirements.

DECISION

Si-Nor, Inc. protests the award of a contract to Red River Service Corporation under request for proposals (RFP) No. DABT59-01-R-0011, issued by the Department of the Army for waste recycling and disposal services. Si-Nor challenges the reasonableness of the Army's evaluation of its technical proposal and the award selection analysis.

We deny the protests.

The RFP contemplated the award of a fixed-price contract for a base year with four 1-year options. Award was to be made to the offeror whose proposal represented the "best overall value" to the government, based on an "integrated assessment" of the evaluation factors. The evaluation factors were: (1) technical, (2) experience/past performance, (3) small business participation, and (4) price. The first three evaluation factors were equal to one another in importance and combined were "significantly more important" than price. For the technical factor, the RFP identified six subfactors listed in descending order of importance: (a) understanding the requirements; (b) recycling plan; (c) experience in providing required documentation; (d) key personnel; (e) quality control plan; and (f) list of trucks, containers, and equipment. RFP at 36. The RFP incorporated a 10-percent price

evaluation preference for Historically Underutilized Business Zone (HUBZone) small business concerns. RFP amend. 1; see Federal Acquisition Regulation (FAR) § 52.219-4.

The RFP specified that:

> [t]he [offeror's] proposal should be specific, complete, and demonstrate an understanding of the required services and the potential for completing the services satisfactorily as outlined in the [performance work statement (PWS)] and meet the requirements of this solicitation.

RFP at 37. As part of their proposals, offerors were required to submit a recycling plan, resumes of key personnel (including the "Site Project Manager, Lead Man, and Recycling Manager"), and a list of equipment to be utilized on the contract. Id.

Five offerors, including Si-Nor, submitted proposals in response to the RFP. All proposals were included in the competitive range.

In a letter dated November 14, 2001, the Army opened discussions with Si-Nor, identifying several "deficiencies" and "weaknesses" that it requested Si-Nor address.[1] Among other deficiencies and weaknesses noted, the letter stated that Si-Nor's proposal was "very general in fashion" and that it "basically repeats what the requirements are in the solicitation with little or no detail." Also, the letter stated that the proposal did not contain the RFP-required resumes or "identify the experience or qualifications for the Project Manager and Quality Control Inspector"; the letter requested that Si-Nor provide the resumes of all on-site key personnel. Agency Report (AR), Tab 13B, Si-Nor Discussions Letter. By letter dated November 23, Si-Nor responded and addressed some, but not all, of the Army's concerns. For example, although the letter purported to attach resumes, no resumes were attached. AR, Tab 12B, Si-Nor's Response to Discussions.

The Army received final proposal revisions (FPR) from all five offerors by February 25, 2002. Based on the evaluation of the FPRs, the Army selected Red River for award. Upon receiving notice of the award, Si-Nor and another offeror filed protests, in response to which the Army took corrective action by convening a new evaluation panel. Based on this panel's evaluation, the final evaluation results for Red River's and Si-Nor's proposals were:

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[1] Similar letters were sent to other offerors in the competitive range.

		Red River	Si-Nor
Technical		**Blue**[2]	**Yellow**
	Understanding the requirements	Blue	Yellow
	Recycling plan	Green	Red
	Experience with documentation	Blue	Green
	Key personnel	Blue	Red
	Quality control plan	Blue	Green
	List of trucks, containers, equipment	Blue	Green
Past performance		**Green**	**Green**
Small business participation		**Green**	**Green**
Cost (actual)		**$4.627 million**	**$4.520 million**
Cost (HUBZone adjustment of 10%)[3]		**$5.090 million**	**$4.520 million**

AR at 3-4.

The evaluators noted a number of deficiencies and weaknesses in Si-Nor's FPR, including, for example:

> [T]he proposal regurgitates the RFP without really demonstrating understanding of requirements. Staffing and management are vague; the recycling plan does not include required elements including number and location of containers, pickup schedule, building recyclables collection, etc. Key personnel did not include details on qualifications or experience.
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> * * * * *
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> WEAKNESS OF THE PROPOSAL: Si-Nor failed to demonstrate even a basic understanding [of] the requirement. Recycle plan--source

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[2] The color coded ratings used by the evaluators were defined as follows: blue--"[e]xceed[s] specified evaluation standards in a beneficial way to the agency and has no significant weaknesses"; green--"[m]eets evaluation standards and any weaknesses are readily correctable"; yellow--"[f]ails to meet the evaluation standards[,] however, any significant deficiencies are correctable; and red--"[f]ails to met a minimum requirement of the RFP and the deficiency is uncorrectable without major revision of the proposal." AR, Tab 5, Tradeoff Analysis, at 2.

[3] Red River's evaluated price was adjusted upward 10 percent because Si-Nor was eligible for a HUBZone preference and Red River was not.

> separation will be required of customers. . . . [T]he organizational chart shows the project manager not in overall control. The Quality control plan lacks specificity particularly in describing corrective action after deficiencies are found. . . . No details are supplied for containers or equipment other than the vehicles and dumpsters.

No strengths were identified in the proposal. AR, Tab 5, Tradeoff Analysis, at 4-5.

In contrast, the evaluators found numerous strengths in Red River's proposal, which the evaluators summarized as follows:

> Contractor understands the requirement as shown through a thorough discussion of the various work elements and adequate staffing and materials. The recycle plan addresses required elements and includes analysis of recyclable waste streams. Thorough description of required reports including a matrix of forms with frequency and distribution requirements shows experience in documentation. Key person[n]el are shown with qualifications and detailed resumes. A[n] organizational chart showing the preferred quality control relationship is provided. The equipment list identifies vendors and acquisition processes.

Id. at 3.

Based on the foregoing evaluation, the contracting officer determined that:

> the significantly higher performance capability represented by Red River Services proposal, significantly outweighs the cost savings associated with the lower priced proposal and the technical, past performance, and [small business participation] ratings of the lower priced proposals do not provide significant additional benefit to the Government. The best value selection is, therefore, Red River Services.

AR, Tab 7, Cost & Price Analysis, at 3.

After Si-Nor was notified that the Army had selected Red River for award, Si-Nor filed this protest. Upon receipt of the agency report, Si-Nor filed a supplemental protest. In its protests, Si-Nor primarily challenges the Army's assessment of weaknesses and deficiencies in its technical proposal, contending its proposal was deserving of a higher rating under the technical evaluation factor and subfactors.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the RFP criteria and procurement statutes and regulations. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. Mere disagreement with the agency's conclusions does not

render those conclusions unreasonable. See UNICCO Gov't Servs., Inc., B-277658, Nov. 7, 1997, 97-2 CPD ¶ 134 at 7. Here, we find that the Army's analysis was reasonable, supported by the record, and consistent with the evaluation criteria set forth in the RFP.

With respect to the first technical subfactor--understanding the requirements--Si-Nor's proposal was given a yellow rating because, among other things, it merely "regurgitate[d]" the requirements of the RFP and lacked sufficient detail to demonstrate an understanding of those requirements. See AR, Tab 9, Technical Evaluation, at 3. We find this to be a fair assessment of Si-Nor's proposal. It is an offeror's obligation to submit an adequately written proposal for the agency to evaluate, which, as explained below, Si-Nor failed to do. See United Def. LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 19.

Si-Nor's proposal contained numerous statements, such as "[a]ll containers shall be placed in locations in accordance with Technical Exhibit 5" and "[Si-Nor] is well versed and experienced in writing reports, forms and other correspondence as required by paragraph C.1.8 of the PWS," Si-Nor Technical Proposal §§ II.a.iv, II.c, which only parroted back to the Army the corresponding provisions of the PWS. See PWS ¶ C.5.2.3 ("Container locations shall be in accordance with Technical Exhibit 5"); PWS ¶ C.1.8 ("The contractor shall provide all reports, forms, and other correspondence at [the] time, frequency, and in the number of copies indicated in Technical Exhibit 2"). In the Army's view, and we agree, Si-Nor's proposal did "nothing more than to promise to meet the minimum solicitation requirements already identified in the RFP"; that is, Si-Nor only "indicate[d] that they are going to do the task[,] not how they are going to accomplish the task." Contracting Officer's Statement (Nov. 22, 2002) at 4. In sum, Si-Nor's proposal did not demonstrate to the Army that Si-Nor actually understood the requirements.[4] Therefore, the Army's assessment of a yellow rating for this subfactor was reasonable.

Another area of agency concern was Si-Nor's recycling plan. There, the Army gave Si-Nor's proposal a red rating. It found no strengths under this subfactor, but assessed a deficiency because the plan "does not include any of the elements required by RFP [PWS ¶] C.5.3.2, including number and location of containers,

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[4] Si-Nor argues that its general references to the RFP and PWS requirements are more than sufficient to demonstrate its understanding of the requirements. We disagree. As indicated, the RFP required proposals to be "specific, complete, and demonstrate an understanding of the required services." RFP at 37. Furthermore, the Army informed Si-Nor during discussions that its proposal was assessed a deficiency because it was "very general in fashion" and "basically repeats what the requirements are in the solicitation with little or no detail." Despite the Army's request to provide additional details, Si-Nor failed to adequately address the Army's concerns.

pickup schedule, how building recyclables will be collected, or what is required of [the] government." The Army also assessed Si-Nor's recycling plan a weakness because "[s]ource separation will be required of customers." AR, Tab 9, Technical Evaluation, at 4.

The RFP required offerors to submit a recycling plan "as specified in paragraph C.5.3.2 of the [PWS]." RFP at 37. That paragraph required, among other things, the "number, locations and types of recycling containers, pick-up schedule, building containers, and pick up stations for family housing and post." RFP PWS ¶ C.5.3.2. The recycling plan subfactor also informed offerors that their proposals would be evaluated for the "[l]ocations and types of recycling containers, pick-up schedule for office buildings, housing areas and yard waste." RFP at 36. Furthermore, as noted, the RFP required proposals to be "specific, complete, and demonstrate an understanding of the required services." RFP at 37. Notwithstanding these instructions, Si-Nor's proposal contained only eight sentences of general text concerning Si-Nor's recycling plan in which it vaguely offered to provide a "source separation collection system," a "public outreach plan," and "goals of recycling," but failed to describe what these items entailed. Si-Nor's Technical Proposal § II.b. The proposal also omitted information concerning recycling containers, pick-up schedule, and other items required by paragraph C.5.3.2. In light of the RFP's requirements, Si-Nor's scant proposal submission in this area supports the Army's finding of a deficiency.

Si-Nor alleges that in evaluating its recycling plan the Army misinterpreted its offer of a "source separation collection system." However, as noted by the Army, Si-Nor failed to further describe this system in its proposal. The Army construed the word "source" to mean the originator or generator of the refuse (i.e., the military family customer) and, therefore, concluded that the burden of recycling was placed on the customer. Contracting Officer's Statement (Nov. 22, 2002) at 3. Si-Nor now explains that "[c]ustomers are not required to separate any recyclable materials" and that it "intended to provide a system where our workers will do a curbside separation of the recyclable material." Protest at 2. However, neither Si-Nor's proposal nor its response to the Army's discussion issues informed the agency of this intention.[5] In light of the RFP requirements to submit a "specific" and "complete" proposal, we think the burden of providing sufficient information concerning its "source separation collection system" rested with Si-Nor. See United Def. LP, supra.

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[5] In its comments, Si-Nor contends that discussions were inadequate concerning the Army's interpretation of Si-Nor's source separation selection plan. However, the Army's interpretation was made known to Si-Nor at its debriefing, which was more than 10 days before Si-Nor first raised this protest allegation. Si-Nor's protest of the adequacy of discussions is therefore untimely. See 4 C.F.R. § 21.2(a)(2) (2002) (protests must be filed within 10 days after the basis of protest is known or should have been known, whichever is earlier).

Therefore, under the circumstances, we cannot say that the agency's assessment of a weakness in this area of Si-Nor's proposal was unreasonable.[6]

Si-Nor also complains that the Army unreasonably assessed a red rating for its key personnel, for failing to meet the minimum requirements of the RFP. Here, too, the Army's findings were reasonable in light of Si-Nor's failure to provide required or detailed information. For example, Si-Nor's proposal failed to include the "experience, qualifications, and certifications" of certain key personnel, as required by the RFP (at 36) and requested by the Army's discussions letter. Si-Nor also did not provide resumes of its key personnel, as required by the RFP (at 37) and again requested by the Army in its discussions letter.[7] Furthermore, as noted in the evaluation, a reasonable reading of Si-Nor's proposal reveals that the project manager does not appear to have overall control of the project, which was required by the PWS (at ¶ C.1.2.2).[8] Thus, the agency reasonably determined that Si-Nor's proposal warranted a red rating with regard to key personnel.

Similarly, Si-Nor contests its green rating for its quality control plan; however, the record shows that this plan was completely lacking in detail, particularly with respect to describing corrective action taken after deficiencies were found, even though this information was required by the RFP (at 36). Likewise, Si-Nor contests

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[6] Si-Nor complains of disparate treatment in the evaluation of the recycling plan subfactor. It notes that Red River's recycling plan was similarly assessed a weakness because of "some confusion" over whether "family housing [would] be required to do some source separation," AR, Tab 9, Technical Evaluation, at 8, and complains that, despite this weakness, Red River's proposal received a green rating for the recycling plan subfactor, whereas Si-Nor's proposal received a red rating. However, we think the record reasonably supports the Army's determinations. Unlike Si-Nor's plan, Red River's plan was "comprehensive and address[ed] all required RFP elements," and contained a number of proposal strengths. Id. We find no evidence of disparate treatment in the record for this, or any other, evaluation factor.

[7] Si-Nor's proposal included the resumes of its President, Corporate Vice President, and Vice President of Sale and Marketing, but did not include the resumes of the "Project Manager, Lead Man and Recycling Coordinator," as required by the RFP (at 36). Although Si-Nor's response to the Army's discussions letter, as well as its protest here, purported to attach additional resumes, none were provided in either instance.

[8] Although Si-Nor's proposal stated that the project manager had "full authority to act for the contractor and shall be responsible for the overall management and coordination of the contract," the organizational chart provided by Si-Nor indicated otherwise. This chart indicated that the project manager has control over only the drivers. Si-Nor's Technical Proposal § II.d.

its green rating for the equipment list subfactor, but, again, Si-Nor failed to provide details for its containers and equipment, which was another requirement of the RFP (at 36). Given Si-Nor's failure to respond to specific RFP requirements, we find the Army did not underrate Si-Nor's proposal under these technical subfactors.

Si-Nor next contends that its green small business participation rating was too low, because Si-Nor is a small business, while Red River's green rating was too high. We disagree. Si-Nor's proposal failed to submit a subcontracting plan or identify any subcontracting opportunities to meet the subcontracting goals set forth in the RFP (at 38). Nevertheless, it was given credit for achieving two of the three goals because it is a small business concern. Since the agency had no way of knowing Si-Nor's subcontracting plans, we think that the agency had a reasonable basis for giving Si-Nor only a green and not a blue rating under this factor. Red River (a large business) did submit a subcontracting plan, which exceeded only two of the three subcontracting goals. Therefore, it was also properly assessed a green rating under this factor.[9] Contracting Officer's Statement (Dec. 16, 2002) at 3.

Si-Nor also contends that the Army should have rated Red River and Si-Nor's proposals as technically equal, which would have resulted in price being award determinative. We disagree. As discussed above, the Army reasonably found clear advantages in Red River's proposal, which justified a higher technical score. See, e.g., AR, Tab 9, Technical Evaluation; AR, Tab 7, Cost & Price Analysis; AR, Tab 5, Tradeoff Analysis. Most significantly, Red River provided a comprehensive, detailed proposal that met or exceeded the requirements of the RFP on almost every level.

While Si-Nor also alleges that the Army failed to document its price/technical tradeoff, the Army, as indicated above, provided a well-reasoned analysis of the competing proposals that sufficiently justified the Army's selection of Red River's higher-rated, higher-priced proposal for award. Contrary to Si-Nor's contention, this analysis did not give too much weight to the technical factor to the detriment of the past performance, small business participation, and price factors. Red River's proposal was reasonably found to have a clear advantage in the technical factor that offset any price advantage of the lower-rated, lower-priced proposals, including Si-Nor's.[10] The past performance and small business participation factors were given

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[9] While Si-Nor also generally contests its green past performance ratings, arguing that it deserved a blue rating, the record shows that the majority of past performance ratings from Si-Nor references supported a green, not a blue, rating.

[10] Si-Nor also contends that the recycling plan was given too much importance as a technical evaluation subfactor because it was only a small portion of the overall contract. This allegation concerns the relative importance of evaluation criteria identified in the RFP, and thus an alleged defect in the solicitation. Accordingly, Si-Nor should have raised this protest ground before the due date for initial proposals, but did not. Its allegation is therefore untimely. See 4 C.F.R. § 21.2(a)(1)

(continued...)

appropriate consideration, but, as indicated by the equal ratings given Si-Nor's and Red River's proposals under these factors, these factors were not award discriminators.

In sum, we find nothing objectionable in the Army's technical evaluation or award selection analysis.

The protests are denied.

Anthony H. Gamboa
General Counsel

(...continued)
(protests based upon improprieties in solicitation must be filed prior to time set for receipt of initial proposals).