

Mo. Curcio



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: A.G. Personnel Leasing, Inc.

File: B-238289.2; B-238289.3

Date: December 3, 1990

Amarendu Ghosh for the protester.
Michael E. Jones, Department of the Treasury, for the agency.
Mary G. Curcio, Esq., and Christine S. Melody, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protest challenging elimination of protester's proposal from the competitive range is denied where the contracting agency's evaluation of the proposal was reasonable and in accordance with the stated criteria.

DECISION

A.G. Personnel Leasing, Inc. (AGPL) protests the elimination from the competitive range of the proposal it submitted in response to request for proposals (RFP) No. C99208, issued by the Office of Thrift Supervision (OTS), Department of the Treasury.

We deny the protest.

The RFP was issued on August 16, 1989, for mail operation and transportation services for a 1-month transition period, a base year and 3 option years. The RFP provided for the evaluation of technical factors and price for the transition and base year periods, with price subordinate to the cumulative technical factors in the award decision except between proposals that were considered technically equal. The RFP listed the technical evaluation factors as: (A) corporate personnel resources; (B) understanding of the services solicited; (C) corporate experience; (D) proposed staff; and (E) management, in descending order of importance except that factors (D) and (E) were equal in importance. The evaluation was based on 100 total points with factor (A) worth 45 points; factor (B), 20 points; factor (C), 15 points; and factors (D) and (E), 10 points each.

Nine offerors responded to the RFP. The proposals were evaluated by three members of the technical proposal evaluation committee who first scored the proposals individually and then reached a consensus score. The evaluations and proposals were next reviewed by a contract specialist who placed eight of the nine proposals, with scores ranging from 65-100 points, in the competitive range. AGPL, which was included in the competitive range, received a score of 70 points for its technical proposal. Subsequently, OTS decided that due to a change in its requirements, the number of on-site, full-time personnel proposed by all eight offerors should be reduced. On December 6, OTS sent each of the eight offerors a notice with the specific number of on-site personnel required and requested best and final offers (BAFO) by December 15. All eight offerors responded with revised price proposals which ranged from \$187,310.92 to \$292,452.80. AGPL submitted the second-lowest priced proposal of \$210,821.96.

The contracting officer then reviewed the evaluations and determined that the contract specialist should not have included in the competitive range the proposals of AGPL and one other offeror, Consolidating Consultants, Inc., which had submitted the lowest-priced proposal but also received a lower technical score. The contracting officer further determined, in consultation with the chairman of the evaluation committee, that the remaining six proposals, which ranged in score from 80 to 100 points, were technically equal. OTS then awarded the contract to Facilities Management Co., Inc. (FMC), the lowest-priced offeror of the six remaining in the competitive range, at a price of \$221,357.58. FMC received 86 points for its technical proposal.

On January 11, 1990, AGPL filed a protest with our Office, arguing that OTS improperly evaluated the firm's technical proposal and that if it had been properly evaluated AGPL would have been the lowest-priced offeror in the competitive range. AGPL disputed the agency's evaluation on all five technical factors. We saw no basis to question the agency's evaluation under factors (A), (B), (C) and (E). However, for evaluation factor (D), proposed staff, we found that the OTS evaluation of AGPL's proposal was not reasonable. We further concluded that if AGPL's proposal had been properly evaluated for this factor, AGPL might have been included in the competitive range, and as the lowest-priced proposal in the competitive range, could reasonably have been chosen for award. We recommended that the contracting officer reevaluate the decision to award the contract to FMC. A.G. Personnel Leasing, Inc., B-238289, Apr. 24, 1990, 90-1 CPD ¶ 416.

In response, OTS convened a new technical evaluation committee which reevaluated the offers that were submitted in response to the solicitation. The panel gave the proposals scores from

12 to 96 points. The contracting officer included four of the proposals, with scores ranging from 80 to 96, in the competitive range. The remaining proposals were rated between 12 and 62, with AGPL receiving 62 points. FMC was again the lowest-priced offeror in the competitive range. AGPL protests the reevaluation of its proposal for each evaluation factor.

The evaluation of technical proposals is primarily the responsibility of the contracting agency; the agency is responsible for defining its needs and the best method of accommodating them, and must bear the burden of any difficulties arising from a defective evaluation. Accordingly, our Office will not make an independent determination of the merits of a technical proposal; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Damon Corp., B-232721, Feb. 3, 1989, 89-1 CPD ¶ 113.

Here, we have reviewed the protest, the agency report, and the protester's comments on the report, as well as the proposal and the evaluations. We find no basis on which to conclude that the agency's evaluation of AGPL's proposal was unreasonable.

First, concerning factors (B), (D) and (E), AGPL does not raise specific challenges to the agency evaluation but merely asserts that its proposal adequately outlined the requirements of each of the factors. Our review shows that for these factors, the evaluators were satisfied with AGPL's proposal and generally scored the proposal well. Also, contrary to AGPL's contention, AGPL's proposal did not receive zero points for subfactor (D)-(1), personnel qualifications, but instead also scored well on this factor. We therefore see no basis to question the agency's evaluation of these factors.

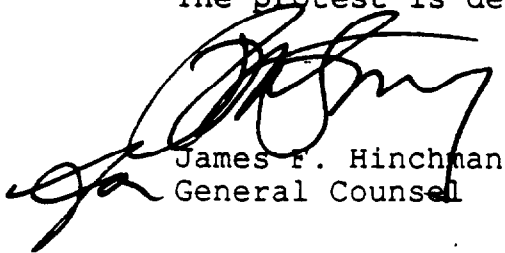
The agency's biggest concern was with evaluation factor (A), corporate personnel resources. The evaluation panel found that AGPL did not make a strong presentation concerning how it would efficiently handle short-term staffing fluctuations. The committee also downgraded AGPL because the firm did not discuss personnel turnover history as requested by the RFP. AGPL disagrees with this evaluation, asserting that it included its plan to hire and start personnel in section 2.0 of its proposal and addressed the problem of short-term fluctuations of personnel in section 3.2 of its proposal. AGPL further argues that in the introduction section of its proposal it indicated that it had exceptional staff stability with a low turnover history.

Our review shows no basis on which to find the agency's conclusions unreasonable. AGPL did not discuss personnel

turnover history despite the fact that this was listed in the RFP as a subfactor of evaluation factor (A) and the RFP specifically instructed offerors to address this issue. In addition, while AGPL addressed the hiring of personnel and its ability to handle short term fluctuations, our review of the proposal shows that the discussion of these factors did not provide many details. Thus, for example, concerning the hiring of personnel, AGPL's proposal states that AGPL plans to retain existing personnel and recruit professionals. The proposal, however, makes no mention of how AGPL will recruit or train these personnel. Similarly, AGPL only generally addresses its ability to handle short-term fluctuations. Thus, AGPL's proposal indicates that AGPL maintains an active file of potential employees and maintains a dialogue with local employment services. This, however, does not address the agency's concern with short-term fluctuations which do not require the hiring of permanent employees. Nor does the fact that AGPL introduces non-project personnel or cross trains personnel detail how AGPL will handle the short-term fluctuations.

Concerning factor (C), corporate experience, the committee was concerned because AGPL's experience was limited to one private industry company and included only one contract in mail management. AGPL argues that the RFP did not require offerors to have federal government experience and based on its more than 40-months of successful mail management and carrier service work experience it should have been found acceptable under this factor. As we stated in our prior decision, however, the RFP defined corporate experience as the offeror's general history of successful mail service operations showing former and current federal government clients, putting AGPL on notice that OTS was interested in a firm's experience with the federal government and would take such experience into consideration in evaluating the proposals. Further, we think that OTS properly considered that AGPL had performed only one mail management contract. Consequently, we do not find OTS' evaluation of AGPL's proposal for this factor was unreasonable.

The protest is denied.



James F. Hinchman
General Counsel