



Comptroller General
of the United States

206184

Washington, D.C. 20548

Decision

Matter of: International Resources Corporation

File: B-259992

Date: April 14, 1995

Charlotta M. Stephens, Esq., for the protester.
Riggs L. Wilks, Jr., Esq., and Bryant S. Banes, Esq.,
Department of the Army, for the agency.
Peter A. Iannicelli, Esq., and John Van Schaik, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protester's proposal was properly excluded from the competitive range where the agency reasonably concluded that there were a multitude of significant deficiencies in the protester's proposal which made it technically unacceptable as submitted and major revisions would have been required to make it acceptable.

DECISION

International Resources Corporation (IRC) protests the Army's excluding its proposal from the competitive range and the Army's consequent failure to conduct discussions with it under request for proposals (RFP) No. DAKF24-94-R-0001, for food services.

We deny the protest.

Issued on December 23, 1993, the RFP solicited proposals for full food and dining attendant services at Fort Polk, Louisiana. Numerous changes were made to the RFP and six amendments were issued, the last of which established December 1, 1994, as the closing date for receipt of initial proposals. Twelve offers were evaluated by the agency on the basis of price and quality (i.e., technical merit). After reviewing the price and quality evaluations, the contracting officer determined that the protester's offer should not be included in the competitive range. By letter of December 21, the contracting officer notified IRC that its proposal had been eliminated from the competitive range on the basis of a combination of perceived deficiencies in quality and a "significantly understated" price. Shortly after receiving the contracting officer's letter, and

without requesting a debriefing conference, IRC filed its protest with our Office.

The protester states that proposals it submitted in other government procurements of food services have received high marks and, therefore, IRC does not believe that a reasonable evaluation of its proposal here would have resulted in its elimination from the competitive range. The protester contends that the contracting agency should have conducted discussions with it, apprised it of any perceived deficiencies in its proposal, and allowed it to submit a revised proposal correcting any perceived deficiencies.

The evaluation of proposals and resulting determination of whether a particular offer is in the competitive range are matters within the discretion of the procuring agency, since the agency is responsible for defining its needs and deciding on the best methods of accommodating them. Fisons Instruments, B-254787, Jan 19, 1994, 94-1 CPD ¶ 25. In reviewing challenges to an agency's competitive range determination, we will not independently reevaluate proposals; rather, we examine the evaluation to determine whether it was reasonable and consistent with the RFP's evaluation scheme. A. G. Crook Co., B-255230, Feb. 16, 1994, 94-1 CPD ¶ 118. A protester's disagreement with the agency, without more, does not show that the agency's judgment was unreasonable. Id.

Here, the evaluation and the resultant exclusion of IRC's proposal from the competitive range were both reasonable and consistent with the RFP's evaluation scheme.

The RFP stated that proposals would be evaluated on quality and price, and that quality was considered more important than price. The RFP listed technical, management, and quality control as subfactors that would be considered in evaluating the quality of proposals; the RFP stated that technical was the most important subfactor and that management and quality control were equal in importance. Under the technical subfactor, the RFP listed technical approach, resources, and technical experience as sub-subfactors to be considered. Under the management subfactor, the RFP listed general management structure, management plans, and phase-in/phase-out plan as sub-subfactors. Under the quality control subfactor, the RFP listed specific inspection techniques, documentation and corrective action, and interface and communication as sub-

¹A protective order was not issued in this protest, and discussions are presently being held with the remaining competitive range offerors. Therefore, our discussion here will be limited.

subfactors,² The RFP cautioned offerors that proposals should include at least the minimum information required by the RFP's proposal preparation instructions and that offers not including sufficient information might be rejected.

The record shows that the Army evaluated IRC's proposal on each of the evaluation factors, subfactors, and sub-subfactors that were set forth in the RFP. Overall, the evaluation panel rated IRC's proposal as unacceptable on quality. The evaluators' consensus was that IRC's proposal merited a total quality rating of only 34.3 out of 100 possible evaluation points; under the rating scale used by the agency, any evaluation score of less than 66 quality points was considered to be unacceptable.³ Thus, IRC's overall rating was significantly less than the rating required to be considered "marginal," the next-higher adjectival rating. The evaluation record supporting the panel's opinion shows that IRC's proposal contained a multitude of deficiencies. We will highlight a few examples to illustrate why the proposal was considered unacceptable and therefore eliminated from the competitive range.

The first example concerns the RFP's training requirements. The RFP required the contractor to provide all employees with training in the principles and practices of personal hygiene and food service sanitation, focusing on the individual's role in preventing foodborne illnesses. The RFP also required the contractor to provide nutrition training to all employees engaged in menu planning, food preparation, or serving. Detailed draft programs of instruction for sanitation and nutrition training were required to be submitted as part of the technical proposal. IRC's proposal provided only a general statement concerning training programs. While IRC's proposal indicated that the firm was aware of and would fulfill the training requirements and even contained a list of proposed training subjects, the proposal did not include a detailed draft program of instruction for either sanitation or nutrition training. Therefore, the evaluation panel was unable to evaluate IRC's training programs and considered this to be a weakness in IRC's proposal. This weakness was just one of many contributing to the evaluators rating IRC's proposal as "marginal" on the technical approach sub-subfactor of the technical evaluation subfactor.

²All sub-subfactors were listed in descending order of importance.

³A total score of 0 to 65 quality points was considered "unacceptable," while a total score of 66 to 74 quality points was considered "marginal."

The second example concerns evaluation of the resources⁴ proposed by IRC. Since the food services were to be performed at a number of different buildings, the RFP required offerors to describe the various categories of labor that would be used to perform the contract and to break out the average number of man-hours for labor category by building. The RFP also required offerors to provide a complete list of all vehicles and equipment to be used in performing the work. IRC's proposal, however, did not show the average number of labor hours that were anticipated at each dining facility; instead, IRC's proposal included a chart that merely set forth the total labor hours expected for each job title. Moreover, IRC's chart did not include staffing necessary for supply purchasing and distribution, ration distribution, and clerical functions. IRC's proposal did not include a list of vehicles to be used and it only listed janitorial/custodial equipment. The evaluators noted these omissions and other weaknesses in the proposal and rated it as unacceptable on the resources sub-subfactor of the technical evaluation subfactor.

A third example concerns the quality control aspect of IRC's proposal. The RFP specified that quality control personnel should be separate from the contractor's production and supervisory staff. The RFP also stated that the proposed organizational plan should assure that quality control inspectors are accountable only to the contractor's corporate staff in order to assure that they are free from the influence of the contractor's other on-site personnel. However, IRC proposed that its project manager would have a dual role and would also be the quality control manager. IRC's proposal also stated that the food services supervisory staff would also act as quality control inspectors. Thus, because IRC's quality control personnel were not separate and independent of the production and supervisory personnel, and because of other perceived weaknesses in IRC's proposed quality control plan, the evaluation panel downgraded IRC's proposal on all sub-subfactors of the quality control evaluation subfactor, resulting in an "unacceptable" rating on quality control.

The last example of a weakness in IRC's proposal concerns the firm's experience. The RFP required the offeror to provide evidence of experience during the last 5 years in performing operations similar in size, type, and complexity to the present requirement. The evaluation panel noted that IRC's cited experience was not current as the proposal listed only two food services contracts and those were performed in 1988. The panel also determined that the two

⁴The RFP defined "resources" as the personnel and equipment needed to support the contract work performance.

listed contracts were significantly smaller in scope and complexity. Therefore, the panel considered IRC's proposal to be "unacceptable" on the technical experience sub-subfactor of the technical evaluation subfactor.

In addition to reviewing the evaluation of IRC's technical proposal and the evaluation panel's determination that the proposal was overall "unacceptable," the contracting officer examined an analysis of IRC's price proposal before eliminating IRC's proposal from the competitive range. The price analysis showed that the proposal failed to include a number of necessary cost elements (for example, a depreciation schedule for vehicles, shop equipment, and small tools). In addition, IRC's proposal did not include sufficient evidence of IRC's financial capability (for example, a financial statement or a bank line of credit) as required by the RFP. Most significantly, IRC's total price was determined to be significantly understated. In fact, IRC's total price was approximately 36 percent less than the government's estimate for the work. We note that the government's estimate was roughly equal to the average total price proposed by all offers; we also note that IRC's total price was the lowest by far of the 12 offers received. In this regard, the RFP cautioned offerors that an unrealistically low price proposal would be considered as showing an inherent lack of technical competence or failure to comprehend the complexity and risks of the proposed contractual requirement and would be grounds for rejecting the proposal.

In our opinion, the contracting officer was fully justified in excluding IRC's proposal from the competitive range. As shown by the examples above, the proposal was inadequate and was not at all close to being considered technically acceptable. In view of the protester's failure to submit an adequate technical proposal and its unrealistically low price, the contracting officer could reasonably conclude that IRC did not fully understand the complexity and risks of the requirement. For all of these reasons, the contracting officer reasonably determined that IRC's proposal would have required major revisions to be made acceptable and that the proposal as submitted had no reasonable chance of being selected for award. See Federal Acquisition Regulation § 15.609(a).

Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, it may properly be excluded from the competitive range irrespective of its lower offered price. See A. G. Crook Co., supra. There is no obligation for the agency to conduct discussions with an offeror whose proposal has been properly excluded from the competitive range. Id. In this case, because the Army reasonably determined IRC's proposal

to be technically unacceptable, the subsequent elimination of IRC's proposal from the competitive range without conducting discussions was unobjectionable.

The protest is denied.

/s/ Michael R. Golden
for Robert P. Murphy
General Counsel