

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

26736

FILE: B-211632

DATE: November 8, 1983

MATTER OF: The Farallones Institute Rural Center

DIGEST:

1. GAO has no basis to object to a procuring agency's evaluation of protester's technical proposal where the protester fails to show that the evaluation was unreasonable or in violation of the evaluation criteria listed in the solicitation.
2. Where proposal deficiency is related to two different evaluation criteria, agency may properly penalize proposal in both evaluation categories.
3. Meaningful discussions were held where the contracting agency identified those areas in the protester's proposal which it considered deficient and gave the protester an opportunity to correct those deficiencies in a revised proposal.

The Farallones Institute Rural Center protests award under request for proposals No. PC-83-6 issued by the Peace Corps for a training program in renewable energy technologies. Farallones contends that the Peace Corps improperly evaluated proposals and that it failed to conduct adequate discussions. We deny the protest.

Background

The Peace Corps issued this solicitation on January 13, 1983 seeking a contractor to furnish all necessary instructors, classrooms, lodging, meals, and other services needed to conduct 2 eight-week training courses in renewable energy technologies for Peace Corps Volunteers prior to their departure from the United States and to provide similar in-service training and consulting for volunteers stationed in designated foreign countries. The solicitation contemplated a cost plus fixed fee contract for 1 year, with 2 additional option years.

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Thirteen proposals were received by the designated date, February 14, and were reviewed by a four-member evaluation panel. Taking into account the cost penalty associated with lower-scored proposals, the contracting officer found that only the three top-ranked firms were in the competitive range, as follows:

<u>Offeror</u>	<u>Technical Score</u>
Denver Research Institute (DRI)	101.60
The Farallones Institute ¹	95.75
Claude Terry & Associates, Inc.	90.25

The Peace Corps conducted negotiations with each of the offerors on March 11, advising them of the evaluation panel's findings on their proposals. Best and final offers were then obtained and reviewed by the evaluation panel. The firm selected for award, DRI, had a final score of 103.50 and a proposed cost of \$1,030,486, while the protester, Farallones, had a final score of 97.75 and a proposed cost of \$1,014,064. The Peace Corps determined that the DRI proposal was most advantageous to the government considering both technical quality and cost, and made award to DRI on April 6.

Evaluation of Proposals

Farallones contends that it was not given proper credit under the criterion entitled "Previous Institutional Training Experience" for the fact that it has previously provided these same training services to the Peace Corps while DRI, which has never provided these services, was given a higher score. Farallones argues that this scoring is inconsistent with the explanation that points under this criterion would be allocated "on the basis of relevance--to this training program."

The Peace Corps replies that Farallones was given full credit for its experience, receiving 9 points, while DRI received 10 points. The Peace Corps argues that this scoring fairly reflects DRI's more extensive experience.

It is not the practice of this Office to conduct an independent technical evaluation of proposals. Auto Paint Specialist, Inc., dba K & K Truck Painting, B-205513, June 21, 1982, 82-1 CPD 609. Thus, we will not make independent judgments of the numerical scores that should

¹In combination with CHP International, Inc.

have been assigned to various proposals. Westec Services, Inc., B-204871, March 19, 1982, 82-1 CPD 257. Instead, we limit our review to an examination of whether the evaluation was reasonable and in accordance with the listed evaluation criteria. Media Works, Inc., 61 Comp. Gen. 202, (1982), 82-1 CPD 42.

The evaluation factor in question, "Previous Institutional Training Experience," is not limited to prior training of Peace Corps volunteers; rather, it includes all "experiential training and renewable energy technology training" previously conducted by the offeror. The record shows that DRI has extensive experience in conducting training programs of all types, and is particularly experienced in providing technical training to foreign governments and industry. Further, DRI's principal subcontractor which will conduct the actual training sessions, Domestic Technology International, has more than 10 years of experience, both foreign and domestic, in conducting "hands on" renewable energy technology workshops. Given this extensive, relevant experience on the part of DRI and its subcontractor, we see no basis to question the reasonableness of the Peace Corps' relative scoring of institutional experience.

Farallones also contends that it was penalized twice for one alleged deficiency, in that the Peace Corps criticized its proposed project co-directors as unqualified under two separate criteria, "Staff" and "Staff Orientation." Of the 30 points which could be awarded under the "Staff" criterion, 25 were concerned with the experience of the staff members proposed, namely technical qualifications and experience (10); training experience (10); and Third World experience (5). "Staff Orientation" (10 points) refers to a 5-to-10 working day intensive staff training program which precedes each training cycle. The Peace Corps explains that Farallones' project co-directors were not considered to have adequate backgrounds for conducting the training courses, a concern clearly relevant to staff experience, and that this lack of experience caused Farallones to propose that a portion of the staff orientation be devoted to training the co-directors, a further, separate deficiency.

Where a particular deficiency is reasonably related to more than one evaluation category, the procuring agency may assess that deficiency against each relevant category. Blurton, Banks & Associates, Inc., B-206429, September 20, 1982, 82-2 CPD 238. Here, the "Staff" category explicitly called for evaluation of the staff's qualifications and

experience. As to "Staff Orientation," the qualifications of the project co-directors to conduct an orientation and the fact that some of the orientation period would be dedicated to training the directors also appear to be relevant considerations. Accordingly, we deny this aspect of Farallones' protest.

Adequacy of Discussions

Farallones further contends that the Peace Corps did not provide adequate information on proposal deficiencies during discussions and that, consequently, Farallones was not able to improve its proposal. In reply, the Peace Corps argues that the revisions to Farallones' proposal accompanying its best and final offer, and the fact that the Peace Corps' evaluators revised Farallones' score upwards as a result of those changes, show that discussions were meaningful.

Meaningful discussions, either oral or written, are normally required in negotiated federal procurements. In those discussions, the contracting agency must furnish the offerors information concerning the areas of deficiency in their proposals and give them an opportunity to revise their proposals. However, the content and extent of discussions needed to satisfy the requirement for meaningful discussions are matters primarily for determination by the contracting agency whose judgment will not be disturbed unless it is without a reasonable basis. Photonics Technology, Inc., B-200482, April 15, 1981, 81-1 CPD 288. We believe that the list of questions transmitted to Farallones with the Peace Corps' request for best and final offers satisfied the agency's obligation to conduct meaningful discussions.

For example, Farallones states that its proposed use of staff orientation funds to train the project directors was first criticized in the evaluators' comments upon Farallones' final offer, so Farallones never had an opportunity to respond to that criticism.

This complaint fails to take into account the fact that Farallones' original proposal did not contemplate using staff orientation funds to help overcome the shortcomings in the staff directors' experience, presumably because Farallones did not perceive their experience as inadequate. Instead, the Peace Corps' original comments

upon Farallones' proposed staff orientation simply advised that "it appears Farallones has nominated inexperienced project directors." It is clear that this criticism was meaningful, for Farallones' final offer asserts that "[s]taff orientation will specifically address the needs of the Co-Directors." That the Peace Corps criticized this proposed remedy during final evaluation does not bear upon the question of whether discussions were meaningful in the first place.

Farallones also contends that the Peace Corps failed to convey its dissatisfaction with the project directors' experience under the staff criterion, since Farallones was advised only that "[o]ne panel member felt that the Co-Directors were not qualified." We think, however, that the concern was adequately conveyed, particularly when read in conjunction with the unqualified statement under the staff orientation criterion describing Farallones' project directors as inexperienced.

Farallones also contends that if the Peace Corps intended to obtain more detailed information than Farallones provided when asked to disclose its sources for developing modifications to the training manual, it did not convey this intent to Farallones. In this regard, the Peace Corps stated that it needed "a clear disclosure of the sources used," and Farallones responded by identifying such general sources as trainees, trainers and accumulated institutional experience. The Peace Corps evaluators concluded that the disclosure was inadequate since no specific individuals were identified. In the circumstances, we believe that the deficiency was in Farallones' rather summary response to the Peace Corps' stated concerns, rather than in how those concerns were expressed.

Farallones also argues that the revisions to its management plan had not been considered, and perhaps not even read, as shown by the fact that one evaluator commented "no change." In response, the Peace Corps argues that Farallones' management plan score was adjusted upwards as a result of best and final offers, a firm indication that the changes were both read and considered.

The individual evaluators' comments are not intended for dissemination and, so, are often cryptic and difficult to decipher. However, the notation "no change" appears to signify the evaluator's conclusion that Farallones' score for that criterion should not be changed as a result of its

proposal revision, rather than that Farallones failed to revise this aspect of its proposal. We will not, of course, substitute our judgment for the agency's with regard to whether the score should have been revised. Westec Services, Inc., supra.

Post Award Communications

Finally, Farallones contends that the Peace Corps failed to provide timely notice of award and that the agency's post-award debriefing of Farallones was inadequate. While Federal Procurement Regulations (FPR) § 1-3.103(c) requires that notice of award be given to unsuccessful offerors, the failure of the agency to do so promptly is merely a procedural irregularity which does not affect the validity of the award. M & H Concrete Structures, Inc., B-206276, April 15, 1982, 82-1 CPD 348. As to the allegedly deficient debriefing, this same FPR subsection requires only that the unsuccessful offeror be furnished with the reasons why its proposal was not accepted; there is no requirement that the agency evaluators answer questions concerning the evaluation to the offeror's satisfaction. In any event, the conduct of the debriefing concerns only an after-the-fact explanation of the selection, not the validity of the selection itself.

The protest is denied.

Milton J. Fowler
for
Comptroller General
of the United States