



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Pacifica Services, Inc.

File: B-280921

Date: December 7, 1998

Raymond Fioravanti, Esq., and Alan Dickson, Esq., Epstein Becker & Green, for the protester.

Jance R. Hawkins, Esq., and Richard B. Oliver, Esq., McKenna & Cuneo, for TrendTec, Inc., an intervenor.

Capt. Larna Ross, Capt. Jesse Arnstein, and John E. Lariccia, Esq., Department of the Air Force, for the agency.

Tania Calhoun, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contracting agency's rejection of protester's proposal as technically unacceptable was reasonable and consistent with the solicitation's evaluation criteria where the record shows the agency reasonably determined that the proposal failed to comply with the solicitation's requirement to demonstrate that its proposed staffing represented an adequate number and appropriate allocation of qualified employees and job categories for each task. Since offerors were on notice the agency might award the contract without conducting discussions, the agency's decision to do so under the circumstances here is unobjectionable.

DECISION

Pacifica Services, Inc. protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. F06493-98-R-0031, issued by the Department of the Air Force to obtain civil engineering services at the Los Angeles Air Force Base and its military family housing annexes. Pacifica contends that the Air Force improperly evaluated its technical proposal and improperly failed to conduct discussions with the firm prior to awarding the contract to TrendTec, the only offeror whose proposal was evaluated as technically acceptable.

We deny the protest.

The solicitation sought the services of a firm to perform a broad range of maintenance, repair, and minor construction work on real property at the Los Angeles Air Force Base in El Segundo, California; the Lawndale Annex in Hawthorne, California; and the Fort MacArthur Military Family Housing Annexes in San Pedro, California. RFP § L-II-1.0.a. In addition to performing maintenance,

repair, and minor construction work, the successful contractor was responsible for such disparate base civil engineering functions as management information systems, real property management, engineer services, contract planning and programming, drafting and record drawing maintenance, design and construction management, and management of the base's simplified acquisition of base engineering requirements (SABER) contract. Performance Work Statement (PWS), RFP § C-5, ¶¶ 5.5-5.11.

The solicitation contemplated the award of a fixed-price, award fee contract to a firm to perform these services for 1 base year, with up to 4 option years available. RFP Cover Letter at 1; RFP § F(1). Award was to be made to the offeror submitting the lowest-priced, technically acceptable proposal. RFP § M.1. Pass/fail ratings were to be assigned under the solicitation's non-price evaluation factors. RFP § M.2.b. Since the government reserved the right to award without discussions, offerors were cautioned that their initial offers should include their best price and terms. RFP § M.2.

Section L-II-2.3. of the RFP cautioned offerors that their proposals shall be:

clear, concise, and shall include sufficient detail for effective evaluation and for substantiating the validity of stated claims. The proposal should not simply rephrase or restate the Government's requirements, but rather shall provide convincing rationale to address how the offeror intends to meet these requirements. Offerors shall assume that the Government has no prior knowledge of their facilities and experience and will base its evaluation on the information presented in the offeror's proposal.

The sole proposal volume at issue here is the leadership/technical volume.¹ With respect to this volume, offerors were required to "provide as specifically as possible the actual methodology" they would use for accomplishing the PWS. RFP § L-II-4.1. They were also required to demonstrate their ability to "plan, organize, and manage resources in a coordinated and timely manner such that the performance requirements will be achieved, costs will be controlled, and schedules will be met. The offeror must demonstrate a clear understanding of the processes and efforts required to satisfy the requirements. Leadership/technical proposals must provide a complete and acceptable response to [the instructions in section L-II of the RFP]."² RFP § M.3.

¹Offerors were also required to submit executive summary, cost/price, contract documentation, and relevant past and present performance volumes. RFP § L.2.2.

²The instructions in section L-II of the RFP are virtually identical to the evaluation factors in section M, relevant portions of which are quoted below.

All of the non-price evaluation factors were drawn from the leadership/technical volume: leadership/technical, sample problems/scenario, quality control, and past performance. RFP § L-II-4.2. The sole factor at issue here is leadership/technical. Section M.4 of the RFP set forth five leadership/technical subfactors: management approach, organizational structure, staffing, key personnel qualifications, and start-up plan.

The Air Force received and reviewed proposals from four offerors, including Pacifica (the incumbent contractor's principal subcontractor) and TrendTec. The technical evaluation team (TET) concluded that Pacifica's proposal passed all of the non-price evaluation factors save leadership/technical. According to the TET, Pacifica's proposal did not contain a sufficient number or proper allocation of qualified employees to accomplish all PWS requirements; did not demonstrate a detailed and integrated approach or rationale for management of all activities; and did not provide an approach to subcontract management. Technical Proposal Evaluation of Pacifica at 1. Since Pacifica's proposal failed the leadership/technical factor, it was deemed to have failed the entire technical evaluation and considered to be technically unacceptable. The source selection authority (SSA) concurred, and Pacifica's proposal was rejected, as were two other proposals deemed technically unacceptable. SSA Decision at 1. The Air Force subsequently awarded the contract to TrendTec, the only technically acceptable offeror, at a price of \$34.671 million, approximately \$2 million higher than Pacifica's proposed price.

Pacifica argues that the Air Force improperly evaluated Pacifica's proposal with respect to its staffing, management approach, and subcontracting approach. Pacifica contends that the agency utilized an unstated minimum staffing level and unstated personnel requirements in evaluating Pacifica's staffing; utilized an unstated requirement for detailed management practices in evaluating Pacifica's management approach; and conducted an irrational evaluation of the firm's subcontracting approach.

The evaluation of proposals is a matter 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. We will question the agency's technical evaluation only where the record shows that the evaluation does not have a reasonable basis or is inconsistent with the RFP. Quarles Janitorial Servs., Inc., B-251095, B-251095.2, Mar. 3, 1993, 93-1 CPD ¶ 197 at 3. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. Id. Further, since an agency's evaluation is dependent upon the information furnished in a proposal, it is the offeror's burden to submit an adequately written proposal for the agency to evaluate, and a protester's failure to fulfill its obligation in this regard does not render the agency's evaluation unreasonable. See Robotic Sys. Tech., B-278195.2, Jan. 7, 1998, 98-1 CPD ¶ 20 at 9. Our review of the record, including testimony obtained at a hearing, leads us to conclude that the agency's evaluation of

Pacifica's proposal as technically unacceptable was reasonable and consistent with the terms of the solicitation.

It is useful to briefly reiterate the solicitation's explicit instructions regarding the detail required of proposals. Offerors were required to "include sufficient detail for effective evaluation and for substantiating the validity of stated claims"; "provide convincing rationale to address how the offeror intends to meet [the government's] requirements"; "provide as specifically as possible the actual methodology" they would use to accomplish the PWS; and "provide a complete and acceptable response to [the instructions in section L-II of the RFP]." RFP §§ L-II-2.3, L-II-4.1; M.3.

With these instructions as a backdrop, offerors were required to propose a staffing approach that was to be evaluated in accordance with the following relevant portions of RFP § M.4.a.(3), the staffing subfactor:

The offeror's proposed staffing demonstrates that personnel are capable of performing tasks in the PWS at the start and throughout contract performance. The offeror's proposed staffing represents an adequate quantity and appropriate allocation of qualified employees and job categories (including subcontractors) for each critical and noncritical task which will ensure accomplishment of the PWS requirements. The proposed staffing presents an effective mix of multidisciplined skills, education, training, certifications/licenses, and work experience (including subcontractors) to accomplish the requirements of the PWS.

Pacifica's proposal cites its experience as the principal subcontractor to the incumbent contractor, asserts that the firm is fully knowledgeable of the staffing requirements to execute the PWS requirements, and claims that its proposed staffing will provide personnel with the requisite skill mix to perform the PWS tasks. Proposal at 29. However, Pacifica's principal response to the staffing subfactor is found in Table IIe-3.2 of its proposal.

The 30 fold-out pages that comprise this table list each proposed labor category across the top and each PWS paragraph down the left-hand column. At the intersection of each row and column, Pacifica lists the amount of time each labor category is to spend on each PWS paragraph, in full-time equivalent (FTE) hours. In many instances, the intersection of row and PWS paragraph does not list a figure but, rather, an asterisk denoting "less than .05" FTEs.

According to its contemporaneous evaluation document, the TET believed that Pacifica's proposed staffing did not demonstrate personnel capable of performing tasks in the PWS at the start and throughout contract performance, and that its proposal did not contain a sufficient number or a proper allocation of qualified

employees to accomplish all of the PWS requirements. As examples of these failings, the TET stated that Pacifica's proposal did not include "key technical coverage" in electrical and civil/structural engineering and did not propose a sufficient number of personnel for in-service work planning, SABER project development and management, and construction inspection. Technical Proposal Evaluation of Pacifica at 1.

In response to the protest, the TET's chief evaluator provided a declaration in which she elaborated upon the contemporaneous evaluation. She also testified on this subject at a hearing convened to resolve the protest.³ The chief evaluator stated that Pacifica's table was difficult to understand and failed to demonstrate that its proposed staffing represented an "adequate quantity and appropriate allocation of qualified employees and job categories" for each task that will ensure accomplishment of the PWS requirements, as required by the RFP. First, there was no narrative to demonstrate why the number and mix of personnel proposed to perform given PWS tasks would ensure accomplishment of those tasks. As the chief evaluator testified at the hearing, merely putting a number in a category does not substantiate the ability to perform the work because that "in no way tells us how that number is accurate to reflect the amount of work required to perform that one area of work." Hearing Transcript (Tr.) at 77; see also Tr. at 86-88, 161-62. Second, Pacifica's use of the asterisk made it difficult for the Air Force to ascertain how much time was to be devoted to various tasks because there was no way to know exactly how much less than .05 FTEs Pacifica was proposing for a given task and labor category. Tr. at 180-81; see also Tr. 77-78. Despite determining that Pacifica's overall staffing was insufficient for the reasons above, the TET attempted to identify the number of proposed personnel for critical staffing only, in the event that these were the only services the Air Force's funding would allow.⁴ The Air Force encountered the same difficulties here and, in addition, concluded that some positions were assigned more tasks than the agency thought they could accomplish. Chief Evaluator's Declaration at ¶¶ 35-38; Tr. at 77-78, 81, 118-22, 180-81.

³We do not agree with Pacifica that the contents of this declaration and of certain hearing testimony constitute a wholly new evaluation which we should not consider. Post-protest explanations that provide a detailed rationale for contemporaneous conclusions, as is the case here, simply fill in unrecorded details, and will generally be considered in our review of the rationality of an evaluation, so long as those explanations are credible and consistent with the contemporaneous record. See Jason Assocs. Corp., B-278689 et al., Mar. 2, 1998, 98-1 CPD ¶ 67 at 6 n.4.

⁴The RFP informed offerors that the agency would acquire only critical services and environmental services if planned funding was not provided. RFP Cover Letter at 1. Accordingly, each PWS paragraph was identified as representing a critical or non-critical task.

Our review of Pacifica's table leads us to conclude that the Air Force reasonably determined that Pacifica failed to substantiate its proposed staffing, despite being on notice that it was required to do so. We agree that its charts, which are indeed difficult to understand, do not serve as a substitute for an explanation of why the firm's proposed staffing was sufficient to perform the PWS requirements. See Compania De Asesoría Y Comercio, S.A., B-278358, Jan. 20, 1998, 98-1 CPD ¶ 26 at 8. We also think that Pacifica incorrectly contends that the agency's concern with how it could perform the tasks with the total number of staff it proposed means that the agency evaluated its proposal using an unstated minimum staffing level. The record shows that the Air Force was not evaluating Pacifica's proposal with a particular staffing level in mind, but was concerned by the firm's failure to substantiate its own proposed staffing given its own approach to performing the work. Chief Evaluator's Declaration at ¶ 40; Tr. at 76-77, 81-83, 160-62, 183-84. Both the concern and the resulting evaluation are reasonable.

As specific examples in support of its evaluation, the TET stated, among other things, that Pacifica's proposal did not include "key technical coverage in electrical and civil/structural engineering." Technical Proposal Evaluation of Pacifica at 1.

As an initial matter, Pacifica has mischaracterized the Air Force's position by arguing that it improperly required offerors to propose, as key personnel, an electrical engineer and a civil/structural engineer. As the evaluation document plainly states, the agency's concern was with Pacifica's failure to provide "key technical coverage" in these areas, not its failure to propose actual engineers as key personnel. See also Tr. at 138-39, 146-47.

The chief evaluator refers to the requirement that the contractor repair and maintain all integral components of facilities, found at PWS ¶ 5.31.2. The requirement states, "[i]n addition to normal structural loading such as dead/wind/snow, the contractor shall consider seismic [factors] to assure structural integrity of facilities by using [an Air Force manual on seismic design for buildings]." Id. The chief evaluator states that this would require the contractor to look at as-built drawings and the existing structure to see if a proposed renovation would comply with current seismic standards, or if retrofitting was required, and to draft a statement of work. Chief Evaluator's Declaration at ¶ 15. She points out, correctly, that there is no evidence in Pacifica's proposal that any of the personnel proposed to perform this task have the ability to "consider seismic [factors] to assure structural integrity of facilities." Proposal Table IIe-3.2 at 7, 17; Proposal at 62-69; Proposal at Attachment 1; see also Tr. at 78-80, 145, 189-90.

Pacifica's insistence that it allocated to this PWS paragraph personnel that were competent to do what is required is all very well, but there is no evidence to support this claim in its proposal. There is no dispute that Pacifica was free to

cross-utilize the architects it proposed elsewhere to do this work⁵ or to subcontract for this skill, as it points out it could have done, but the firm's proposal failed to state that it would do either of these things. As a result, we cannot conclude that the Air Force unreasonably determined that Pacifica's proposal failed to include key technical coverage in this area.

The chief evaluator also refers to PWS ¶¶ 5.30.8, 5.31.5, and 5.31.11, which require the contractor to repair and maintain overhead distribution systems, substations, switching stations, electrical vaults, exterior lights, meters, low voltage electrical wiring, devices, electrical equipment/appliances, grounding, wiring, rectifiers, associated hardware, and to install cathodic protection. Chief Evaluator's Declaration at ¶¶ 17-19. While there are general references to electrical experience for two of the personnel proposed by Pacifica to perform these tasks, there is no indication that they have electrical engineering experience. Pacifica Proposal Table IIe-3.2. at 17; Proposal Attachment 1 at 15, 16. Pacifica asserts that the individual it proposed as its installation restoration and disaster preparedness section head has a degree in electrical engineering, but he was not proposed to perform these tasks. Further, we are not persuaded by Pacifica's argument that its reference to subcontracting out for high voltage work should have assured the agency that all of these electrical engineering possibilities would be covered.

The requirement for key technical coverage in the area of electrical engineering surfaces again when PWS ¶ 5.10.1.7. is considered. That paragraph requires the contractor to provide engineer and technical services as required to support site surveys and investigations, requests for information, preparation of project packages for contracting, cost estimates, technical translation, and support to the contracting officer for evaluating bids, and to provide technical assistance for planning in-house work orders. As the Air Force points out, the two personnel proposed by Pacifica to perform this task--its architect and mechanical engineer--have no electrical engineering experience. Pacifica Proposal Table IIe-3.2. at 2; Proposal Attachment 1 at 7, 9. As a result, to the extent this PWS task will involve the provision of electrical engineering services, the task is not fully covered by Pacifica's proposed staffing.⁶

⁵Neither architect was proposed to perform this task but, in any event, a review of their resumes does not disclose an ability to "consider seismic [factors] to assure structural integrity of facilities." Proposal Attachment 1 at 7, 8.

⁶There is a similar lack of coverage--for both electrical and structural/civil engineering--with respect to PWS ¶ 5.10.1.10., which requires the contractor to perform constructability reviews of all designs. Chief Evaluator's Declaration at ¶ 20.

In conclusion, the record affords us no basis to disagree with the Air Force's conclusion that Pacifica's proposal was technically unacceptable because it failed to demonstrate that its proposed staffing represented an adequate quantity and appropriate allocation of qualified employees and job categories for each PWS task, as the solicitation's terms required it to do. Moreover, we have no basis to disagree with the Air Force that this deficiency alone was sufficient to render the proposal technically unacceptable.⁷ See RFP §§ M.2b, M.2c.

We also disagree with Pacifica's contention that the Air Force improperly failed to conduct discussions prior to making award to TrendTec. There is generally no obligation that a contracting agency conduct discussions where, as here, the RFP specifically instructs offerors of the agency's intent to award a contract on the basis of initial proposals. Robotic Sys. Tech., *supra*, at 11. The contracting officer has broad discretion to make award on the basis of initial proposals, but that discretion is not unfettered; we will review the exercise of such discretion to ensure that it was reasonably based on the particular circumstances of the procurement, including consideration of the proposals received and the basis for the selection decision. *Id.*; Lloyd-Lamont Design, Inc., B-270090.3, Feb. 13, 1996, 96-1 CPD ¶ 71 at 6. Under the circumstances here, recounted above, we conclude that it was permissible for the agency to reject Pacifica's proposal rather than provide the firm an opportunity to correct the deficiencies. See Good Food Serv., Inc., B-277145, Sept. 2, 1997, 98-1 CPD ¶ 102 at 3.

The protest is denied.

Comptroller General
of the United States

⁷Based on this conclusion and the one below, we need not address Pacifica's allegations concerning the evaluation of its proposal's management approach, subcontracting approach, or price.