



Comptroller General
of the United States

1009117

Washington, D.C. 20548

Decision

Matter of: Wade Perrow Construction--Reconsideration

File: B-255332.3

Date: July 11, 1994

DECISION

Wade Perrow Construction (WPC) requests reconsideration of our decision Wade Perrow Constr., B-255332.2, Apr. 19, 1994, 94-1 CPD ¶ 266, in which we denied its protest against the U.S. Army Corps of Engineers' award of a contract to F2M, Inc., under request for proposals (RFP) No. NAFFM3-93-R-0001, for construction of a guest house at Fort Lewis in Washington.

We affirm our decision.

The solicitation contemplated award of a fixed-price contract to design and construct a new 39,000-square-foot guest house--installation motel--adjacent to the existing guest house at Fort Lewis. The solicitation provided for proposals to be evaluated on the basis of technical, project management plan, and price evaluation factors. The solicitation further provided for assigning quality point scores to the technical (700 of 1,000 available points) and project management (300 points) factors and for calculating an overall price per quality point. The RFP stated that award would be made "to the proposal which is considered the best in terms of quality and price and the cost per quality point will be a primary factor in this determination."

As a result of various perceived weaknesses in WPC's design approach and its elimination or reduction in its best and final offer (BAFO) of several desirable elements in its initial proposal, WPC's proposal received a final quality score of only 362. Given its BAFO price of \$4,492,286, the resulting price per quality point offered by its proposal was \$12,409.63. In contrast, while F2M's BAFO price (\$4,488,000) was only slightly lower than WPC's, F2M's price per quality point (\$9,735.36) was significantly lower because F2M's BAFO design was evaluated as offering a number of advantages and accordingly received a correspondingly higher quality score (461 points) than WPC's.

Although WPC in its protest questioned the Corps' evaluation of proposals and the conduct of discussions, our review of the record provided no basis for concluding that the

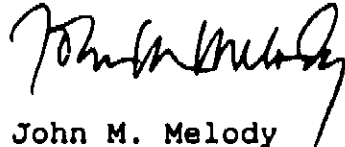
agency's evaluation of proposals or conduct of discussions were flawed so as to prejudice the protester. With respect to the adequacy of discussions, WPC challenged the Corps' failure to point out WPC's omission of certain required information from its proposal. In describing the required project management plan to be submitted by offerors with their proposals, section L of the solicitation, "Solicitation Instructions and Conditions," referred to the criteria under the project management/quality control factor as set forth in section M, "Evaluation Factors for Award." These included criteria for (1) "[p]roposed method for controlling quality of subcontracted work (include contract provisions to be included in subcontracts)," and (2) "[n]umber and type of tests to be performed to assure quality of work segments." Although WPC generally discussed in its proposal its approach to quality control, it did not furnish details concerning subcontract provisions and numbers and types of tests to be performed, which were required by the solicitation, and its BAFO apparently was downgraded accordingly. The Corps did not raise during discussions its concerns with respect to subcontract provisions and the number and type of tests to be performed, and WPC argued that this failure was improper. We rejected this argument, holding that since the solicitation specifically requested the quality control information, WPC was already on notice of what it must do to submit an adequate proposal; the agency was not required to specifically remind WPC during discussions to submit that information. See Dynamic Sys. Technology, Inc., B-253957, Sept. 13, 1993, 93-2 CPD ¶ 158; Delta Food Serv., B-245804.2, Feb. 11, 1992, 92-1 CPD ¶ 172.

In its request for reconsideration, WPC does not dispute that an agency generally is not required to specifically remind an offeror during discussions to submit information that is specifically requested in the solicitation. Rather, WPC argues that this principle was inapplicable here because the agency asked F2M during discussions to furnish a plan for controlling design and construction quality, which was information that was likewise specifically requested in the solicitation. WPC essentially argues that the Corps conducted unequal discussions with respect to the project management/quality control factor, advising F2M, but not WPC, of its concerns in this area.

This argument is without merit. The record indicates that the Corps advised neither party of all of its concerns with respect to the project management/quality control factor. Specifically, although the agency also questioned F2M's failure to list the number of tests to be performed, it did not advise F2M during discussions of its concern in this regard.

In any case, competitive prejudice is an essential element of a viable protest; where no prejudice is shown or is otherwise evident, our Office will not sustain a protest, even if a deficiency in the procurement is evident. See Metametrics, Inc., B-248603.2, Oct. 30, 1992, 92-2 CPD ¶ 306. Here, there was no indication that WPC was prejudiced by the Corps' failure to discuss the deficiencies in its proposal with respect to the project management/quality control factor. Given its BAFO price and significantly lower overall score, WPC needed an increase of at least 100 points to displace F2M. The project management/quality control factor, for which 200 points were available, was divided into 5 subfactors, each worth 40 points. The deficiencies in WPC's proposal identified in the consensus BAFO evaluation sheets concerned two of the five subfactors--subcontracted work quality control and quality tests. The consensus evaluation sheets do not reveal the point scores received by the offerors for the individual subfactors. However, even assuming that WPC received no points in the BAFO evaluation for the subcontracted work quality control and quality test subfactors, and that it would have received the maximum points had it been advised of its deficiencies in these areas, the potential 80-point increase in its overall score would not have placed it in line for award.¹

Our prior decision is affirmed.



John M. Melody
Acting Associate General Counsel

¹Furthermore, given the pattern of the scoring of the offers, it appears unlikely that WPC could have received the maximum consensus score under both of these two subfactors. Of the two offerors, only F2M received more than 50 percent of the available consensus evaluation points for any one evaluation factor, and that was a score of 175 of 280 available points--62.5 percent--for only one factor.