



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: A Plus Services Unlimited
File: B-255198.2
Date: January 31, 1994

Gloria Navales for the protester,
Colonel Riggs L. Wilks, Jr., and Major Bobby G. Henry, Jr.,
Department of the Army, for the agency.
Tania L. Calhoun, Esq., and Christine S. Melody, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Protest that agency improperly evaluated technical proposal is denied where record shows that evaluation was reasonable and consistent with the solicitation's stated evaluation criteria.
2. Protest challenging evaluation scheme set out in solicitation is untimely where not filed until after time set for receipt of initial proposals.

DECISION

A Plus Services Unlimited protests the award of a contract to Speedy Food Service, Inc. under request for proposals (RFP) No. DAKF49-93-R-0002, issued by the Department of the Army for food services at two dining facilities at Fort Sam Houston, Texas. A Plus argues that the evaluation procedures were not "properly utilized."

We deny the protest in part and dismiss it in part.

The solicitation, issued on July 8, 1993, as a competitive section 8(a) set-aside, contemplated the award of a firm, fixed-price contract for a 1-year base period and 1 option year. The successful contractor is to provide all resources necessary to perform food services at the base dining facilities in buildings 2265 and 1377. The RFP stated that award would be made to the offeror whose offer was most advantageous to the government, price and other factors considered. In selecting that offer, quality and price would be considered; of these two factors, quality was substantially more important than price. Under the quality factor, the technical quality subfactor was six times more

important than the quality control subfactor. These subfactors were further divided into various subfactors.¹

The RFP stated that price would not be scored, but would be evaluated using price analysis techniques. In selecting the best overall proposal, the government would consider the value of each proposal in terms of the quality offered for the price, and the importance of price in the selection would increase as the quality difference between proposals decreased. The RFP also included Federal Acquisition Regulation (FAR) § 52.215-16, Alternate III, which advised offerors that the agency intended to evaluate proposals and award a contract without discussions with offerors, and cautioned offerors that initial proposals should contain the offeror's best technical and price terms.

Eight firms submitted proposals by August 27, among them Speedy and A Plus. The Army evaluated the proposals, with the following partial results:

	<u>Evaluated Price</u>	<u>Technical Quality</u>	<u>Quality Control</u>	<u>Total Technical</u>	<u>Greatest Value²</u>
Speedy	\$3,543,481	83	12	95	91.5
A Plus	3,105,739	74	11	86	89.6

In accordance with FAR § 52.215-16, Alternate III, discussions were not conducted with any offerors. The contract was awarded to Speedy, the highest-ranked offeror,

¹The technical quality subfactors, in order of descending importance, were: technical approach, technical management approach, and technical principles and applications. The quality control subfactors, in order of descending importance, were: specific inspection techniques, corrective action, customer complaint program, documentation and reports, and organizational structure.

²The greatest value score was determined in a two-step procedure:

Technical = $\frac{\text{Technical score}}{\text{Maximum technical score (100)}} \times \text{Weighting Factor (70)}$

Price = $1 - \frac{\text{Price} - \text{Lowest offeror's price}}{\text{Lowest offeror's price}} \times \text{Weighting Factor (30)}$

The greatest value score is the sum of the technical aspect and the price aspect.

on September 28, and this protest followed.³ Performance of the contract has been suspended pending resolution of this protest.

A Plus argues that the Army improperly downgraded its technical proposal with regard to staffing levels, quality control, and various other solicitation provisions.

The evaluation of technical proposals is primarily a matter within the contracting agency's discretion which we will not question unless we find the evaluation to be unreasonable or inconsistent with the RFP's evaluation criteria. Centro Mgmt., Inc., B-249411.2, Dec. 2, 1992, 92-2 CPD ¶ 387. The protester's disagreement with the agency's conclusion does not render the evaluation unreasonable. Tate-Griffin Joint Venture, B-241377.2, Jan. 7, 1992, 92-1 CPD ¶ 29.

A Plus's proposal was downgraded under the technical management approach subfactor because the evaluators found a "critical understaffing" of the labor hours and positions in the dining facility in building 1377, indicating that the firm did not seem to fully comprehend the full scope of what was required under the contract. In this regard, it appeared to the evaluators that A Plus only staffed one side of the two-sided dining facility. For example, the evaluators were concerned because A Plus proposed only one full-time employee for pots and pans. The Army states that one full-time employee for this position is not sufficient staffing, as this dining facility feeds 4,500 soldiers daily, utilizing hundreds of pots and pans, and there are two pots and pans areas. In addition, A Plus proposed only three employees for the dining areas. The Army states that the facility has two large dining rooms located on opposite ends of the building, and three employees cannot physically perform the solicitation's requirements. Similarly, while A Plus proposed one employee for the self-service areas, the agency states that building 1377 has two very large self-service areas, located on opposite ends of the building, and one employee cannot perform the contract specifications.

A Plus contends that, while its staffing charts only identified the principal duty of each employee (i.e., pots and pans), its proposed staffing schedule has flexibility for the cross-utilization of employees, which allows employees to be placed in other areas as needed to provide

³Another protest of this award, B-255198, was filed by Selrico Services. As that protester did not submit comments in response to the agency report, its protest was dismissed on December 1. See Bid Protest Regulations, 4 C.F.R. § 21.3(j) (1993).

sufficient staffing.⁴ However, this purported flexibility is not evident from the proposal; A Plus's staffing charts do not indicate an expectation of employee cross-utilization. As a result, the Army was unable to assess whether this purported flexibility would provide sufficient staffing. It is the offeror's burden to submit adequately written proposals for the agency to evaluate, see Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530, especially where, as here, the offeror is specifically on notice that the agency intends to make award based on initial proposals. Under the circumstances, we conclude that the evaluation of A Plus's proposal as to this subfactor was reasonable.

A Plus's proposal was downgraded because it stated that the project manager also would be responsible for conducting quality control and follow-up on all corrective actions. The evaluators believed that these responsibilities, in addition to the project manager's other duties, would require more than that individual could reasonably perform. The evaluators were concerned that the project manager would be overloaded, and that these additional responsibilities might increase the possibility that routine deficiencies would be overlooked.

The protester disagrees with the Army's assessment, and states that since it also proposed a dining facility manager, designated assistants, and work leaders, 20 inspections per month in each facility should not be too burdensome a task for the project manager. However, the Army asserts that requiring the project manager to perform 40 inspections a month means that he will be working as a quality assurance evaluator, since he would be performing one or more inspections every day. The Army believes that this additional task would overburden the project manager, and would severely hinder that individual from performing other duties. As A Plus does not provide a further explanation for its belief that 40 inspections per month is not overly burdensome upon the project manager, and does not describe how the other employees would alleviate this burden, the firm's disagreement with the agency's evaluation

⁴A Plus also contends that during its site visit it counted 20 contractor employees on duty. Since it proposed between 16 and 19 employees, the protester asserts that it has not staffed only half of the facility. The Army states that the single A Plus representative present during the site visit could not have had the time to count employees. Whether or not the protester counted the employees, we think that a mere count of employees, without an assessment of their positions and responsibilities, is not necessarily indicative of sufficient staffing levels.

of the project manager's role with regard to quality control does not render that evaluation unreasonable. See Tate-Griffin Joint Venture, supra.⁵

Finally, A Plus's proposal was downgraded under the technical approach subfactor because it did not address such things as the procedures for moving government equipment, the removal of contract employees, and the consumption of contract employee meals. The protester contends that this criticism of its proposal is improper, because the solicitation's instructions did not require it to address these items. A Plus asserts that section L.9, Part II.B, of the RFP required offerors to specifically address each paragraph found in section C.5 of the RFP, the "Specific Tasks for Full Food Service"; the items A Plus did not address are found in sections C.1 and C.3.

When a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the dispute by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379. Here, while section L.9, Part II.B, does not specifically require offerors to address sections C.1 and C.3, section L.9, Part II.B.1., states that the technical approach should be sufficiently specific, detailed, and complete to demonstrate that the prospective offeror has a thorough understanding of the requirements for, and technical problems inherent in, the achievement of the performance work statement, and has a valid and practical solution for each contemplated problem. The performance work statement is found in all of section C. As offerors are asked to provide solutions for each contemplated problem, and the items for which A Plus was downgraded are clearly

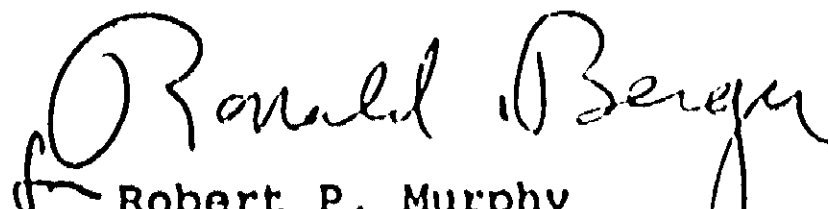
⁵A Plus's proposal was also downgraded because it proposed quality control forms different from those in the solicitation. The Army states that the solicitation's forms are those that will be used to conduct inspections, and having different forms will make inspections more difficult. A Plus asserts that its forms are "almost identical" to the solicitation's forms, but concedes that they use a different criteria and scoring system to determine the levels of performance. While the protester asserts that its forms are superior to the solicitation's forms, we cannot conclude that the Army's objection is unreasonable. The Army's forms list a specific percentage criteria for satisfactory performance of the given service, as well as specific percentage values for each service task on the form. Since A Plus's forms do not correspond with these criteria, we think it was reasonable to conclude that correlating the two sets of forms would make inspections more difficult.

contemplated problems, we see no basis to conclude that the agency's downgrading of its proposal in this regard was improper.⁶

A Plus asserts that all of these issues could have been clarified if the agency had chosen to conduct discussions. However, the Department of Defense may make award on the basis of initial proposals and not conduct discussions where, as here, the solicitation advises offerors of the agency's intent to do so, and the contracting officer determines that discussions are not necessary. See FAR §§ 15.610(a), 52.215-16, Alternate III. The Army was not required to conduct discussions, but properly could select Speedy, whose offer was found most advantageous to the government, on the basis of initial proposals. See Inland Marine Indus., Inc., B-249914; B-249918, Dec. 24, 1992, 92-2 CPD ¶ 442; Macro Serv. Sys., Inc., B-246103; B-246103.2, Feb. 19, 1992, 92-1 CPD ¶ 200.

A Plus finally argues that the Army should not have made award to Speedy at a higher price than its own proposed price. The protest asserts that, historically, contracts for the services at issue here have been awarded to the lowest-priced, technically acceptable offeror. In essence, A Plus contends that the Army improperly utilized an evaluation scheme under which technical considerations were more important than price. This contention is untimely raised. Protests of apparent alleged solicitation improprieties must be filed prior to the time set for submission of initial proposals. 4 C.F.R. § 21.2(a)(1). Since the evaluation scheme was clearly stated on the solicitation, to be timely, a protest on this ground should have been filed prior to the August 27 submission of initial proposals. As it was not filed until October 5, it is untimely.

The protest is denied in part and dismissed in part.


Robert P. Murphy
Acting General Counsel

⁶We note that A Plus's proposal did, in fact, respond to many of the items found in sections C.1 and C.3.