



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: DAVSAM International, Inc.

File: B-228429.5

Date: March 11, 1988

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### DIGEST

1. Protest that technical evaluation of protester's corporate experience was improper because of agency's failure to afford proper consideration to qualifications and experience of proposed key personnel is denied where the record demonstrates that the agency considered this experience but reasonably concluded that it only partially offset the protester's complete lack of corporate experience.
2. Protest that evaluation of qualifications and experience of protester's proposed key personnel was improper is denied where the record shows that the agency's downgrading of the protester's proposal for failure to contain documentation substantiating the experience of its work force was reasonable and in accordance with evaluation criteria which expressly provided that offers containing such evidence would be evaluated more favorably by the government.
3. Agency properly may consider a claim against an offeror for contract overcharges under evaluation criterion pertaining to past performance of related contracts where the criterion is defined broadly and encompasses all factors of contract performance, including billings for services rendered.
4. General Accounting Office will not disturb an agency's decision to exclude a protester from the competitive range on ground that it has no reasonable chance for award when, considering the relative superiority of other proposals, this determination was reasonable.

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## DECISION

DAVSAM International, Inc., a small, disadvantaged business concern, protests the award of a contract to B. Harvey Company under Department of the Air Force request for proposals (RFP) No. F41800-87-R-1627. DAVSAM alleges that the Air Force did not properly evaluate proposals, which resulted in DAVSAM's exclusion from the competitive range, and also improperly failed to award this contract to a small disadvantaged business concern.

We deny the protest.

The solicitation was issued as a small business set-aside and also referred to an interim rule governing set-asides for disadvantaged concerns published at 52 Fed. Reg. 16266 (1987) (to be codified at Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 219.502-72).<sup>1/</sup> The RFP invited offers for military family housing maintenance services at Lackland Air Force Base, Texas, and provided that offers would be evaluated under the following technical factors (listed in descending order of importance): experience and past performance; acknowledgment and understanding of the performance work statement; organizational and personnel requirements; plan and management procedures; and workload and financial capabilities. Price also was an evaluation factor but was to be neither rated, ranked, nor scored. The solicitation specified that technical merit and cost were of equal importance and cautioned offerors that the lowest-priced proposal would not necessarily be selected for award.

Nine firms responded to the RFP. The technical evaluation panel rated the offerors on the basis of technical merit and total price (prices were weighted in accordance with a formula set forth in the RFP), and recommended that six firms, including DAVSAM, be included in the competitive range. Written questions concerning the technical proposals were sent to each of the six offerors and, after receiving the responses, the panel reevaluated and rescored each proposal. As reevaluated, the technical scores and weighted total prices of the three highest-rated offers were as follows: Harvey--792.12 technical points (out of a possible 1000) and \$1,670,399.10 evaluated total price; Smith

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<sup>1/</sup> Although the solicitation specified that small disadvantaged business concerns would be afforded a preference in the award of the contract, the regulations cited provides for a set-aside and not just a preference for small disadvantaged businesses.

Engineering and Contract Services (a small disadvantaged business concern)--772.28 points and \$2,187,310.20; and DAVSAM--580.08 points and \$2,294,406.84. Based on these technical scores and weighted prices, the contracting officer revised the competitive range by eliminating DAVSAM (the three lower-rated offers also were eliminated) based on the determination that DAVSAM did not have a substantial chance of receiving the award.

The record reveals that DAVSAM's revised proposal was found deficient under each of the five technical criteria, receiving only between 50 and 60 percent of the available points for each. DAVSAM contends that the Air Force improperly evaluated its proposal with respect to the first three factors, and principally questions the Air Force's downgrading of its proposal for lack of corporate experience in maintenance contracts of similar size and scope to that required here, and also for the quality of its proposed work force. DAVSAM finds this latter point particularly perplexing since the contracting officer had characterized the resumes of its proposed key personnel as "impressive" and also because it furnished, as requested during discussions, letters of intent of employment for each employee and other information (names, addresses, and phone numbers) to be used to verify each employee's stated experience. DAVSAM also questions the Air Force's downgrading of its proposal for alleged poor performance on past contracts and for failure to understand the performance work statement, particularly with respect to storage of hazardous materials.

In reviewing protests against allegedly improper evaluations, our Office will not substitute its judgment for that of the contracting agency but, rather, will examine the record to determine whether the agency's judgment was reasonable and in accord with listed criteria. See T.H. Taylor, Inc., B-227143, Sept. 15, 1987, 87-2 CPD ¶ 252. We find that the Air Force's evaluation of DAVSAM's proposal was reasonable.

Corporate experience was considered under a subcriterion of the "experience and past performance" factor, and was worth 150 of the 1000 available points. Personnel requirements was a subcriterion under the "organizational and personnel requirements" factor, and was worth 100 points. DAVSAM received a score of 76.5 points for the first of these two subcriteria, and a score of 63 for the second.

The record shows that the protester had no corporate experience in performing the particular type of work required by the RFP. The technical evaluation panel did consider the experience of DAVSAM's proposed key personnel

when evaluating its corporate experience, but determined that this experience only partially offset the firm's complete lack of corporate experience. Since such personnel experience already was being considered under a separate evaluation subcriterion, we think the Air Force's downgrading of DAVSAM's proposal in the area of corporate experience, even in light of the firm's personnel experience, was reasonable. See Service Ventures, Inc., B-221261, Apr. 16, 1986, 86-1 CPD ¶ 371.

With respect to the personnel experience subcriterion, the record shows that the protester initially only submitted resumes for each of its prospective employees, although the RFP specified that offerors also should furnish other documentation substantiating the experience of individual employees and warned that offers containing such evidence would be evaluated more favorably by the government. During discussions, DAVSAM was again advised to submit substantiating documentation, such as statements from previous employers or letters of appreciation, but the firm simply revised its proposal to include the names, addresses and telephone numbers of individuals to contact to verify the employment histories of its proposal workforce. While the resumes furnished by DAVSAM indeed may have been considered impressive by the contracting officer, the agency at the same time obviously considered the additional information furnished by DAVSAM to have been insufficient to substantiate the personnel qualifications stated in these resumes. We do not think this conclusion was unreasonable.

Although DAVSAM would have us rule that the Air Force was required to investigate further, we have held that agencies, in evaluating proposals, are only required to examine materials actually furnished with the proposals. See, e.g., Del-Jen Inc., B-216589, Aug. 1, 1985, 85-2 CPD ¶ 111. Thus, it was DAVSAM's responsibility to include all requested work force information in its proposal, and the Air Force was not obligated to contact the named individuals to verify the employment history of DAVSAM's proposed workforce. We conclude that the downgrading of DAVSAM's proposal under this subcriterion was consistent with the stated evaluation criteria.

Past performance, another subcriterion under the "experience and past performance" factor, was worth 150 points. The solicitation specified that, for this factor, offerors were to submit evidence of past contracts performed, including a description of the services rendered and the dollar amount of these services, as well as information pertaining to whether these contracts were performed in accordance with all stated contract terms and conditions. DAVSAM received a score of 80 points for this subcriterion.

DAVSAM, referencing the only discrepancy cited by the Air Force following evaluation of initial proposals, speculates that it was downgraded under this subcriterion because of alleged poor performance of a contract at Fort Benning, Georgia. DAVSAM acknowledges that a claim under this contract against it for contract overcharges is pending, but maintains that this monetary dispute should not be construed as evidencing poor performance. In fact, DAVSAM claims that the contracting officer described the quality of its performance on this contract as exemplary.

We disagree with DAVSAM's suggestion that consideration of this contract claim was inappropriate. The subcriterion pertaining to past performance was defined broadly; it was not limited only to actual work performed. In any case, with or without an evaluation criterion on point, we see no reason why the Air Force should be precluded from considering the propriety of any firm's recent billing practices on other government contracts.

Moreover, while the only discrepancy cited by the Air Force during discussions related to poor performance of prior contracts, an examination of the score sheets prepared by the technical evaluation panelists indicates that a primary reason for DAVSAM's relatively low score for this subcriterion was its failure to document performance of related contracts. As evidence of such performance, DAVSAM only submitted a single document listing, without description, three contracts currently being performed at other military installations, two of which were far less costly than the subject procurement. Under the circumstances, we find that the Air Force's evaluation of DAVSAM's proposal under this subcriterion was reasonable.

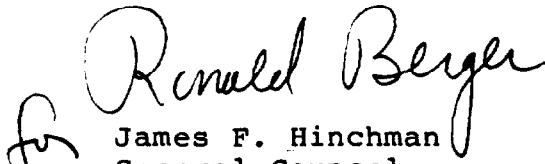
With respect to the other evaluation factors, the record discloses that DAVSAM was similarly consistently downgraded. For example, for each of the seven subcriteria comprising the second evaluation factor, DAVSAM was awarded roughly between 50 to 60 percent of the available points. This was justified on the basis that DAVSAM's proposal only minimally satisfied the RFP's requirements. DAVSAM has not offered any evidence to rebut these determinations, nor do we have any reason to question their reasonableness. Accordingly, we have no reason to question the propriety of the Air Force's evaluation of DAVSAM's technical proposal.

We also find the Air Force's elimination of DAVSAM from the competitive range unobjectionable. Given the disparity of scores (DAVSAM's proposal at 580.08 points versus those included in the competitive range at 792.12 and 772.28 points), the Air Force's determination that DAVSAM had no

reasonable chance of being selected for awarded was reasonable. Systems Integrated, B-225055, Feb. 4, 1987, 87-1 CPD ¶ 114 (use of "relative" approach to determining the competitive range based upon the array of scores actually obtained by other offerors is proper). The fact that DAVSAM's proposal may not have been labeled technically unacceptable thus was irrelevant, and did not affect the propriety of the competitive range determination. JDR Systems Corp., B-214639, Sept. 19, 1984, 84-2 CPD ¶ 325.

DAVSAM argues that this procurement should have been set aside for small disadvantaged business concerns (under the interim rule referenced in the RFP), because the criteria for such a set-aside were met by the submission of proposals from two such firms at fair prices. We have previously decided in our decision Alamo Acoustical Restoration Co., B-228429.2, Feb. 16, 1988, 88-1 CPD ¶ \_\_\_, that the contracting officer's determination not to set aside this solicitation for small disadvantaged business concerns was proper.

The protest is denied.

  
for James F. Hinchman  
General Counsel