



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Ferguson-Williams, Inc.

File: B-240927

Date: December 28, 1990

John O. Cates, Esq., Sadler, Sullivan, Herring & Sharp, P.C., for the protester.
Lester Edelman, Esq., Department of the Army, for the agency.
Richard P. Burkard, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency deviated from stated evaluation criteria in evaluating protester's proposal by point scoring quality control and safety plans is denied where the solicitation specifically provided that those plans would be evaluated as part of each offeror's management proposal.

DECISION

Ferguson-Williams, Inc. protests the award of a contract to R&D Maintenance Services, Inc. under request for proposals (RFP) No. DACW01-89-R-0145, issued by the Army Corps of Engineers for the operation and maintenance of government-owned facilities and equipment in the area of West Point Lake, Georgia. The protester, the incumbent contractor for this requirement, alleges that the evaluation of proposals was not conducted in accordance with the solicitation's stated evaluation criteria and that the evaluation was biased.

We deny the protest.

The RFP, which sought offers for a base year and 4 option years, was issued on September 29, 1989. The RFP stated that award would be made to the offeror whose proposal was most advantageous to the government, cost or price and other factors, consistent with the source selection criteria, considered. The RFP provided further that the following factors would be considered, in descending order of importance: (1) technical; (2) management; and (3) cost/price. The management area contained three subfactors, also listed in descending order of importance, as follows: (a) program management controls; (b) key personnel; and (c) relevant

experience of the company. Further, the RFP specifically required offerors to furnish a quality control plan and a safety plan which would be "part of the management evaluation." The RFP stated that cost proposals would not be scored but would be evaluated for reasonableness, realism, and completeness.

Three offerors submitted proposals by the December 5, 1989, closing date. The agency source selection evaluation board reviewed the initial proposals and included all three in the competitive range. The agency held discussions with the three offerors and requested revised proposals. R&D's revised proposal received the highest technical score of 98 out of 100, while Ferguson-Williams received the next highest score of 86. On February 27, 1990, the agency requested best and final offers (BAFOs). In response, R&D reduced its price to \$7,196,496; Ferguson-Williams' price remained low at \$6,895,536. The agency determined that the BAFOs did not affect the technical scoring of the proposals. On March 14, the agency found that, despite its slightly higher cost, R&D's proposal was the most advantageous to the government based on its superior technical and management features. On April 30, the agency notified the three offerors of its intent to award the contract to R&D.

By letter dated May 17, 1990, Ferguson-Williams filed a protest with the agency alleging that the evaluation process was flawed because a member of the evaluation team was biased against Ferguson-Williams based on his involvement with the protester's current contract. The agency states that in an effort to fully and objectively address the allegation of bias, it convened a second independent evaluation team to evaluate the technical and management proposals submitted by all offerors. The agency states that the new board had no connection with the preparation of the current RFP requirements or the administration of the prior contract, but that its members had experience with similar projects. The new evaluation board reviewed and scored the original and revised proposals. R&D received a final score of 92.5, compared to 81 for Ferguson-Williams.

In a decision dated August 21, 1990, the agency denied Ferguson-Williams' agency-level protest. The decision stated that the agency properly evaluated and downgraded the protester's management proposal because the protester failed to adequately address quality control and safety features. The decision also stated that there was no evidence of bias on the part of the agency, pointing out that the agency conducted a second independent evaluation of the protester's proposal and that the second panel's scores were not significantly different than the original evaluation. On August 24, 1990, Ferguson-Williams filed its protest with our Office.

Ferguson-Williams objects to receiving a score of 18 out of 25 for the management subfactor, "program management controls." The protester argues that it should not have been downgraded on the basis of its quality control or safety plans, which the agency evaluated as part of this subfactor. The protester argues that although quality control and safety plans are repeatedly mentioned in the RFP, those areas were not intended to be point scored since they are not mentioned specifically in the evaluation criteria.

A solicitation must inform all offerors of the basis for evaluation of proposals and the evaluation must in fact be based on the scheme set forth in the solicitation. Jeffrey A. Cantor, B-234250, May 30, 1989, 89-1 CPD ¶ 517.

Here, contrary to the protester's assertions, the RFP specifically stated that the quality control plan and safety plan would be part of the management evaluation. The record shows that the protester's proposal was downgraded in the area of management primarily because of concerns with Ferguson-Williams' proposed lines of authority and specific responsibilities in the areas of quality control and safety. The evaluation board concluded, for example, that the protester's quality control plan assigned an excessive number of tasks to the quality control chief. With respect to the proposal's safety plan, the evaluation board concluded that Ferguson-Williams failed to assign specific responsibilities to specific people. Since the RFP specifically stated that these plans would be part of the management evaluation, we find that the agency properly considered and scored these elements in its evaluation.


Next, Ferguson-Williams argues that the agency was biased against it in the evaluation of its proposal. The protester states that the lead evaluator on the initial source selection evaluation board was the same individual who became the resource manager for the current Ferguson-Williams contract at West Point Lake. The protester states that this individual has been unduly critical of Ferguson-Williams' current performance under the contract. The protester argues that the resource manager was therefore unable to make an impartial evaluation of the proposals submitted.^{1/}

The record here shows that this issue was protested to the agency and that the agency fully responded to the allegation by taking the action requested by Ferguson-Williams--that a reevaluation of proposals be performed by an unbiased and

^{1/} The agency states that this individual was not the lead team member.

unprejudiced evaluation team and that award be delayed. As stated, a second evaluation board found R&D's proposal to be technically superior to the protester's. The second board's evaluation of the protester's management proposal was similar to that of the original source selection board. Since the allegedly biased individual did not participate in the second evaluation, we find that this protest ground is academic.

The protest is denied.



for
James F. Hinchman
General Counsel