



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: George Mason University

File: B-255348

Date: February 24, 1994

Jeffrey A. Brandwine, Esq., for the protester.
Dean M. Dilley, Esq., and Christy L. Gherlein, Esq., Patton,
Boggs & Blow, for Abt Associates, Inc., an interested party.
Jeffrey C. Morhardt, Esq., Department of Education, for the
agency.
Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

1. Allegation that agency improperly failed to downgrade awardee's proposed center director in evaluation based on lack of certain knowledge and experience is without merit where record shows that awardee's proposal was in fact downgraded for this reason.
2. Where solicitation did not require proposal to include certain number of newsletters and training sessions, and agency considered protester's offer of high numbers of both to be acceptable based on technical approach, protester's proposal was not deficient and agency was not required to raise this matter with protester during discussions.
3. Agency's failure to advise protester during discussion that its overall cost was too high was unobjectionable where agency determined that protester's overall cost was reasonable given its approach.

DECISION

George Mason University (GMU) protests the award of a contract to Abt Associates, Inc. under request for proposals (RFP) No. 93-041, issued by the U.S. Department of Education (DOE) for the operation of the Higher Education Training and Technical Assistance Center. GMU challenges the technical evaluation and contends that the agency failed to conduct meaningful discussions with the firm.

We deny the protest.

The RFP, issued on April 29, 1993, solicited proposals for the establishment and operation of a Higher Education Training and Technical Assistance Center, under a cost reimbursement contract for a base year and 2 option years. The contractor was to provide training and technical assistance on alcohol and other drug (AOD) use and prevention for students in American colleges and universities, develop and distribute informational materials, provide support for national and regional meetings, and conduct evaluation and assessment activities. The RFP required the performance of six tasks, each of which contained several subtasks. As is relevant here, task 1 was entitled "Provide Training, Technical Assistance, and Professional Development in Proactive Prevention of Alcohol and Other Drug Use (AOD)."

The RFP provided that award would be made to the responsible firm whose offer, conforming to the solicitation, was determined most advantageous to the government, cost and other factors considered. The RFP required offerors to submit technical and cost proposals and stated that technical factors were more important than cost. Evaluation of the technical proposals would be based on the following five factors: discussion of specific tasks (35 out of 100 points); quality of key personnel (20 points); general technical approach (15 points); management plan (15 points); and offeror's experience (15 points). The quality of key personnel factor consisted of two subfactors of equal importance: quality of the proposed center director and quality of other proposed staff and consultants. With regard to cost, the solicitation stated that "[a]s proposals become more equal in their technical merit, the evaluated cost becomes more important."

Seven proposals were received by the June 14 closing date; three of the proposals, including GMU's and Abt's, were included in the competitive range. Following both written and oral technical and cost discussions with the offerors, best and final offers (BAFO) were requested and received on September 15. GMU's BAFO, proposing a cost (for the basic year and 2 option years) of \$7,432,811, received the highest technical score, 85.8 points, while Abt's BAFO, proposing a cost of \$6,547,665, received a technical score of 84.6 points. The agency determined that, although GMU's technical proposal was slightly better than Abt's, Abt's proposal was essentially technically equal to GMU's and, thus, that GMU's \$885,146 cost premium was not justified. After performing a detailed cost analysis, the agency determined that Abt's costs were fair and reasonable; DOE then selected Abt for award based on its low cost.

TECHNICAL EVALUATION

GMU argues that, based on remarks made by Abt's proposed center director at a conference, this individual does not have the knowledge and experience in alcohol prevention with higher education institutions required by the solicitation. GMU concludes that DOE should have downgraded Abt's BAFO in this area.

We will review an evaluation only to ensure that it was reasonable and consistent with the stated evaluation criteria. Comarco, Inc., B-249697.2, Jan. 26, 1993, 93-1 CPD ¶ 65.

The evaluation of Abt's proposed center director was reasonable. Agencies are required to evaluate proposals based on the content of an offeror's proposal; the evaluation ordinarily does not include other information, including remarks made at a professional conference. See generally Independent Metal Strap Co., Inc., B-231756, Sept. 21, 1988, 88-2 CPD ¶ 275. Here, the quality of center director subfactor, where Abt only received 7.6 of 10 points, provided that proposed directors would be evaluated based on their knowledge of and experience with AOD prevention strategies, experience in working with postsecondary audiences, experience in managing a staff and complex projects, and writing ability. Abt's BAFO showed that its proposed director had extensive experience on substance abuse training programs at drug educational centers, managed many conferences which involved computer set-up, and wrote several manuals and papers on drug-related topics.

The agency also determined, however, that Abt's proposed director lacked experience working with postsecondary audiences, and demonstrated knowledge and experience primarily in drug and alcohol treatment rather than prevention, as required by the RFP. In this regard, a review of the evaluation worksheets shows that almost every evaluator cited as weaknesses the lack of experience and knowledge in drug and alcohol prevention at the postsecondary level of Abt's proposed center director, and downscored Abt's BAFO accordingly. Since the record clearly shows, contrary to GMU's assertion, that the agency specifically considered the proposed director's lack of experience and knowledge in drug prevention at the postsecondary level, and Abt's score was reduced, there is no basis to question the evaluation of Abt's BAFO in this area.¹

¹GMU argues that the agency acted in bad faith in making award to Abt. As this allegation is not supported by any evidence, however, there is no basis for finding bad faith
(continued...)

MEANINGFUL DISCUSSIONS

GMU contends that DOE failed to conduct meaningful discussions with it because the agency did not inform GMU of certain deficiencies in its proposal, which led it to propose an unnecessarily high cost. Specifically, GMU argues that the agency failed to inform GMU that its proposed number of four newsletters and seven training sessions for the base year exceeded the number required by the RFP's subtasks 1.3.1 and 1.2.2, respectively. GMU's position is based at least in part on the fact that Abt proposed only two newsletters and four training sessions for the base year, and the fact that GMU's proposed cost (\$7,894,670) exceeded the government estimate (\$6,197,227) by 27 percent, and was higher than the initial proposed costs of Abt (\$6,100,282) and the other offeror in the competitive range. GMU suggests the agency should have informed it of these facts.

Discussions with offerors whose proposals are in the competitive range must be meaningful--the offerors must be advised of proposal weaknesses, excesses, and deficiencies. FAR § 15.610(c)(2) and (5).

There was nothing improper in the discussions held with GMU, since the areas about which GMU complains were not proposal deficiencies. This is because, contrary to the implication of GMU's argument, the RFP did not set forth requirements or other specific guidance for the number of newsletters and training seminars. Rather, it was up to offerors to develop an overall technical approach. Thus, subtask 1.3.1 of the RFP, entitled "Develop Technical Assistant Plan," required, not that offerors provide for newsletters, but that they submit a plan to provide technical assistance to institutions--on AOD prevention and educational programs and strategies--based on the offeror's own analysis and proposed technical approach. The record shows that DOE did not question the fact that GMU proposed four newsletters for the base year to meet, in part, the requirements in this subtask, because the agency did not consider this quantity of newsletters to be excessive or deficient. Indeed, several evaluators rated GMU's approach to fulfilling the requirements in this subtask to be a strength. For example, one evaluator stated that GMU proposed a "good dissemination plan to use existing newsletter," while another evaluator stated that he "like(d) the newsletter--continues info[rmation] flow."

¹(...continued)
on the agency's part. Independent Metal Strap Co., Inc., supra.

Similarly, subtask 1.2.2, "Implement Training Plan," did not limit or otherwise suggest an optimal number of training sessions. Although offerors had to propose two to four training sessions in the first year of the contract in conjunction with regional meetings, they were not limited to this range. Rather, the solicitation specifically advised offerors to determine the level and type of technical assistance required by the proposed personnel. DOE did not question GMU during discussions about its proposed seven training sessions as it believed this number was not excessive given GMU's particular approach to contract performance. Indeed, again, several evaluators found that GMU's proposed training sessions strengthen its proposal. For example, one evaluator stated that GMU was "a very strong institution based on team training," while another evaluator noted that GMU's proposal presented a "thorough discussion of training, includes well developed basic training and developing training for specific topics."

Agencies are not required to identify relative weaknesses in a proposal that is technically acceptable but presents a relatively less desirable approach than others received. Specialized Technical Servs., Inc., B-247489.2, June 11, 1992, 92-1 CPD ¶ 512. DOE therefore was not required to advise GMU that it had offered more newsletters and training sessions than Abt.

The fact that GMU's proposed cost was above the government estimate and the costs proposed by the other two offerors in the competitive range did not impose a duty on the agency to advise GMU of the need to lower its cost.² An agency may not inform an offeror of a cost it must meet to obtain further consideration or its relative price standing, Innovative Training Sys., B-251225.3, Oct. 19, 1993, 93-2 CPD ¶ 232, and need not inform an offeror that its cost is too high unless the government has reason to think the cost is unreasonable. Applied Remote Technology, Inc., B-250475, Jan. 22, 1993, 93-1 CPD ¶ 58. Here, the record shows that DOE reviewed GMU's cost proposal in detail and was satisfied that the firm's proposed cost was reasonable in terms of the

²DOE actually did question GMU's costs for training to determine if the staffing hours were consistent with, and warranted by, its technical approach. Specifically, the agency informed GMU during discussions that its proposed staffing hours for its lead trainers and associate director were too high. In other words, DOE advised GMU that it believed there was a potential for cost reduction in its approach.

scope of effort and technical approach proposed. There is nothing in the record that suggests this conclusion was unreasonable. See E.J. Richardson Assocs., Inc., B-250951, Mar. 1, 1993, 93-1 CPD ¶ 185. We conclude that discussions were adequate.

The protest is denied.

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