



## Decision

**Matter of:** Rick Manning  
**File:** B-257095  
**Date:** July 28, 1994

Rick Manning for the protester.  
Robert J. Crowther, Department of Agriculture, for the agency.  
Adam Vodraska, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Protest that protester was entitled to award as the lowest-priced, experienced offeror is denied where the protester failed to provide any of the required past performance and experience information necessary to allow the agency to technically evaluate the protester's offer and the protester did not submit the lowest-priced proposal.

### DECISION

Rick Manning protests the award of a contract to Inland Crop Dusters by the Animal and Plant Health Inspection Service, Department of Agriculture, under request for proposals (RFP) No. 66-M-APHIS-94, for aerial dispersal of sterile pink bollworm moths over cotton fields in San Joaquin Valley, California. Rick Manning argues that he is entitled to award as the lowest-priced, experienced offeror.

We deny the protest.

The RFP, issued as a total small business set-aside, contemplated the award of a fixed-price contract. Offerors were informed that award would be made to the offeror, whose conforming offer was the most advantageous to the government, price and other factors considered. The RFP identified the following evaluation factors and weights: price (70 points), past performance on similar or related projects (15 points), and experience covering special purpose modifications and certifications for aircraft (15 points).

Regarding the technical evaluation factors, offerors were required to provide information describing their

prior project performance and experience and to provide references. The solicitation also warned offerors that award might be made on the basis of initial offers without discussions.

Three offers were received by the closing date for receipt of proposals. Inland offered the low price of \$202,460, while the protester offered \$333,196, which was the highest price received. The initial proposals were evaluated and scored as follows:

	<u>Price</u>	<u>Technical</u>	<u>Total</u>
Inland	70	13	83
Offeror A	53	20	73
Rick Manning	43	0	43

Rick Manning failed to provide a technical proposal or any information concerning the firm's past performance and experience, as required by the RFP, which would allow the agency to technically evaluate Mr. Manning's offer. The agency determined that Inland's low-priced offer represented the best value to the government and proposed award to Inland.

After learning of the proposed award to Inland, Mr. Manning complained to the agency that his proposal must have been misinterpreted because Mr. Manning was convinced that he had submitted the lowest-priced offer. Agriculture allowed Mr. Manning an opportunity to clarify his proposal, and the protester submitted a revised proposal lowering his offered price to \$179,500. Agriculture concluded that it had not misevaluated Mr. Manning's initial proposal and did not consider the firm's late price proposal revisions. Award was made to Inland without discussions, and Rick Manning protested that he is entitled to award as the experienced offeror with the lowest price.

When an agency's evaluation is challenged, we will review the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. Here, the

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Mr. Manning's revised proposal still contained no information concerning the firm's past performance or experience.

protester failed to provide any of the requested information necessary to permit the agency's evaluation of its technical proposal. While the protester listed qualifications and experience in his protest letter and comments to our Office, the evaluation of technical proposals must be based on information submitted in or with the proposal, no matter how experienced or qualified the protester may be. Amstar Communications, B-255179; B-255179.2, Feb. 7, 1994, 94-1 CPD ¶ 77.

The protester alleges that he was informed by the contracting officer "not to worry about supporting information suitable for the evaluation" and that "any other information would be requested as needed." The protester appears to confuse information such as licenses, which the RFP merely required offerors to provide before award, with evaluation information concerning offerors' past performance and experience, which the RFP required offerors to submit in their technical proposals. In this regard, section M of the solicitation explicitly required offerors to submit past performance and experience information in their proposals. Any direction from the contracting officer that contradicted this requirement would represent a material change to the terms of the RFP. Where, as here, an alleged oral modification to the RFP is inconsistent with the written solicitation, absent a written amendment or confirmation of the oral advice, we will find unreasonable a protester's reliance on the alleged oral representation. See Burns and Roe Servs. Corp., B-251969.4, Mar. 1, 1994, 94-1 CPD ¶ 160; Texnokpatikh, B-245835.2, Feb. 6, 1992, 92-1 CPD ¶ 153.

Finally, the protester's assertion that its offer was the lowest priced received is simply incorrect. Indeed, the protester's initial offer was the highest-priced offer. In this regard, the agency properly did not consider the protester's price revisions that were received after the closing date for receipt of proposals. The RFP incorporated by reference the standard "Late Submissions, Modifications, and Withdrawals of Proposals" clause, as set forth in Federal Acquisition Regulation § 52.215-10. This clause provides that late proposal revisions will not be considered, except under limited circumstances not present here.

In sum, given Rick Manning's failure to provide the information required for evaluation, we find no basis to object to the agency's evaluation of Mr. Manning's proposal and selection of Inland's offer for award.

The protest is denied.

/s/ Ronald Berger  
for Robert P. Murphy  
Acting General Counsel