



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Honolulu Marine, Inc.

File: B-245329

Date: December 27, 1991

Ann B. Axelrod, Esq., Lyons, Brandt, Cook & Hiramatsu, for the protester.
Charles W. Lamb for Global Associates, an interested party.
Jonathan H. Kosarin, Esq., Department of the Navy, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the agency's evaluation of the protester's proposal as unacceptable was reasonable and in accordance with the solicitation's evaluation criteria, and where the agency reserved the right to make an award to other than the lowest offeror on the basis of initial proposals without conducting discussions, the award to a technically superior, slightly higher evaluated cost offeror was proper.

DECISION

Honolulu Marine, Inc. (HMI) protests the award of a contract to Global Associates under request for proposals (RFP) No. N00140-91-R-0768, issued by the Department of the Navy for services to operate the Naval Inactive Ship Maintenance Facility, Pearl Harbor, Hawaii. HMI contends that its proposal was improperly evaluated and challenges the agency's decision to award a contract without conducting discussions.

We deny the protest.

The RFP, issued on January 14, 1991, contemplated the award of a cost-plus-fixed-fee, level of effort contract for the base period plus four option periods. The RFP provided that the award would be made to the responsible offeror whose proposal conformed to the requirements of the solicitation

and was most advantageous to the government. The government reserved the right to award a contract to other than the lowest offeror. The RFP advised that the government intended to evaluate proposals and award a contract on the basis of initial proposals without conducting discussions of the proposals, unless discussions were determined to be necessary. For this reason, the RFP warned all offerors that initial proposals should contain the offeror's best terms from a cost or price and technical standpoint. The RFP further warned that it was the offeror's responsibility to ensure the completeness of its technical proposal and that its failure to submit the required information would result in the rejection of its technical proposal.

The RFP stated that proposals would be evaluated on the basis of the following four technical evaluation factors listed in descending order of importance--technical approach, personnel resources, management approach, and corporate experience. The RFP provided that the technical evaluation factors were more important than cost, which would be evaluated for completeness, realism, and reasonableness for the base and option periods. The RFP advised that the rating of any technical evaluation factor as unacceptable would render the entire proposal unacceptable for award.

Nine firms, including HMI and Global, the incumbent, submitted initial technical and cost proposals by the amended closing date of June 7. The agency's four-member technical evaluation committee (TEC) evaluated the initial technical proposals using the adjectival ratings of highly acceptable, acceptable, and unacceptable. The TEC's adjectival ratings were supported by written explanations of specific strengths and weaknesses in each offeror's technical proposal. HMI received acceptable ratings for its technical approach and corporate experience and it received unacceptable ratings for its personnel resources and management approach. HMI's overall rating was unacceptable. Conversely, Global received acceptable ratings for its technical approach and personnel resources and it received highly acceptable ratings for its management approach and corporate experience. Global's overall rating was highly acceptable.

The results of the TEC's evaluation of initial technical proposals were presented to the contracting officer who was also the source selection authority. After reviewing the results of the TEC's evaluation and after reviewing each offeror's cost proposal, the contracting officer determined, based on the RFP's stated evaluation criteria, that Global's proposal was technically superior and represented the most advantageous offer to the government, technical merit and cost considered. The contracting officer also determined

that HMI's proposal was technically unacceptable and incapable of becoming the offer most advantageous to the government. The contracting officer found that while HMI's evaluated costs were slightly lower than Global's evaluated costs, by less than 1 percent, the technical superiority of Global's proposal more than offset the small cost difference. Therefore, on July 25, on the basis of initial proposals without conducting discussions with any offeror, the agency awarded a contract to Global, a technically superior, slightly higher evaluated cost offeror.

On August 5, HMI filed an agency-level protest challenging the award to Global on the basis of initial proposals. By letter dated August 8, the agency denied HMI's agency-level protest. On August 22, HMI filed its protest with our Office.

HMI first argues that the agency improperly evaluated its proposal, particularly for the technical evaluation factors of personnel resources and management approach for which it received unacceptable ratings.

In reviewing protests against the propriety of an agency's evaluation of proposals, we will examine an agency's evaluation to ensure that it was fair and reasonable and consistent with the evaluation criteria stated in the RFP. Research Analysis and Maintenance, Inc., B-239223, Aug. 10, 1990, 90-2 CPD ¶ 129; Institute of Modern Procedures, Inc., B-236964, Jan. 23, 1990, 90-1 CPD ¶ 93. Here, after reviewing the record, we conclude that the evaluation of HMI's proposal was reasonable and in accordance with the RFP's stated evaluation criteria.

HMI was rated unacceptable under the personnel resources evaluation factor because the individuals it proposed for the key personnel position of Safety and Health Manager did not meet the minimum requirements as outlined in the RFP. The RFP stated that the Safety and Health Manager was expected to monitor and survey vessels, equipment, and property for hazardous conditions, materials, and chemicals such as asbestos, lead, PCB, radiation, and gas-filled spaces, and to ensure that environmental laws and regulations were followed. Therefore, the RFP required that the Safety and Health Manager be qualified to perform asbestos, PCB, lead, and other hazardous matters surveys and be qualified in gas-free engineering/testing procedures and requirements. The RFP outlined two ways in which an individual could be considered qualified for the Safety and Health Manager position: the individual could have either a 4-year college degree with a major in health, safety, and

environmental science and at least 3 years of experience in the fields or 10 years of environmental science training and experience in related subjects. HMI submitted resumes for two individuals it proposed to jointly perform the requirements for the Safety and Health Manager position. The resumes show, however, that neither individual satisfied the education and/or experience requirements as outlined in the RFP.

With respect to the combined education and 3-year experience requirement, neither individual had a degree in health, safety, and environmental science; rather, both had degrees in chemistry. The agency did not find that the chemistry degree satisfied the requirement for a degree with a major in health, safety, and environmental science.

With respect to the 10-year environmental science training and experience in related subjects requirement, the first individual proposed by HMI, a former Navy nuclear submarine engineering officer, had 13 years of experience with submarine chemistry and radiological control programs, safety-testing of nuclear submarine systems, submarine maintenance and emergency repairs, and submarine operational safety procedures. The other individual proposed by HMI was certified and registered within the past 2 years as a hazardous materials and environmental manager. His experience for the past 10 years involved providing regulatory support services to commercial hazardous waste generators, designing air quality evaluation testing systems and hazardous waste product profiles, and preparing environmental permits for movement and disposal of hazardous waste. While the agency recognized that these individuals had experience in radiological control programs and hazardous waste programs, the resumes show, and HMI does not argue otherwise, that neither individual had any specific experience with asbestos, PCB, lead, and gas-filled spaces surveys and neither individual was qualified in gas-free engineering/testing procedures and requirements. We think the agency clearly could view as unacceptable any individual proposed for this key provision whose experience did not include work in these areas. Therefore, we believe the agency reasonably rated HMI as unacceptable for the personnel resources evaluation factor.

HMI was rated unacceptable under the management approach evaluation factor because it did not demonstrate an understanding of the RFP's management requirements, particularly those concerning quality of performance, labor allocation, and performance monitoring. With respect to quality of performance, in its management plan HMI briefly addressed the responsibilities of the quality control manager and offered the general statement that "quality in the performance of [the] contract [would be] a critical

element as to the overall product." With respect to labor allocation, HMI briefly described its four management divisions and stated that work under the contract would be accomplished through a "team approach" and that the "manpower required [would] be based on the projected contract hours/distribution" included in the RFP and on information received from the contracting office 60 days prior to commencement of performance at which time HMI would begin interviewing prospective employees. HMI did not provide any specific information on the number and types of personnel to be assigned to the contract. Finally, with respect to performance monitoring, HMI only stated that its corporate office, which had significant marine experience, would be the point of contact for the contract, monitoring performance and scheduling progress meetings with the project manager "as required." In light of HMI's general statements without details or specific information establishing its approach or methodology for monitoring performance and assuring quality and its failure to give specifics concerning its labor allocation, we believe the agency reasonably concluded that HMI did not adequately demonstrate its understanding of the RFP's management requirements and properly could rate HMI as unacceptable under this factor.

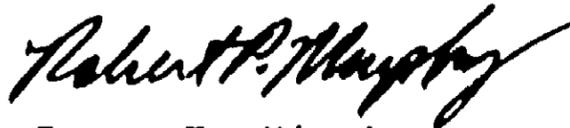
HMI next argues that the agency should have conducted discussions so that it could have revised its proposal in the personnel resources and management approach areas, raising these areas to acceptable levels and achieving an overall acceptable rating.

A Department of Defense contracting agency may make an award on the basis of initial proposals and not conduct discussions or allow offerors to revise their proposals where the solicitation advises that proposals are intended to be evaluated, and award made, without discussions with the offerors, unless discussions are determined to be necessary. 10 U.S.C. § 2305(b)(4)(A)(ii) (Supp. II 1990); Federal Acquisition Regulation (FAR) § 15.610(a)(4) (FAC 90-7).¹ Here, the RFP specifically advised offerors to submit the most favorable technical and cost or price terms in their initial proposals since award could be made on the basis of initial proposals without discussions and emphasized that an offeror's failure to submit a complete proposal, with all required information, would result in the rejection of its proposal. Thus, all offerors, including

¹For Department of Defense, Coast Guard, and National Aeronautics and Space Administration procurements, the requirement that an award on the basis of initial proposals result in the lowest overall cost to the government has been eliminated. See FAR § 15.610.

HMI, were on notice that discussions likely would not be held and therefore that their initial proposals should contain the most favorable terms they were prepared to offer. Under these circumstances, the agency was not required to conduct discussions with HMI, but properly could make award on the basis of initial proposals in accordance with the evaluation factors in the RFP.

Accordingly, the protest is denied.



for James F. Hinchman
General Counsel