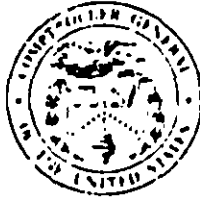


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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*Pro. LAW I  
Vickers*

FILE: B-191138

DATE: July 5, 1978

MATTER OF: Metro Contract Services, Inc.

**DIGEST:**

1. Protest that applicant screening techniques should have been considered under listed evaluation factor of "Initial Staffing and Phase-In" is denied because major evaluation criteria in RFP need not be broken down to reflect each specific factor actually considered where, as here, there is sufficient correlation between stated criteria and factors actually used.
2. Offeror was not prejudiced by failure of agency to reduce cost proposal by \$9,000 cost of computerized work order system, which source evaluation panel found to be more than needed, where total contract price is \$2.5 million, \$9,000 reduction would not have made offeror low in cost nor made cost a discriminator in contractor selection.
3. Review of protester's proposal and source selection statement reveals nothing improper in downgrading of proposal in three areas which were not discussed or not discussed adequately in proposal, contrary to contentions of protester. Further, scoring of protester's and successful offeror's proposals in area of past experience was not improper.
4. Where RFP contains no provision regarding minority status of offerors, it would be improper to give competitive advantage to firm based on fact it was minority contractor.

Metro Contract Services, Inc. (Metro), has protested the award of a contract to S.F.&G. Inc., d.b.a. Mercury, by the National Aeronautics and Space

Administration (NASA), Langley Research Center, Hampton, Virginia, under request for proposals (RFP) No. 1-105-5715.0550.

The contract is for support services for the steam and compressed air facilities at Langley. The cost-plus-fixed-fee contract was for a 2-year base period plus 1-year priced option period and two additional 1-year unpriced options.

The RFP was issued on September 2, 1977, and seven proposals were received on the due date of October 17, 1977. Following an initial evaluation, written discussions were conducted with the five offerors determined to be in the competitive range. Award was made to Mercury on January 16, 1978.

Metro's initial basis of protest is that the Source Evaluation Panel (SEP) improperly downgraded Metro's proposal for allegedly containing a major weakness in applicant screening techniques. Metro argues that the RFP's evaluation criteria contained no mention of applicant screening techniques and, therefore, the action by the SEP was inappropriate.

Subfactor 1 under RFP Evaluation Factor 1.0, Management and Operations Plan, reads as follows:

"Initial Staffing and Phase-In  
- Provide detailed plans for initial staffing of the entire complement, for making fully operational all Contractor-Furnished Equipment, and Government-Furnished Equipment by contract start, and for other facets ensuring maximum continuity of service to the Government. The initial staffing plans shall include recruiting methods to be utilized, commitments assuring availability of all personnel including the degree of incumbent personnel retention, and planned phasing-in of personnel including initial orientation and training."

NASA contends that the consideration of an offeror's proposed method of applicant screening was not the imposition of a new, unpublished evaluation criterion, as argued by Metro, but rather was an inherent part of the published criteria.

Our Office has held that the major evaluation criteria listed in an RFP need not be broken down to reflect each specific factor actually considered in the detailed evaluation of proposals, so long as there is sufficient correlation between the stated criteria and the factors actually used. See Checchi and Company, B-187982, April 4, 1977, 77-1 CPD 232, and AEL Service Corporation et al., 53 Comp. Gen. 800 (1974), 74-1 CPD 217.

Based upon our review of the record, including Subfactor 1, the entire RFP and the argument of Metro, we believe that applicant screening is within the purview of "Initial Staffing and Phase-In" and, therefore, find nothing improper in the SEP's evaluation of the matter.

Secondly, Metro contends that while the SEP downgraded Metro's computerized work order system as being too complicated and more than was needed to perform the contract properly, the SEP did not reduce Metro's cost proposal by the \$9,000 proposed cost for the system.

The contracting officer has responded to the above argument by stating that the \$9,000 cost (\$3,000 per year for the initial 2-year contract plus the 1-year priced option) was nominal, some other type of system would have been necessary to replace the system at some cost and the difference in cost would be inconsequential.

We note that the Source Selection Statement (SSS) finds that cost was not discriminator in the contractor selection as there was only nominal

difference in cost between all five offerors. All offerors' proposed costs were roughly \$2.5 million for the 3-year period which was evaluated. Accordingly, even if Metro's costs for its work order system should have been reduced by some amount, even the full \$9,000, such cost savings would have been insignificant compared to the total evaluated costs and would not have been sufficient to make cost a discriminator. In addition, it would not have made Metro the low cost offeror, as it alleges.

Thirdly, Metro challenges a finding in the SSS that Metro's technical operations plan did not address the reporting of technical problems which Metro argues was discussed in detail in its proposal. The contracting officer states that, while Metro's proposal did discuss the handling of technical problems, there was no plan as to the notification of NASA personnel when a serious technical problem arose. We have reviewed Metro's proposal and agree that it did not contain such a plan. In view of paragraph 1.2.9 of the Statement of Work in the RFP, which stated, "In the event of probable or actual equipment failure the Contractor shall immediately report to the Government orally and/or in writing specifying possible causes and estimated time for repair," we have no objection to the SEP's criticism of this area of Metro's proposal.

Next, Metro states that it was unfairly criticized in the SSS under the evaluation criteria "Continuing Plan" because it failed to adequately discuss turnover replacement, which portion of its proposal Metro contends it clarified and amplified in response to the following question posed by the SEP:

"Explain specifically your plan for replacement personnel for Stationary Steam Engineers and Steam Plant Operators to maintain continuous service coverage during absences of the regular personnel."

Metro alleges that its original proposal and its 6-page submission in response to the above question were more than adequate and that the fact that the SEP continued to downgrade Metro in this area shows that the SEP was specifically looking for something upon which to downgrade Metro.

The contracting officer states that Metro was not downgraded for its proposed short-term personnel replacement which was clarified and expanded in its revised proposal in response to the above question but for a weakness in its permanent personnel replacement plan. Metro treats these two areas as one in its protest, according to the contracting officer, when they were actually two distinct evaluation subcriteria. Metro's short-term personnel replacement plan was unclear in its original proposal and, therefore, the SEP posed the above question to clarify it. However, its permanent replacement plan was clear in its original proposal but contained a weakness in the judgment of the SEP because Metro planned to obtain the advice of the contracting officer's technical representative on potential employees prior to hiring, which was a matter the SEP considered to be the sole responsibility of the contractor.

Our Office has recognized that while an ambiguity or a portion of a proposal which is unclear should be clarified with the offeror, there is no requirement under NASA's negotiation procedures, contained in NASA Procurement Directive 70-15, to point out a weakness or deficiency. Management Services, Inc., 55 Comp. Gen. 715, 729 (1976), 76-1 CPD 74.

Accordingly, as Metro was downgraded for an area of its proposal which it did not strengthen in its revised proposal (permanent personnel replacement), not the short-term personnel replacement which it was under the mistaken impression it was downgraded for, our Office has no objection to the evaluation in this area.

Metro also contends that it was improperly penalized in the evaluation process for failing to discuss the relative authority of critical personnel, when its proposal contained a detailed discussion of the relative authority of key personnel, which, by definition, would include critical personnel. Metro argues that it was downgraded solely because of its choice of terms (key vs. critical).

The RFP listed the Contract Manager, Steam Plant Foreman and Air Compressor Plant Foreman as key personnel and the four each Stationary Steam Engineers and Senior Air Plant Technicians as critical personnel. Metro's proposal contained a chart describing the authority and responsibility of the key personnel. There was no corresponding information regarding the critical personnel. While Metro states that its choice of terms determined its score in this area, under the terms of the RFP, both phrases had certain meanings and we note that the remaining portion of Metro's proposal employed the terms consistent with the RFP. Therefore, as Metro's proposal did not discuss the relative authority of critical personnel, there was nothing improper in NASA's actions.

Metro states that its rating of satisfactory plus under Factor 1.0, Subfactor 1 (Initial Staffing and Phase-In), is inconsistent with the good plus rating it received under Factor 2.0 (Key and Critical Personnel). Factor 2.0 was an evaluation of the actual people proposed for the contract based on their resumes, while Factor 1.0, Subfactor 1, as quoted above, included the manner in which an offeror would start up performance. Therefore, as two different areas were being evaluated, there was no need for the rating to be the same. Upon our review, we find no inconsistency.

Metro also takes exception to the SSS, concluding that Mercury was graded too high on past

experience while Metro was downgraded and not given enough credit for its experience. NASA responds that Metro was given credit for its past performance of the Langley Base maintenance contract but that Mercury was given more points for steam plant and air compressor station facilities services being performed for the Environmental Protection Agency at Research Triangle Park, North Carolina, the same type contract under consideration here. We find nothing improper in this point allocation.

Additionally, Metro argues that it did not receive full consideration as a minority contractor in contravention of various Executive orders and congressional policy. The procurement was a small business set-aside and contained no evaluation factors relating to the minority status of an offeror. Therefore, since an award must be based on the evaluation criteria contained in a solicitation, it would have been improper for NASA to give Metro a competitive advantage due to its minority status.

Metro also questions NASA's award to Mercury during the 10-day period following the debriefing when NASA was aware of a probable protest being filed. Our Bid Protest Procedures only prohibit an award after a protest has been filed with our Office unless certain determinations are made. See 4 C.F.R. § 20.4 (1977). Therefore, as the protest was filed on January 20, 1978, and the award was made on January 16, 1978, our Office finds nothing improper in the action of NASA.

Finally, Metro states that it should have received the SSS substantially in advance of its debriefing instead of obtaining it only 1 hour prior to the debriefing. However, Metro was not prejudiced by its late receipt of the SSS as it did not affect the contractor selection process or the evaluation of the proposals.

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For the foregoing reasons, the protest is denied.

  
Deputy Comptroller General  
of the United States