



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Cohen-Esrey Real Estate Services, Inc.

File: B-277546

Date: October 27, 1997

Louis A. Serrone for the protester.

Richard D. Lieberman, Esq., and J. Randolph MacPherson, Esq., Sullivan & Worcester, for PM Realty Group, Ltd., an intervenor.

Barry D. Segal, Esq., General Services Administration, for the agency.

Douglas McArthur, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Evaluation was reasonable and consistent with solicitation requiring offerors to demonstrate experience in acquisition and delivery of lease space in major markets where solicitation defined "major markets" as "cities" listed elsewhere in the solicitation and specifically identified suburban areas--including Northern Virginia and Long Island--that could be considered "major markets" for the purposes of evaluation; protester's assumption that suburban area of Kansas City would be considered a "major market" was unreasonable and inconsistent with the definition and usage of that term in the solicitation.

DECISION

Cohen-Esrey Real Estate Services, Inc. protests the award of contracts to Equis Corporation and PM Realty Group, Ltd., under request for proposals (RFP) No. GS-02P-96-CVD-0006, issued by the General Services Administration (GSA) for real estate services. The protester asserts that the agency unreasonably evaluated its proposal in a manner inconsistent with the provisions of the RFP.

GSA is responsible for the assignment and utilization of space by all federal agencies, and the acquisition of space by lease to house those agencies; GSA issued the RFP on November 29, 1996, for services to assist the agency in acquiring leasehold interests in real property, as well as other pre- and post-acquisition realty services. For purposes of the solicitation, the agency divided its 11 regions into 4 zones, providing for the award of one or more fixed-price, indefinite delivery, indefinite quantity contracts in each zone, for a 3-year base period, with a right of cancellation after the first and second years and two 1-year options. The solicitation required offerors to submit separate technical and price proposals for each zone for which they desired to compete; pertinent here are the competition

and proposals submitted for award of contracts for services in the Central Zone, consisting of GSA regions 5, 6, and 8--the Chicago, Kansas City, and Denver regions.

The RFP, as issued, consisted of five sections, in addition to appendices. These sections were as follows: I, General Information; II, Scope of Work; III, Pricing Structure; IV, Qualifications of the Offeror; and V, Evaluation Methodology. Section I provided general information on the agency's mission, the general scope of the solicitation, and the procurement process; section II summarized the effort. Section III instructed offerors on pricing lease acquisition services and menu services and contained information on estimated work load. These instructions advised offerors of limitations on the accuracy of the estimates; they also contained a listing of the primary areas of work load, by zone and GSA region.

Section V notified potential competitors that the agency intended to select for award those proposals representing the greatest overall value, price and technical factors considered; technical factors, in descending order of importance, were as follows: experience and past performance (60 percent); organizational approach (30 percent); and small business participation (10 percent). The solicitation further advised offerors that the combined weight of these technical factors would be significantly more important than price.

As originally issued, section IV of the solicitation, Qualifications of the Offeror, contained a minimum requirement for 5 years experience in providing real estate services similar to the required effort. To meet this requirement, the RFP directed offerors to submit descriptions of five "projects" performed within the prior 5 years, demonstrating ability "to acquire and deliver lease space both for small (less than 10,000 square feet) and large (greater than 10,000 square feet) requirements, . . . in both urban and remote locations, and to perform lease administration services." This experience was referred to as experience in the five major service areas--that is, small, large, urban, and rural leasing and lease administration. Offerors were to submit a narrative description, describing the work performed, and explaining how the client's needs were met in terms of space and service delivery, timeliness of service, and price, as well as the names and telephone numbers of clients and building owners and dates of performance.

By February 21, 1997, GSA had received 96 offers from 67 companies, and the agency referred them to a source selection evaluation board (SSEB) for evaluation. Upon reviewing the proposals, the SSEB concluded that it would be necessary to clarify the submittal requirements and evaluation criteria relative to experience and past performance, to ensure a consistent evaluation across all four zones. Accordingly, the agency issued amendment No. 3 to the solicitation, which contained a more precise statement of the information required by section IV.

Among other things, the amendment required offerors to identify five "specific transactions," rather than "projects," performed within the zone for which the

proposal was submitted. Offerors were to identify transactions demonstrating their experience in the 5 major service areas and 12 specific service disciplines. The amendment provided a more precise definition of the 5 major services areas and directed offerors to identify the major service area to which each transaction applied. Specifically, where the solicitation had initially referred to the ability to acquire and deliver lease space "in both urban and remote locations," the amendment distinguished between "major markets" and "non-major markets." These "major markets" were defined as "those cities identified in Section III, Page 8 of the solicitation . . . as the primary areas of workload for each of the four zones." RFP section IV.1. The referenced section of the RFP, section III, page 8, identified the primary areas of work load within the Central Zone as follows: in region 5, Chicago, Cleveland, Cincinnati, Indianapolis, and Minneapolis/St. Paul; in region 6, Cedar Rapids, Des Moines, Kansas City, Omaha, St. Louis, Topeka, and Wichita; and in region 8, Denver and Salt Lake City. The amendment also advised offerors that they did not need to demonstrate performance of all the disciplines or major service areas but would have to demonstrate experience in a majority and that evaluators would consider the offeror's overall experience in the evaluation.

The agency provided the amendment to offerors by letter dated April 16. It advised offerors not to submit responses to the amendment until best and final offers (BAFO). In a letter of that same date accompanying the amendment, the agency advised the protester of weaknesses and deficiencies in its proposal. Specifically, the agency advised Cohen-Esrey that it had failed to provide all of the information necessary to demonstrate its qualifications in the areas of experience and past performance, particularly the protester's experience in all major service areas. The agency advised the protester to consider the information provided in amendment No. 3, to ensure that it had provided the information required.

On May 16, the agency received BAFOs. Of 19 firms that had submitted proposals for the Central Zone, 14 submitted BAFOs. After review of these BAFOs, the SSEB concluded that eight were technically unacceptable; two proposals were not considered competitive.¹ PM Realty, which submitted the lowest price (\$1,588,777), was ranked second technically (with a score of 6.4 on a 10-point scale) and the SSEB recommended that offeror for one of the awards. For the remaining award, the SSEB noted that the two lower-priced proposals, including the protester's, had received much lower technical scores than the proposal of Equis Corporation and recommended that offeror's proposal for award despite its higher price.² By letter

¹That is, they were higher priced than other proposals that received a higher technical score.

²Specifically, Cohen-Esrey's proposal received a score of 3.9, at a proposed price of \$2,300,601, compared to the 6.6 points given to Equis Corporation's proposal, at a proposed price of \$2,935,810.

dated July 3, 1997, the agency notified Cohen-Esrey of its selection decision, and after receiving a debriefing on July 9, Cohen-Esrey filed this protest with our Office.

The protester contends that the evaluation of the experience portion of its technical proposal was unreasonable. Under the experience factor, Cohen-Esrey's proposal received 3 out of 10 available raw points, equating to an adjectival rating of "fair."³ This score reflects the agency's conclusion that Cohen-Esrey failed to demonstrate experience in the acquisition and delivery of lease space in major markets, one of the five major service areas listed in the RFP. Specifically, the protester described a project to lease space in Overland Park, Kansas; although the solicitation listed Kansas City as a major market, the evaluators did not treat Overland Park as a major market. Cohen-Esrey contends that this determination was unreasonable, since, according to the protester, Overland Park is a submarket of the Kansas City metropolitan area, the second largest of nine submarkets, and exceeded in size only by the Kansas City central business district.

The agency responds that amendment No. 3 clearly defined "major markets" as the "cities" identified in section III, page 8 of the RFP. Since Overland Park is not one of the listed cities, the agency argues, it cannot be considered a "major market" for purposes of the evaluation.

Where an evaluation is challenged, we will examine the evaluation only to ensure that it was reasonable and consistent with the evaluation criteria and applicable statutes and regulations, since the relative merit of competing proposals is primarily a matter of administrative discretion. Tecom, Inc., B-275518.2, May 21, 1997, 97-1 CPD ¶ 221 at 4. Where a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the dispute by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. Quality Elevator Co., Inc., B-276750, July 23, 1997, 97-2 CPD ¶ 28 at 5. Here, as the agency notes, the solicitation specifically referred to the "major markets" as "cities." Further, our review of the RFP shows that where the agency was willing to consider experience in greater metropolitan areas, the RFP specifically identified the areas outside the listed cities that would be considered; thus, for example, the list of "major markets" at section III, page 8 of the RFP included Northern Virginia, Suburban Maryland, and Long Island under the solicitation for the East Zone. Based on the language of the RFP, we conclude that it would not be reasonable to assume, as Cohen-Esrey apparently did, that other cities located near the listed cities, but not themselves

³According to the source selection plan, each of the evaluation factors--experience, past performance, organizational approach, and small business participation--was assigned 10 raw points. The raw scores then were adjusted by a multiplier reflecting the relative weights of each of the factors. The adjectival ratings corresponded to the raw scores as follows: 7-10 points, excellent; 4-6 points, good; 1-3 points, fair; and 0 points, poor.

specifically listed in the RFP, would be considered major markets. Accordingly, we see no basis to object to the agency's treatment of Overland Park as not a major market for the purposes of evaluating experience.

The protester also asserts that, at the debriefing, it was informed that the evaluators had not given Cohen-Esrey credit for lease administration experience, 1 of the 12 service disciplines listed in the RFP for which offerors were asked to demonstrate their experience. The protester states that it documented such experience in its proposal, in performance of services for two insurance companies. The determination that the protester did not have lease administration experience, the protester argues, was incorrect and resulted in an unreasonably low technical score.

The agency states that the protester received incorrect information at the debriefing, and that the evaluators did, in fact, recognize Cohen-Esrey's experience in lease administration. The evaluation sheets contain a checklist for the specific service disciplines to be considered in the evaluation of experience; our review of these sheets indicates that, as the agency represents, the evaluators checked the block indicating that the protester had experience in lease administration under its transactions for U.S. Life Insurance and Equitable Life, the two transactions for which Cohen-Esrey claimed such experience. This determination is not reflected, however, in the final SSEB report itself which, at page 3, states that Cohen-Esrey did not demonstrate experience in lease administration.⁴

Despite this inconsistency in the evaluation record, it is clear that, even assuming that Cohen-Esrey should have been but was not given credit for lease administration experience, its proposal's score would not change. As noted above, the RFP called for offerors to demonstrate experience in 5 major service areas and 12 service disciplines. The source selection plan stated that if an offeror demonstrated experience in 50 percent of the real estate services outlined in the RFP, its proposal then would be evaluated according to the degree of experience it demonstrated in the major service areas and disciplines. Thus, the evaluation standards provided for different scores for experience in performing all major service areas and all service disciplines (excellent); all major service areas and more than a majority of the service disciplines (good); and a majority of the service disciplines (fair).⁵ Neither

⁴This report apparently was based on the handwritten "write-up" accompanying the evaluators' checklists. This document itself is internally inconsistent, stating both that Cohen-Esrey had not demonstrated any experience in administration and that the two projects Cohen-Esrey listed to demonstrate such experience had been evaluated.

⁵This plan was consistent with the RFP, which required performance only of a majority of the service areas and disciplines but advised offerors that evaluators would consider how many of them a proposal addressed.

in its protest or its proposal has Cohen-Esrey claimed experience in 2 of the 12 service disciplines (real estate tax appeals and successful subleasing of vacant office space). Accordingly, including lease administration, Cohen-Esrey should have received credit for experience in 10 of the 12 disciplines; excluding lease administration, for 9 of the 12--in both cases a majority. Any failure by the SSEB to recognize Cohen-Esrey's experience in lease administration had no material effect on the evaluation, since the source selection plan distinguishes only between performance of a majority and performance of all the disciplines, not between performance of 9 versus 10 disciplines. With respect to the other component of the experience score--experience in major service areas--as discussed above, the agency reasonably concluded that Cohen-Esrey failed to demonstrate experience in a major market, one of the major service areas. Given that Cohen-Esrey did not demonstrate experience in all the major service areas, and did demonstrate experience in most, but not all, of the service disciplines whether lease administration was counted or not, its offer properly was scored in the fair range under the evaluation scheme set out in the source selection plan.⁶

The protest is denied.

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⁶In fact, the proposal received the highest score available in that range--three points on a scale of one to three.