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Comptroller General  
of the United States  
Washington, D.C. 20548

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## Decision

**Matter of:** Tri-Services, Inc.

**File:** B-256196.4

**Date:** September 30, 1994

R. W. Sutliff for the protester,  
Peter J. Seebeck, Esq., Department of the Air Force, for the  
agency.  
Daniel I. Gordon, Esq., and Paul Lieberman, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Agency determination to exclude proposal from the competitive range was proper where the agency concluded, on the basis of an evaluation which was reasonable and consistent with the solicitation evaluation criteria, that the proposal had no reasonable chance of being selected for award.

### DECISION

Tri-Services, Inc. protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. F01600-93-R-A086, issued by the Department of the Air Force for services related to maintenance of transient aircraft.<sup>1</sup> The Air Force excluded Tri-Services's proposal from the competitive range on the basis that it did not have a reasonable chance of being selected for award due to numerous weaknesses identified in the proposal. Tri-Services contends that the assessment of weaknesses in the proposal were unfounded, that any informational deficiencies should have been resolved through discussions, and that the agency's exclusion of Tri-Services's proposal from the competitive range was motivated by bias on the part of the contracting officer.

We deny the protest.

<sup>1</sup>Transient aircraft are aircraft which are at the base temporarily but without a serial number assigned to the base.

The Air Force issued the RFP on December 15, 1993, to obtain support and maintenance services for transient aircraft, including transient-alert services, at Maxwell Air Force Base. The RFP contemplated a fixed-price contract for 6 months with four 1-year options. The RFP stated that technical factors were more important than price; and that among the technical factors, "management and personnel" and "quality control and inspection system" were equally important; and each was slightly more important than the remaining technical factors, "approach to meeting workload" and "handling expansion and mission changes." The assessment criteria to be used in evaluating each of these factors were "compliance with requirement" and "performance and experience."

Tri-Services was one of several firms which submitted proposals. The technical evaluators identified numerous weaknesses that indicated that Tri-Services could not perform the RFP work without undue risk to the government. The contracting officer concurred with the technical evaluators' determinations and excluded Tri-Services's proposal from the competitive range. This protest followed.

Although the determination of which proposals to include in the competitive range is a decision largely committed to the procuring agency's discretion, Nat'l Sys. Management Corp., 70 Comp. Gen. 443 (1991), 91-1 CPD ¶ 408, the Federal Acquisition Regulation (FAR) directs contracting officers to include within the competitive range "all proposals that have a reasonable chance of being selected for award" and provides that, "[w]hen there is doubt as to whether a proposal is in the competitive range, the proposal should be included." FAR § 15.609(a). In reviewing an agency's determination to exclude a proposal from the competitive range, we apply the standard used in reviewing all aspects of an agency's technical evaluation of proposals: we review the record to determine whether the agency's judgment, including the judgment that a particular proposal did not have a reasonable chance of award, was reasonable; supported by the record; and consistent with the applicable evaluation criteria. Monopole, S.A., B-252745, July 23, 1993, 93-2 CPD ¶ 51.

Our review confirms that the Air Force's evaluation of Tri-Services's proposal was reasonable and consistent with the evaluation criteria, and that the Air Force reasonably concluded that Tri-Services's proposal did not have a reasonable chance of award. Among the weaknesses identified in Tri-Services's proposal were its lack of transient-alert contract experience, as contemplated by the RFP; its failure to address dress and grooming requirements; its failure to provide an adequate quality control plan; and its failure to adequately address hours and work loads. We address two

representative examples which demonstrate the reasonableness of the agency's judgment.

The first concern relates to the evaluation of Tri-Services's experience under current and past contracts, which the RFP provided should be similar in scope and content to this procurement. The evaluators expressed concern that Tri-Services's proposal provided no evidence that the offeror had ever performed on transient-alert or similar contracts. Tri-Services initially asserted in its protest that the company's proposal "explicitly documented the availability of specific transient alert operational experience," and that, in any event, the Air Force could easily have cured any informational deficiency by requesting that Tri-Services clarify or supplement the information about its transient-alert experience.

Tri-Services essentially reversed its position in its comments on the agency report by conceding that it had never held a transient-alert contract. This concession negates Tri-Services's argument that the agency's determination was based on a misreading of Tri-Services's proposal, or that clarifying discussions could have disclosed Tri-Services's experience performing this work. While Tri-Services now alleges that it has successfully performed contracts in other areas in which it had no prior experience, so that its lack of experience in the transient-alert area should not be deemed to pose a risk to the government, the RFP provided that transient-alert experience was an important element of the evaluation.

Tri-Services also contends that the Air Force improperly treated the transient-alert experience issue as a pass/fail requirement, and that because the protester is a small business, its proposal could not be rejected for failure to meet that requirement without referral to the Small Business Administration (SBA). It is true, that where an agency finds that a small business is non-responsible, the agency is required to refer the matter to the SBA for consideration under the certificate of competency (COC) procedures. Flight Int'l Group, Inc., 69 Comp. Gen. 741 (1990), 90-2 CPD ¶ 257. In order to avoid circumvention of the COC procedures and the protection they afford small businesses, we have found SBA referral mandatory where a solicitation includes, as a matter to be evaluated on a go/no-go basis, a criterion that is traditionally a responsibility-type factor and the contracting agency has determined that a small business's proposal should be rejected for failure to obtain a "go" for that criterion. McLaughlin Research Corp., 71 Comp. Gen. 383 (1992), 92-1 CPD ¶ 422.

That analysis does not apply here. While the transient-alert experience criterion may be a responsibility-type

factor, it was not applied on a go/no-go basis. The agency's downgrading of Tri-Services's proposal due to the company's lack of experience does not show otherwise. On the record before us, it appears that, if Tri-Services's proposal had not raised a substantial number of additional concerns and if there had not been several other proposals with greater chances of award, the agency might have included Tri-Services's proposal in the competitive range. Because the experience was not evaluated on a go/no-go basis, there was no need for referral to the SBA.

A second of the evaluators' concerns related to the solicitation provision stating, "Assessment will be made of the offeror's ability to . . . enforce the dress and grooming standards."<sup>2</sup> This criterion was part of the most important evaluation subfactor--management and personnel. The evaluators determined that Tri-Services's proposal had failed to address the dress and grooming standards. In response, the protester points to one sentence in its proposal in which it stated, "Special attention shall be given to ensure compliance with the grooming and dress requirements . . . ."

Agencies may reasonably find unacceptable an offeror's parroting back of solicitation requirements or generalized statements that it will comply with those requirements. See Amstar Communications, B-255179; B-255179.2, Feb. 7, 1994, 94-1 CPD ¶ 77. We find reasonable the agency's determination that Tri-Services's cursory mention of the dress and grooming standards did not demonstrate, or meaningfully address, the offeror's ability to enforce those standards. The agency's evaluation thus appears reasonable and consistent with the RFP criteria.

We have examined the other proposal's shortcomings identified in the agency evaluation, and based on our review of Tri-Services's proposal and the arguments raised during the protest, we find that the determination to exclude Tri-Services's proposal from the competitive range was reasonable and consistent with the RFP. While Tri-Services plainly disagrees with the agency's technical judgment, that disagreement alone does not demonstrate that the judgment was unreasonable or otherwise improper. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. Since Tri-Services's proposal was properly eliminated from the competitive range, the agency was not required to conduct discussions with that firm. See FAR § 15.609(a).

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<sup>2</sup>The RFP performance work statement included detailed instructions for employee dress and grooming standards.

Finally, we turn to Tri-Services's allegation of bias on the part of the contracting officer. When a protester contends that contracting officials were motivated by bias or bad faith, our Office reviews the record to see if it contains evidence that the agency acted with the specific intent of injuring the protester. Group Technologies Corp.; Electrospace Sys., Inc., B-250699; et al., Feb. 17, 1993, 93-1 CPD ¶ 150. Nothing in the record here indicates any such intent.

The protest is denied.

*for James A. Spangenberg*  
Robert P. Murphy  
Acting General Counsel