



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Quality Elevator Company, Inc.

File: B-271899

Date: August 28, 1996

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Gerald F. Ivey, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker, for Elevator Control Service, an intervenor.

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DIGEST

1. Allegation that agency improperly evaluated protester's proposal is denied where evaluation documentation shows that the ratings assigned to the proposal were reasonable and reflected the solicitation's stated evaluation criteria.
 2. Allegation that agency failed to conduct meaningful discussions with protester is denied where discussion questions directly led protester into areas of its technical proposal that required amplification.
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DECISION

Quality Elevator Company, Inc. protests the award of a contract to Elevator Control Service (Elcon), under request for proposals (RFP) No. 52-SAAA-6-00011, issued by the Department of Commerce. Quality argues that the agency failed to conduct meaningful discussions, and that the proposals were improperly evaluated.

We deny the protest.

The RFP, issued on November 30, 1995, requested proposals for a fixed-price contract for a base year with 3 option years to provide labor, equipment, tools, and materials to perform inspection, testing, maintenance, and repairs services on elevators in the Herbert C. Hoover Building in Washington, D.C. Technical factors were stated to be more important than price. The RFP contained the following technical evaluation factors and associated points: (1) preventative maintenance

plan (150 points); (2) management plan (200 points); (3) organization and control (100 points); (4) level of effort (50 points); (5) continuity of service (150 points); (6) personnel (150 points); and (7) past performance (200 points), for a maximum possible total of 1,000 points.

The agency received five proposals and after evaluation of initial proposals, established a competitive range of four proposals, including those of Quality and Elcon. Written discussions were conducted with all competitive range offerors, and all four submitted best and final offers (BAFO) by the March 13, 1996, closing date. The BAFOs were evaluated as follows:¹

Offeror	Technical Score	Life Cycle Price
Elcon	852.5	\$840,128.13
Offeror "A"	637.5	\$776,130.00
Offeror "B"	630	\$803,600.00
Quality	467.5	\$645,750.00

The agency concluded that Elcon's proposal represented the best overall value to the government and made award to Elcon on April 19. This protest followed.

TECHNICAL EVALUATION OF PROPOSALS

Quality raises numerous arguments to the effect that the technical evaluation was improper, and that the resulting source selection therefore was invalid. We have reviewed the record and conclude that these arguments are without merit.

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 methods of accommodating them. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16. In reviewing an agency's evaluation, we will not reevaluate technical proposals but instead will examine the agency's evaluation 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.

¹In addition to the life-cycle prices, there are certain unit labor prices representing what the agency will have to pay for labor once the contractor reaches a designated threshold. These prices are not relevant to the protest issues.

Past Performance

The RFP requested that each offeror submit a minimum of four references knowledgeable about its past performance, but the RFP did not state any number of references that the agency would contact as part of the evaluation. The technical evaluation panel (TEP) contacted one reference from each offeror's proposal, visited the associated site and interviewed the contract administrator. In evaluating Quality's past performance, the agency received input from the contracting officer's technical representative (COTR) for Quality's current contract, who was also on the TEP, concerning Quality's maintenance of the elevators at the Department of Commerce's Herbert C. Hoover Building. Quality received a "very good" score of 120 out of a possible 200 points to reflect the agency's conclusion that Quality, the incumbent contractor, was currently operating at an acceptable level but, citing the COTR's comment that Quality's level of service over the past 3 months had deteriorated, the TEP concluded that Quality's performance in servicing the elevators to be maintained under this contract warranted a score of only "very good."

In our view, this assessment of the protester was reasonable. Agencies evaluating proposals may properly consider their own past experience with an offeror's performance where the solicitation contains past performance as an evaluation factor. George A. and Peter A. Palivos, B-245878.2; B-245878.3, Mar. 16, 1992, 92-1 CPD ¶ 286. Here, while taking cognizance of Quality's experience in performing as the incumbent, the agency also took into consideration its direct knowledge of Quality's recent performance problems. We find without merit the protester's argument that the agency's evaluation of its past performance was improper because the agency only contacted one of its references. There is no legal requirement that all references listed in a proposal be checked. Questech, Inc., B-236028, Nov. 1, 1989, 89-2 CPD ¶ 407.

Quality argues that Elcon could not properly receive a higher rating for past performance since it lacked experience in maintaining the elevators to be maintained under this contract. Elcon received an "excellent" score of 180 points under this factor largely due to the excellent report that the TEP received from one of Elcon's references at the State Department. This person stated that he would recommend Elcon as a possible contractor for elevator maintenance without reservation.² In our view, the agency could reasonably rate Elcon as it did in light of this unreserved positive recommendation since nothing in the RFP indicated that

²This State Department employee also mentioned that Elcon had replaced Quality and corrected the problems that the agency had experienced with Quality. The TEP noted that these comments did not affect Quality's score.

specific experience with the elevators to be maintained was to be a consideration under this evaluation factor.

Continuity of Service

Under this evaluation factor, offerors were to discuss all actions that would be taken to mobilize for performance along with other plans, such as its strike contingency plan, phase out plan, and an emergency disaster plan. Quality's proposal received an "acceptable" score of 60 points for this factor. The TEP noted that Quality's revised proposal was lacking in specifics and failed to include an emergency disaster plan. Quality responds that its revised proposal contained three pages devoted to this factor and that the copy of its revised proposal that it submitted to the agency was missing a page that described its emergency disaster plan. Quality maintains that had the agency properly evaluated its proposal, it would have discovered that Quality's revised proposal was missing a page.

The agency responds that the pages of Quality's revised proposal were not numbered and that there were no apparent breaks in the material; therefore, according to the agency, it had no way of knowing that a page was missing from Quality's revised proposal. We find that the agency reasonably evaluated Quality's proposal under this factor. From our review of the record it appears that not only did Quality's proposal fail to include an emergency disaster plan but that the two pages that Quality submitted for this factor were lacking in detail. The offeror has the burden of submitting an adequately written proposal, see MAR Inc., supra, and on this record we see no basis for faulting the agency for not realizing that Quality's revised proposal was missing a page or for not evaluating the proposal higher than it did under this factor.

Organization and Control

With respect to this evaluation factor, offerors were asked to provide: (1) a quality control program (75 points), which included a description of the contractor's inspection system covering all services to be provided under the contract and the contractor's methods of identifying and correcting deficiencies in the quality of services performed, and (2) a detailed approach for managing day-to-day operations performed by the on-site work force (25 points).

Quality's proposal received 15 out of 75 points for the quality control program subfactor and received 7.5 out of 25 points for the day-to-day operations subfactor, for a total score of 22.5 points for this factor. The TEP noted that Quality's proposal "lacked substance and provided only a 'general' mention of the requirements." The evaluators found, and our review confirms, that Quality's proposal did not address all of the requirements that were to be addressed. For

example, Quality's proposal contained no discussion of the sampling techniques that would be used to identify deficiencies. In addition, Quality's proposal did not describe the procedures it would utilize to report deficiencies to the agency that were discovered during quality control inspections. The agency's concerns about the brevity and the omissions in Quality's proposal and its evaluation of Quality's organization and control appear reasonable and consistent with the solicitation criteria.³

Elcon's proposal received 60 out of 75 points for its quality control program, and 17.5 out of 25 points for its day-to-day operations plan for a low "excellent" total score of 77.5 points for this factor. The TEP viewed favorably the fact that Elcon intended to use a quality control inspector to monitor Elcon's performance under this contract, but it reduced Elcon's score from 67.5 to 60 points due to the reduced amount of time that the inspector would spend monitoring the contract after the first quarter. Regarding Elcon's day-to-day operations plan, the TEP raised Elcon's score from 15 to 17.5 points because, in response to a question asked during discussions, Elcon provided additional details concerning the supervision of its on-site employees. We see no basis to object to this assessment.

Management Plan

Under this evaluation factor, offerors were to submit a management plan which described in detail the methods and procedures that they plan to employ in performing the seven work tasks described in the SOW. Quality received a score of 40 out of 200 points for this evaluation factor. The TEP noted that Quality's proposal failed to address in detail the management of the following three work tasks: routine service calls, maintenance repairs, and reimbursable repairs. Regarding maintenance repairs, Quality stated only that "[d]ay to day maintenance activities and repair work will be handled in accordance with good maintenance practices by the personnel assigned to this project." The only reference in Quality's management plan to reimbursable repairs was the following: "[i]n the event that it appears that the repair will exceed the specified dollar limitation the Project Manager will provide the COTR with a cost and time estimate as required." The

³Quality also contends that the agency downgraded its proposal for not addressing each of the seven minimum standards of performance listed in section C.300 of the statement of work (SOW), but did not downgrade Elcon's proposal for the same omission. (The minimum standards of performance lay out the response time for each of the seven work tasks.) Contrary to Quality's assertions, Elcon's proposal commits the offeror to responding to the various work tasks within the various time frames laid out in the minimum standards of performance in its management plan.

agency concluded that Quality's proposal failed to describe the differing management needs of the various work tasks and stated that Quality's proposal overall lacked substantive information.

Quality contends that the evaluation of its proposal's management plan was unreasonable, and that its proposal met the solicitation requirements. Quality argues that there is little need for management planning to assure adequate performance, because the RFP calls for on-site personnel to provide the necessary elevator servicing. Therefore, Quality argues, personnel is the critical important evaluation factor. Quality points out that it received a high "very good" for the personnel factor and contends that somehow this score should be used to increase Quality's score under the management plan factor. Quality also argues that the agency unfairly downgraded its proposal under this factor because the protester had followed the solicitation instruction to be "as concise and specific as is practicable."

Elcon's proposal received an "excellent" score of 180 points. The TEP noted that Elcon's proposal contained a separate detailed description of each of the methods and procedures that it would use to manage each of the seven work tasks. For example, regarding routine service calls, Elcon's management plan separately addressed service calls that would be placed verbally by stating that such calls should be directed to its home office, and providing the phone number, and service calls that were submitted in writing (Elcon specified that such orders should be placed at a predetermined location and that Elcon's on-site technicians would pick up these orders twice daily). Additionally, the TEP noted that it particularly liked Elcon's plan for maintaining a stock of commonly used parts and supplies.

The agency reasonably determined that Elcon's detailed eight-page management proposal was superior to the nonspecific three-page management proposal submitted by Quality. Contrary to the protester's assertions, an offeror's blanket offer of compliance is not an adequate substitute for detailed and complete technical information in a proposal establishing what the firm proposes will meet the government's needs. Whittaker Elec. Sys., B-246732.2, Sept. 10, 1992, 92-2 CPD ¶161. An agency may downgrade a proposal for lack of detail pertaining to the requirements of an RFP, or consider a more detailed proposal superior. See ICONCO/NATIONAL Joint Venture, B-240119, Oct. 16, 1990, 90-2 CPD ¶ 296.

We find without merit the protester's argument that its qualified personnel made up for its otherwise deficient management plan because on-site personnel were the critical factor in the performance of this contract. The RFP made the management plan one of the most heavily weighted factors, and specifically required that offerors include in their management plans a detailed description of the methods and procedures that it plans to employ in performing the work. The fact that the RFP required on-site personnel, and that Quality's proposal received a high "very good" rating under the personnel factor does not have anything to do with the

requirement for a management plan or the rating under the management plan factor. Further, the provision of the RFP that encourages offerors to structure their proposals in a "concise and specific" manner cannot be read to obviate the clearly expressed requirements to submit specified information with the proposal. TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37. Based on our review of the record, we find that the agency reasonably concluded that Elcon's management plan was superior to Quality's management plan, in part because Elcon's management plan was significantly more detailed.

MEANINGFUL DISCUSSIONS

Quality next argues that the agency failed to provide it with meaningful discussions with regard to its past performance, the organization and control, and the management plan sections of its proposal.

Agencies are required to conduct meaningful discussions with all competitive range offerors. Stone & Webster Eng'g Corp., B-255286.2, Apr. 12, 1994, 94-1 CPD ¶ 306. In order for discussions to be meaningful, contracting officials must advise offerors of deficiencies in their proposals and afford offerors an opportunity to revise their proposals to satisfy the government's requirements. Id. This does not mean that offerors are entitled to all-encompassing discussions. Agencies are only required to lead offerors into areas of their proposals that require amplification. Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530. The degree of specificity required in conducting discussions is not constant and is primarily a matter for the procuring agency to determine. JCI Envtl. Servs., B-250752.3, Apr. 7, 1993, 93-1 CPD ¶ 299.

Past Performance

Quality argues that it should have been offered an opportunity to rebut the perceived weaknesses during the past 3 months on the current contract. We disagree. Agencies must point out in discussions weaknesses that, unless corrected, would prevent an offeror from having a reasonable chance for award. Department of the Navy-Recon., 72 Comp. Gen. 221 (1993), 93-1 CPD ¶ 422. Where, as here, the evaluators rated the proposal as "very good" in this area, and the agency's decision not to award a contract to Quality was not based on Quality's past performance, there was no requirement that the matter be the subject of discussions. See Stone & Webster Eng'g Corp., supra.

Organization and Control

Quality argues that the agency conducted unequal discussions because it posed two specific questions to Elcon regarding its "very good" day-to-day operations, and only one question to Quality regarding its "unacceptable" day-to-day plan.

Contracting agencies have wide discretion in determining the nature and scope of negotiations. While discussions must provide offerors with an equal opportunity to revise their proposals, the content and extent of discussions are within the discretion of the contracting officer. See Tritech Field Eng'g, Inc., B-255336.2, Apr. 13, 1994, 94-1 CPD ¶ 261. Since the number and type of deficiencies, if any, will vary among proposals, there is no requirement that all offerors receive the same number or type of discussion questions. Textron Marine Sys., B-255580.3, Aug. 2, 1994, 94-2 CPD ¶ 63. Rather, the agency should individualize the evaluated deficiencies of each offeror in its conduct of discussions. Pan Am World Servs., Inc., et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446. Because the degree of deficiencies in proposals will vary, the amount of specificity or detail of discussions will also vary among the offerors. Pope Maintenance Corp., B-206143.3, Sept. 9, 1982, 82-2 CPD ¶ 218.

The record clearly shows that Elcon and Quality were each presented with questions that were tailored to the specific deficiencies identified in their written day-to-day plans. The TEP determined that Quality's quality control program did not address all of the requirements of Section C.140.1. During discussions, the agency advised Quality, "[y]our Quality Control plan does not specifically address all of the requirements of Section C.140.1, please revise." This statement clearly conveys the agency's concerns about Quality's quality control program. The fact that Quality was presented with one statement regarding this factor and Elcon was presented with two statements simply reflects particulars of the evaluation of the two proposals and does not betoken any inequality in the treatment of the two offerors. All offerors, including Quality, were afforded the same opportunity to respond to the agency's concerns raised in discussions in revised proposals and BAFOs. The fact that Quality's responses to the agency's discussion statement concerning its day-to-day operation did not overcome the agency's concerns sufficiently to raise its score does not establish that the discussions were inadequate.

Management Plan

Quality argues that the agency did not conduct meaningful discussions in that the agency question was a "mere paraphrasing" of the RFP and did not convey to Quality that the agency considered its management plan deficient because it did not deal with each work task separately and in detail.

Again, we disagree. The record reflects that the agency asked Quality to address the work tasks in detail and asked Quality to "[p]lease provide a detailed description of the methods and procedures you plan to employ to perform the work tasks in Section C.200." This statement clearly conveys the agency's concerns with the fact that Quality's management proposal did not address each work task in detail, and afforded the protester a reasonable opportunity to satisfy the

government's requirements through the submission of a revised proposal. Quality failed to respond to this question with adequate detail and the agency reasonably concluded that Quality's management plan did not adequately specify the methods and procedures that it would employ to perform each of the seven work tasks in the SOW.

COST/TECHNICAL TRADEOFF

Quality contends that the agency conducted an improper and unreasonable cost/technical tradeoff. Quality bases this argument on its allegation that the technical advantages cited by the agency in Elcon's proposal were not supported by the record, and that, therefore, there were no significant technical differences between its proposal and Elcon's higher-priced proposal. However, as detailed above, the record supports both Elcon's "excellent" rating and Quality's substantially lower rating; hence, Quality's argument is based on a mistaken premise. On this record, we have no reason to find the award determination unreasonable or inconsistent with the evaluation criteria set forth in the RFP. See JSA Healthcare Corp., B-252724, July 26, 1993, 93-2 CPD ¶ 54.

The protest is denied.

Comptroller General
of the United States