

Ms. Riback



Comptroller General
of the United States

535214

Washington, D.C. 20548

Decision

Matter of: Quality Elevator Co., Inc.
File: B-255139.3
Date: April 19, 1994

Timothy Sullivan, Esq., and Martin R. Fischer, Esq., Dykema Gossett, for the protester.
Garrett Ressing, Esq., and Vicki E. O'Keefe, Esq., Department of the Navy, for the agency.
Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably found that higher-priced awardee's proposal for an elevator maintenance contract represented the best value to the government under the solicitation evaluation scheme, based on its reasonably supported "exceptional" rating as compared to the protester's "acceptable" rating and agency's finding that this technical superiority was worth the cost premium.

DECISION

Quality Elevator Co., Inc. protests the Department of the Navy's award of a contract to Elevator Control Service (ECS) under request for proposals (RFP) No. N68925-93-R-A375.

We deny the protest.

The RFP requested proposals for a fixed-price, indefinite delivery order contract for a base year, with 4 option years, to provide labor, equipment, tools, and materials to perform inspections, testing, maintenance, and repair services on vertical transportation equipment (primarily elevators) at various Naval facilities in the Washington D.C. area.¹ Offerors were instructed to submit separate technical and cost/price proposals. The RFP stated that award was to be made to the offeror whose proposal was most

¹While elevators are the primary equipment to be serviced under this contract, the maintenance of dumbwaiters, chair and material lifts, escalators, autolifts and dock levellators is also required.

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advantageous to the government, considering price and technical factors. Price and technical considerations were said to be equal in importance. The technical factors and subfactors, listed in descending order of importance, were as follows:

1. Management Capability
 - a. Performance
 - b. Experience
 - c. Staffing Plan
 - d. Schedule
2. Technical Capability
 - a. Understanding of RFP Requirements
 - b. Quality Control

Price proposals were to be evaluated for reasonableness and realism as well as total price. Price realism was in part determined by reference to a government estimate.

Six offerors submitted proposals. ECS' initial proposal's overall rating was "exceptional," while Quality's proposal was rated "marginal." Based on the results of the initial evaluation, the agency determined to include all six proposals in the competitive range. The agency conducted written discussions, after which ECS' proposal was again assigned an "exceptional" rating, and Quality's improved to "acceptable." The agency then requested best and final offers (BAFO). The overall BAFO results were as follows:

<u>Offeror</u>	<u>Technical Rating</u>	<u>BAFO Price</u>	<u>Price Realism Ranking</u>
ECS	Exceptional	\$1,475,936	1
Quality	Acceptable	\$1,125,033	2

The agency determined that ECS' proposal offered the best overall value to the government, as evidenced by its "exceptional" technical rating and more realistic price. ECS' exceptionally rated proposal was found to exceed the stated RFP requirements, and to demonstrate superior past performance, which included contracts of similar size and complexity to the RFP work. In contrast, the agency found that Quality's acceptable proposal only satisfied the RFP requirements, and that the firm's experience was on smaller contracts. The agency rated ECS' proposal higher than Quality's under the most heavily weighted "Performance" subfactor, and also found that ECS' offer of 14 full-time personnel--the same as the government estimate for the work --was a proposal strength, while Quality's proposal of only

8 full-time personnel, with additional personnel to be supplied on an "as needed" basis, was only acceptable. Award was made to ECS and this protest followed.

Quality raises numerous arguments to the effect that the technical evaluation was improper, and that the resulting source selection therefore was invalid. We have reviewed the record and conclude that these arguments are without merit. We discuss several of them below.

In reviewing challenges to the propriety of an agency's technical evaluation, we will not reevaluate proposals or make our own determination regarding their relative merits, as the evaluation of proposals is primarily the function of the contracting agency. Choctaw Mfg. Co., Inc., 72 Comp. Gen. 218 (1993), 93-1 CPD ¶ 409. Our review is limited to determining whether the agency's judgment was reasonable and consistent with the evaluation criteria and applicable statutes and regulations. Motorola, Inc., B-234773, July 12, 1989, 89-2 CPD ¶ 39. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. Telos Field Eng'g, B-251384, Mar. 26, 1993, 93-1 CPD ¶ 271.

Quality first argues that the agency improperly evaluated relative staffing levels, and did not conduct adequate discussions with Quality on this point. The record does not support Quality's contentions.

The agency was unable to determine from Quality's initial proposal how many on-site mechanics and helpers it intended to propose. Quality was therefore asked to "[c]larify the number of on-site employees to be used and their position and title." Quality responded that it intended to use eight on-site, full-time mechanics, and an adjuster, a field engineer, and a repair team of two people on an "as needed" basis. Quality also stated that it had an unlimited labor pool to draw from as part of its contingency plan. The agency found this staffing plan, including the level of effort, to be acceptable, although it perceived that there may be difficulties performing with this level of proposed staffing; as indicated above, the agency had estimated that most contractors would need a full-time staff of 14 to successfully perform because of the numerous elevators covered, many of which were in hospitals and/or had above normal usage. In contrast, ECS' 14 full-time personnel was clearly regarded as a proposal strength.

We find nothing unreasonable in the evaluation in this area. Specifically, there was nothing unreasonable in the agency's conclusion that ECS' proposal of full-time staffing at the agency's estimate level was more desirable than, and significantly superior to, Quality's offer of 8 full-time

employees to be supplemented by designated additional staff "as needed." While Quality argues a staffing level of 14 full-time personnel is excessive, and therefore not cost effective, there is nothing in the record showing that the agency's determination of its manpower needs was clearly unreasonable. See Mark Dunning Indus., Inc., B-230058, Apr. 13, 1988, 88-1 CPD ¶ 364.

Quality challenges the adequacy of discussions in the staffing area on the basis that the agency did not reveal its apparent concern that Quality's proposed level of staffing was insufficient to perform the contract requirements. However, Quality's protest is based on a false premise, inasmuch as the agency did not find Quality's staffing unacceptable but only less desirable than ECS' staffing plan. In this regard, the 14-person staffing level in the government estimate was not applied as a minimum requirement, such that it should have been disclosed to offerors in the RFP or during discussions. Rather, it was used as a basis for comparing proposals. In any case, we think the agency's discussion question requesting Quality to indicate the number of on-site employees proposed was adequate to express the agency's concern with the firm's staffing, particularly given the confusion in Quality's proposal on this point. Where an agency has to clarify an initial proposal to ascertain its meaning and thereupon finds the area of concern was in fact deficient, the agency is generally not required to reopen discussions to allow the offeror to address this point. See JSA Healthcare Corp., B-242313; B-242313.2, Apr. 19, 1991, 91-1 CPD ¶ 388; compare Price Waterhouse, B-254492.2, Mar. 4, 1994, 94-1 CPD ¶ ____.

Quality also challenges the agency's evaluation of the "Experience" subfactor, arguing that there was no meaningful difference between its proposal and ECS' under this subfactor. We disagree. The agency noted that ECS was successfully performing maintenance on approximately 92 elevators at one facility and also performing maintenance on 75 elevators in the National Naval Medical Center, a hospital facility covered by this RFP. ECS was given an "exceptional" rating for this subfactor. In contrast, while the agency acknowledged that Quality was experienced in performing maintenance in a hospital environment, the maximum number of pieces of vertical transportation equipment that Quality had ever maintained on a previous contract was 60, which merited only an "acceptable" rating in the agency's view, given that Quality's experience did not include any contract that approached the scope of this contract. We think ECS' successful experience on more comparable contracts was reasonably found to be a proposal strength that justified its receiving a higher rating than Quality for this subfactor.

Quality next contends that the agency improperly evaluated its proposal under the "Scheduling" subfactor. The record shows that the agency found that Quality's initial proposal did not provide a daily work schedule for 1 month as requested in the RFP, which caused Quality's proposal to receive a "marginal" rating. This rating increased to "acceptable" after Quality submitted a schedule in a calendar format in its revised proposal. ECS, on the other hand, received an "exceptional" rating for this subfactor, since its schedules were clear and complete. The agency noted that ECS' schedule identified the daily services to be performed at each of the various activities, identified elevator system to be work on, and the crew providing the maintenance. Based on our review of the respective proposals, we think the agency reasonably rated ECS' more clearly formatted schedule superior to Quality's under this subfactor.

Quality contends that the Navy conducted an improper and unreasonable cost/technical tradeoff. In this regard, Quality alleges that there were no significant technical differences between its proposal and ECS' higher-priced proposal. However, as detailed above, the record reasonably supports ECS' "exceptional" rating, as compared to Quality's "acceptable" rating. The record also shows that the agency properly weighed the equally weighted cost and technical considerations in determining that ECS' technically exceptional proposal (including its higher rating under the most important subfactor "Performance"), its prior experience with contracts of similar scope and complexity, and more realistic, even though higher-priced, proposal combined to represent the overall best value to the

government.² Based on our review, we find the award selection reasonable and consistent the evaluation criteria set out in the RFP. See JSA Healthcare Corp., B-252724, July 26, 1993, 93-2 CPD ¶ 54.

The protest is denied.

Robert P. Murphy

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Acting General Counsel

²Quality argues that the agency "completely ignored" total price of the proposals in making the award selection. The record belies this contention; it shows that the agency clearly took Quality's low total price into account in making the cost/technical tradeoff supporting the award selection. The agency's rating of proposals for "price realism" was consistent with the RFP's advice that it would be evaluated. In so doing, the agency noted that ECS' cost per employee was approximately \$94,263, while Quality's was approximately \$111,629, and that ECS's level of effort more closely approximated the government estimate. ECS' higher "price realism" rating therefore was justified.