



**Comptroller General  
of the United States**

Washington, D.C. 20548

# Decision

## REDACTED DECISION

A protected decision was issued on the date below and was subject to a GAO Protective Order. This version has been redacted or approved by the parties involved for public release.

**Matter of:** Caltech Service Corporation

**File:** B-261044.4

**Date:** December 14, 1995

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Alan Dickson, Esq., Jeffrey H. Schneider, Esq., and José Otero, Esq., Epstein Becker & Green, for the protester.

Gregory H. Petkoff, Esq., and Peter M. Ditalia, Esq., Department of the Air Force, for the agency.

Adam Vodraska, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Agency reasonably evaluated and considered the relative strengths of the proposals under a best value evaluation scheme in concluding that no proposal was significantly superior to the awardee's low-priced proposal, and thus reasonably found that proposal to represent the best value to the government.

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## DECISION

Caltech Service Corporation protests the award of a contract to Cabaco, Inc., by the Department of the Air Force under request for proposals (RFP) No. F33657-93-R-0028, for the operation and maintenance of the common area at Air Force Plant 42, Palmdale, California.<sup>1</sup>

We deny the protest.

The RFP, issued on a small disadvantaged business set-aside basis, sought operation and maintenance services, including security, airfield maintenance, fire protection/crash rescue, and industrial facilities maintenance and engineering services to be performed in accordance with the standards in the RFP's

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<sup>1</sup>Plant 42 is a government-owned, contractor-operated facility for government agencies and contractors performing research, development and production work on various aircraft and other programs. The common areas of Plant 42 include an airfield, access gates, and other areas not exclusively or solely occupied by a contractor or agency.

performance work statement (PWS) for a base year with 4 option years. Firm, fixed prices were solicited for the bulk of the work, and not-to-exceed cost ceilings were specified for the several cost reimbursement line items.

The RFP stated that award would be made to the responsible offeror whose conforming offer was determined, based on an integrated assessment of the evaluation criteria and other considerations, to be most advantageous to the government. The following factors were listed in descending order of importance, with the subfactors within each area being of equal importance:

(1) Technical

- (a) fire protection and crash rescue
- (b) security
- (c) maintenance/supply
- (d) engineering

(2) Management

- (a) organization and management
- (b) government furnished property
- (c) safety

(3) Cost

The RFP also set forth various elements corresponding to the requirements in the PWS that would be evaluated under each subfactor. For example, with regard to the fire protection and crash rescue subfactor, the only element was

"The position descriptions for the Fire Chief, Assistant Chief for Training, Assistant Chief for Operations and Emergency Medical Technicians will be evaluated for compliance with the PWS."

Each subfactor was to be evaluated under a color/adjectival rating scheme considering the designated elements of the subfactor.<sup>2</sup> Each subfactor was also to be evaluated for proposal risk--to assess the risk associated with an offeror's proposed approach--and for performance risk--to assess the probability of successful

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<sup>2</sup>The color/adjectival ratings were blue/exceptional, green/acceptable, yellow/marginal, and red/unacceptable.

performance based on the "offeror's relevant past and present performance."<sup>3</sup> The color/adjectival rating, proposal risk, and performance risk were to be weighted equally for each evaluation factor except cost. For cost, the Air Force determined each offeror's most probable cost (MPC),<sup>4</sup> which was to be evaluated for reasonableness, realism, and completeness. The RFP specifically stated that the MPC would be a significant factor in the source selection decision and would be evaluated equally with the performance risk rating for each offeror's cost. The RFP also noted that the subjective judgment of the government evaluators is implicit in the evaluation process.

A source selection evaluation team (SSET) evaluated each subfactor element for soundness of approach and understanding/compliance with the minimum requirements of the RFP utilizing a plus (exceeds standard)/check (meets standard)/minus (does not meet standard) rating system. Evaluators assessed each proposal's technical strengths, weaknesses, deficiencies, and risks (i.e., proposal risk), and then assigned a color/adjectival and risk rating for each subfactor.

In addition, a performance risk analysis group (PRAG) conducted a performance risk assessment of the relevant present and past performance of each offeror and their major subcontractor(s) for each subfactor. The PRAG evaluated information submitted by offerors, responses to questionnaires sent to references, and pre-award surveys, and assigned performance risk ratings for all the subfactors (the PRAG inadvertently overlooked evaluating the government-furnished property subfactor for performance risk).

The SSET presented the source selection authority (SSA) with its findings at an initial evaluation briefing and, based on this evaluation, the SSA established a competitive range of eight proposals, including Caltech's and Cabaco's. Discussions were conducted, and best and final offers (BAFO) submitted and evaluated. Both Caltech's and Cabaco's BAFOs were rated green/acceptable with low performance risk and low proposal risk for each subfactor (except security, for

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<sup>3</sup>The evaluation ratings for proposal risk and performance risk were high, moderate, and low. If no past performance had been demonstrated, a rating of "Not Applicable" (N/A) was given for performance risk.

<sup>4</sup>The MPC was the sum of the estimated cost for operations and maintenance support (which was offered on a firm, fixed-price basis, including wages), other government costs (not-to-exceed estimates established by the Air Force for the cost reimbursement line items), and any necessary adjustments to wage rates made by the agency in the cost evaluation to ensure compliance with the Service Contract Act and collective bargaining agreements.

which both offerors received N/A for performance risk). Caltech's MPC was \$56,306,018 while Cabaco's was \$51,808,250.

Based on its evaluation of the BAFOs, the SSET and PRAG presented the SSA with a final evaluation briefing and a proposal analysis report summarizing the strengths, weaknesses, and risks of each proposal for the technical evaluation subfactors as well as the performance risks and costs. Based on an integrated assessment of the findings of the SSET, the SSA determined that Cabaco's proposal contained a variety of strengths, which he detailed in a source selection statement, and a significantly low MPC, such that Cabaco's proposal represented the best overall value. The Air Force thus made award to Cabaco.

Caltech argues that its proposal was technically superior to Cabaco's under the technical and management factors, and that the fact that it received the same green/acceptable rating for each subfactor as Cabaco's proposal indicates that award was actually made solely on the basis of low price, without regard to relative technical merit. In support of its protest, Caltech has attacked the reasonableness of virtually every aspect of the technical, proposal risk, performance risk, and cost evaluations.

While procuring agencies have broad discretion in determining the evaluation plan they use, they do not have the discretion to announce in the solicitation that one plan will be used, and then follow another in the actual evaluation. Trijicon, Inc., 71 Comp. Gen. 41 (1991), 91-2 CPD ¶ 375. Specifically, agencies may not specify that technical superiority will be more important than cost, and then make award as though the RFP provided for award to the lowest-cost, technically acceptable offeror. Id. In our review of an agency's evaluation of proposals, we confine our analysis to a determination of whether the evaluation was reasonable and consistent with the solicitation evaluation criteria. SDA Inc., B-248528.2, Apr. 14, 1993, 93-1 CPD ¶ 320.

The protester's and awardee's proposals were reasonably rated as green/acceptable with low proposal risk and low performance risk for each subfactor, with both found to contain various strengths and weaknesses.<sup>5</sup> While it may be that Caltech's proposal contained more strengths than Cabaco's, Caltech has not shown that it deserved a higher rating, or that Cabaco deserved a lower rating, for any subfactor, or that the identified strengths in Caltech's proposal would offset Cabaco's

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<sup>5</sup>For example, Cabaco's proposal had a designated strength with regard to the demonstrating understanding of as-built drawings element under the engineering subfactor, which was not found in Caltech's proposal; on the other hand, Caltech's proposal contained identified strengths in the fire protection/crash rescue subfactor not found in Cabaco's proposal.

\$4.6 million cost advantage. Moreover, the record does not evidence that the Air Force abandoned the best value evaluation scheme to simply make award to the low-cost technically acceptable offeror. Instead, as indicated in the source selection statement, the SSA found that no proposal was significantly superior to Cabaco's proposal--which had a variety of documented strengths--so as to justify the payment of the associated substantial cost premium.

The major area where Caltech asserts that the superiority of its proposal was not recognized is the fire protection/crash rescue subfactor, where both Caltech's and Cabaco's proposal received green/acceptable ratings. Caltech asserts that since the evaluators' worksheets show that Caltech's proposal received more "plus" ratings than Cabaco's for this subfactor, the SSET erred in not awarding Caltech a higher score. Caltech specifically notes that one evaluator's worksheets reveal that Caltech's rating for fire protection/crash rescue was provisionally upgraded from an initial rating of green/acceptable<sup>6</sup> to blue/exceptional, but was finally rated green/acceptable, a rating which Caltech asserts was unjustifiably low.

The Air Force explains that in order to be rated blue for any element, a proposal had to exceed the specified performance or capability standard in a beneficial way to the Air Force and have no significant weaknesses, and that the source selection plan for this procurement charged evaluation team leaders with ensuring that ratings were consistently applied. For the subfactor in issue here, the team leader did not concur with the evaluator's provisional blue rating, even though Caltech's position descriptions for the fire protection/crash rescue personnel exceeded the PWS standards. This was because Caltech did not respond to the agency's request during discussions to incorporate into the draft contract all of the enhanced education, experience, and certification standards indicated in its position descriptions. Given Caltech's failure to completely respond to the discussion request, we see nothing unreasonable in the team leader's and SSET's ultimate finding that Caltech's proposal was not sufficiently exceptional for this subfactor to warrant a blue rating; while the protester disagrees with the rating, it has not shown it was unreasonable. Moreover, although Cabaco's proposal initially was given a provisional yellow/marginal rating for fire protection/crash rescue, Cabaco remedied the weaknesses/deficiencies in its proposal during discussions and improved its initial minus ratings to checks; nothing in the record suggests that Cabaco's green/acceptable rating for this subfactor was unwarranted. Thus, while it is true that Caltech's proposal contained more strengths for this subfactor than Cabaco's,

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<sup>6</sup>Caltech's initial proposal received a number of "minus" ratings for the fire protection/crash rescue subfactor. Thus, Caltech's assertion that it was and should have been rated blue from the offset has no merit.

even though they received the same rating, the record does not indicate that Caltech's proposal was underrated or Cabaco's proposal was overrated.<sup>7</sup>

Caltech contends that the Air Force's evaluation was affected by Cabaco's alleged misrepresentations concerning the current employment status of several of its proposed personnel, specifically, Cabaco's proposal's misrepresentation that these individuals were currently, or were recently, employed by the incumbent contractor, Pacifica. However, the Air Force did not consider the qualifications and experience of specific individuals in the evaluation, even though Caltech tendered these individuals' resumes in its proposal. Rather, consistent with the RFP, the agency only evaluated the offerors' position descriptions, as stated in the proposals, for the designated key management and supervisory personnel, including those for fire protection/crash rescue, which it found at least compliant with the standards set forth in the PWS.

Caltech also contends that Cabaco's BAFO should have been downgraded because it replaced employees of its subcontractor, Day & Zimmerman, which is experienced in structural fire protection, with Cabaco employees, to operate the Plant 42 alarm room.<sup>8</sup> Caltech alleges that, even though Cabaco itself had no experience in this area, the Air Force did not downgrade Cabaco's BAFO based on this change. The Air Force responds that since the alarm room operation only needs one operator per shift, and this individual's duties are not particularly complicated, the change in personnel was not important enough to adjust the risk factor or lower the technical rating. We note that the alarm room requirement was but one of many listed in the PWS under fire protection/crash rescue and was never separately evaluated. Given that Cabaco's proposal evidences that alarm room operators would be qualified to monitor the plant's fire protection systems and to dispatch appropriate equipment,

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<sup>7</sup>Further, the record shows that the SSA was fully aware of the strengths of Caltech's proposal when he made the source selection. He was informed in the SSET briefing of Caltech's relative strengths in the fire protection/crash rescue area, i.e., that the educational attainment and experience requirements for firefighter position descriptions included in Caltech's proposal exceeded the PWS standards, and was also advised that Cabaco had no significant strengths in this area. In addition, for performance risk, the SSA was briefed that Caltech's subcontractor for fire protection/crash rescue, Pacifica, had performed well as the incumbent contractor, whereas the experience of Cabaco's subcontractor, Day & Zimmerman, was limited to structural fires, with no crash rescue experience.

<sup>8</sup>The PWS required that the contractor man the alarm room with one person continuously 24 hours per day, 7 days a week. Unlike other firefighter positions which required specified training and experience, the PWS was silent on the qualifications and training for alarm room operators.

and detailed the requirements associated with alarm room operation, the Air Force had no reason to lower Cabaco's technical rating or to increase the proposal risk factor because of Cabaco's substitution of personnel in its BAFO.

Caltech argues that because the incumbent contractor, Pacifica, will be Caltech's subcontractor for fire protection/crash rescue, the performance risk of its proposal should have been rated superior to Cabaco's for the security subfactor and the airfield maintenance element of the maintenance/supply subfactor. Caltech concludes that the Air Force therefore should not have found that Caltech's proposal did not demonstrate past performance in the security area, and improperly rated it N/A for that subfactor. We disagree.

Consistent with the RFP, the Air Force evaluated the experience of the offeror itself for performance risk. The Air Force could not assign performance risk to Caltech for the security subfactor because Caltech itself had no previous experience in this regard and did not propose Pacifica as a subcontractor for security, but merely proposed to hire Pacifica employees and integrate them into Caltech's security operation. According to the Air Force, all offerors proposed hiring portions of incumbent Pacifica's work force, and none was given past performance credit for this aspect of their proposal. Since Pacifica is Caltech's subcontractor only for fire protection/crash rescue, the agency reasonably determined that Caltech's proposal should not receive an enhanced or low performance risk rating for other areas.<sup>9</sup>

Caltech also contends that the questionnaires received by the PRAG for Cabaco show that Cabaco should have received a significantly less favorable past performance risk rating than Caltech. However, while Caltech received more outstanding ratings for past performance, this is not a basis for concluding that Cabaco, which had satisfactory ratings, should have received anything other than a low performance risk assessment. It is true that [DELETED] respondents to the

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<sup>9</sup>Caltech asserts that, had the Air Force conducted adequate discussions, Caltech could have avoided receiving the N/A rating for past performance for security, presumably by proposing Pacifica as a subcontractor for security. However, although the N/A rating meant that Caltech had not itself demonstrated relevant past performance in the security area, the N/A rating was intended as a neutral rating rather than as a sign of a deficiency or weakness. The Air Force notes that nearly every other offeror had at least one area without demonstrated performance and the PRAG did not request from any of them any additional data in this regard since the RFP had requested offerors to include all relevant data concerning past performance in their proposals. Where, as here, a proposal is considered to be acceptable and in the competitive range, the agency is not obligated to discuss every aspect of the proposal that receives less than the maximum possible rating. John Brown U.S. Servs., Inc., B-258158 et al., Dec. 21, 1994, 95-1 CPD ¶ 35.

past performance questionnaire rated Cabaco [DELETED] for custodial services, but this respondent also noted that Cabaco's services had improved in this area--which was the only performance element out of nine evaluated by that respondent that [DELETED]--and that Cabaco's overall performance was satisfactory. Further, the other [DELETED] respondents gave Cabaco [DELETED] and [DELETED] ratings for all the performance elements of their contracts with Cabaco. We conclude that the performance risk ratings were reasonable.<sup>10</sup>

Finally, Caltech complains that the Air Force could not find Cabaco's proposed cost realistic because it had to add \$4 million to Cabaco's BAFO costs to calculate its MPC. However, this adjustment to MPC in no way reflected agency concern with the realism of the elements included in Cabaco's proposed cost. Rather, the adjustment was made only because Cabaco was found to have omitted from its cost proposal the not-to-exceed estimates for the cost reimbursement line items that were designated by the agency in the RFP for all offerors. Since offerors did not separately propose these pre-designated costs, the agency appropriately considered Cabaco's proposal's omission of these costs when it calculated Cabaco's MPC. While Caltech also complains that Cabaco's offer was unrealistically low, the agency specifically found that Cabaco's wage rates were consistent with the applicable wage determinations, that its manning levels were acceptable, and that Cabaco had the financial capability to successfully perform the contract at its proposed prices. Caltech has not shown that the agency's judgment in this regard was unreasonable.<sup>11</sup>

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<sup>10</sup>Also, the Air Force's inadvertent failure to assign performance risk for the government-furnished property subfactor during the original evaluation did not prejudice Caltech because both offerors were ultimately evaluated as having low performance risk for government-furnished property. While Caltech asserts that its rating should be superior because its subcontractor had responsibility for government-furnished property as the incumbent, Cabaco had also handled government-furnished property satisfactorily on previous government contracts; there thus is no basis to find that either offeror's low risk rating was unwarranted.

<sup>11</sup>Caltech asserts that performance risk improperly was not evaluated with regard to Cabaco's cost as contemplated by the RFP; however, the record confirms that Cabaco's proposal reasonably received a low performance risk rating for this factor based on the responses to the past performance questionnaires.

In sum, the Air Force reasonably determined that Cabaco's proposal's technical strengths and low MPC represented the best value to the government.

The protest is denied.

Comptroller General  
of the United States