



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

REDACTED DECISION

A protected decision was issued on the date below and was subject to a GAO Protective Order. This version has been redacted or approved by the parties involved for public release..

Matter of: Metrica, Inc.

File: B-270086; B-270086.2

Date: February 8, 1996

Joseph D. Gebhardt, Esq., and Steven B. Schwartzman, Esq., for the protester.
James S. Phillips, Esq., and Barbara S. Kinosky, Esq., for Kajax Engineering, Inc.,
the intervenor.

Jane H. Talley, Esq., Department of Agriculture, for the agency.

John L. Formica, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Award to the offeror submitting the more technically advantageous, higher-priced proposal was reasonable where it was consistent with the solicitation's evaluation scheme and the agency reasonably determined that the documented technical advantages of the awardee's higher-priced proposal outweighed the price advantage of the protester's proposal.

DECISION

Metrica, Inc. protests the award of a contract to Kajax Engineering, Inc., under request for proposals (RFP) No. 00-95-1015BB, issued by the Department of Agriculture for on-site automated data processing support services at the National Computer Center in Kansas City, Missouri, the National Finance Center in New Orleans, Louisiana and the Washington Service Center in Washington, D.C. Metrica challenges the agency's evaluation of its and Kajax's proposals, and the agency's selection of Kajax's higher-priced proposal for award.

We deny the protest.

The RFP, issued as a competitive set-aside under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1994), provided for the award of a firm, fixed-price requirements contract for a base period of 1 year with four 1-year options. The RFP informed offerors that proposals would be evaluated for compliance with certain "mandatory standards" contained in the solicitation, such as "qualify[ing] as a firm participating in the 8(a) program" under the relevant standard industrial code,

and compliance with applicable Department of Labor wage determinations. The RFP also listed the following technical evaluation factors and subfactors:

Factor 1. Corporate Experience

Subfactor A. Recent Past Experience

Subfactor B. Corporate Background, Organization, and Stability

Subfactor C. Recruitment, Employee Development, and Stability

Factor 2. Technical Approach

Subfactor A. Understanding the requirements of the solicitation

Subfactor B. Management Coordination and the Authority Delegated to the Lead Operators

Subfactor C. Problem Resolution

Subfactor D. Staffing and Operational Plan

Subfactor E. Transition Plan

Subfactor F. Quality Assurance

The solicitation informed offerors that factors 1 and 2 were equal in importance, and that within factor 1, subfactor A was equal in importance to subfactors B and C combined. The RFP further provided that within factor 2, subfactors A and B were equal to each other, subfactors C and F were equal to each other, and subfactors D and E were equal to each other, and that subfactors A and B combined were slightly more important than subfactors C through F combined. The RFP provided for the award of a contract to the offeror whose proposal offered the greatest value to the agency, cost and other factors considered, and stated that "[t]echnical factors will have a slightly higher weight than cost and other factors in making the award decision." The RFP requested the submission of a technical proposal, and a cost and business proposal, and provided detailed instructions for the submission of proposals.

The agency received five proposals, including Metrica's and Kajax's, by the RFP's closing date of June 30, 1995. The proposals of Metrica and Kajax were included in the competitive range, discussions conducted, and best and final offers (BAFO) received. Kajax's BAFO received an overall score of 1,597.5 out of 1,800 total points at a price of \$8,233,133.¹ Metrica's BAFO received an overall score of 1,370.5 points at a price of \$7,279,713. The agency determined that Kajax's proposal represented the best value based on technical and price considerations, and made

¹The agency did not disclose in the RFP either its plan to point score the offerors' proposals on a 1,800-point scale or the specific point value of each evaluation factor or subfactor.

award to that firm. After being informed that Kajax had received the award, and being provided with written and oral debriefings, Metrica filed this protest.

Metrica protests that the agency's evaluation of its and Kajax's proposals under the Staffing and Operational Plan evaluation subfactor was unreasonable.

The evaluation of technical proposals is a matter within the discretion of the contracting agency because the agency is responsible for defining its needs and the best method of accommodating them. Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16. In reviewing an agency's evaluation, we will not reevaluate an agency's evaluation, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. Decision Sys. Technologies, Inc.; NCI Information Sys., Inc., B-251786 et al., Sept. 7, 1994, 94-2 CPD ¶ 167. An offeror's mere disagreement with the agency does not render the evaluation unreasonable. McDonnell Douglas Corp., B-259694.2; B-259694.3, June 16, 1995, 95-2 CPD ¶ 51. Based upon our review of the record, and as discussed more fully below, we find that the agency's evaluation of Metrica's and Kajax's proposals under the Staffing and Operational Plan evaluation subfactor was reasonable and in accordance with the RFP.

The RFP informed offerors that their technical proposals were to include an "organization chart" and to "[p]rovide the name, title, and length of time employed by the offeror of each person included in the chart." Offerors were also instructed to provide, for the Staffing and Operational Plan subfactor, a resume for each individual listed on the organization chart, to provide a staffing plan for each facility, resumes for designated key employees, and to "[s]pecifically identify proposed staff who are not current employees of the offeror(s)."

Kajax's proposal received a score of 132 out of the 150 total points available under the Staffing and Operational Plan subfactor. The agency found in evaluating Kajax's proposal that Kajax had submitted detailed staffing plans for each of the three sites, and had identified and supplied the resume of each person proposed to staff the contract. Although certain of the individuals proposed to staff the National Finance Center in New Orleans were identified as contingency hires, Kajax supplied letters of commitment for each of these individuals.

Metrica's proposal received a score of 90 points under the Staffing and Operational Plan subfactor. In contrast to Kajax's detailed staffing plan, which identified individuals to staff every position required to perform the contract, Metrica's plan caused the agency concern because it included 23 vacant positions. Metrica's staffing and operational plan also caused the agency additional concern because each of the individuals specifically identified by Metrica to staff the contract were located in Washington, D.C., and would thus have to relocate to Kansas City or New Orleans to perform the contract, and because Metrica had not identified any

contingency hires or newly recruited personnel. The agency concluded that because of Metrica's lack of either current, newly recruited, or contingency hires local to the Kansas City or New Orleans sites, the staffing plan was "high risk."

Despite having access under the General Accounting Office protective order to, among other things, Kajax's proposal and the agency's evaluation documentation, Metrica, in its comments on the agency report, does not substantively respond to the propriety of the agency's evaluation of Kajax's and Metrica's proposals under the Staffing and Operational Plan subfactor. Because of this, and based upon our review of the record, we conclude that Metrica's objection to this aspect of the agency's evaluation constitutes, at best, its mere disagreement with the evaluation results, and does not demonstrate that the agency's evaluation of the proposals under the Staffing and Operational Plan evaluation subfactor was unreasonable. Medland Controls, Inc., B-255204; B-255204.2, Feb. 17, 1994, 94-1 CPD ¶ 260.

Metrica argues in its comments on the agency report that the agency's evaluation of Metrica's proposal under the "Recent Past Experience" evaluation subfactor was unreasonable. The agency contends that this aspect of Metrica's protest is untimely because the protest basis--the propriety of the agency's evaluation of Metrica's proposal under the Recent Past Experience subfactor--is new and substantively different from those raised by Metrica in its initial protest, and was not filed until 16 calendar days after Metrica's receipt of the agency report.

Our Bid Protest Regulations require that protests not based upon solicitation improprieties be filed not later than 14 calendar days after the basis of protest is known, or should have been known, whichever is earlier. Section 21.2(a)(2), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(2)). The timeliness of a specific basis of protest raised after the filing of a timely protest depends upon the relationship the later-raised basis bears to the initial protest. GE Gov't Servs., B-235101, August 11, 1989, 89-2 CPD ¶ 128. Where the later basis presents a new and independent ground for protest, it must independently satisfy our timeliness requirements. Conversely, where the later basis merely provides additional support for an earlier, timely raised protest basis, we will consider the later-raised arguments. Id.

In our view, the argument raised in Metrica's comments constitutes a new and independent basis of protest, rather than additional supporting material for either of its earlier protest contentions.² In this regard, Metrica's later-raised argument challenges the agency's evaluation of its proposal under the Recent Past Experience evaluation subfactor, and provides no support and is distinct from Metrica's argument that its and Kajax's proposals were improperly evaluated under the Staffing and Operational Plan evaluation subfactor. Additionally, and despite the protester's view to the contrary, a challenge to an agency's evaluation of proposals under a specific evaluation subfactor is distinct from a challenge to the agency's best value determination. Although the propriety of the agency's evaluation of proposals under the criteria set forth in the RFP may be relevant to the reasonableness of the agency's best value determination, that relevance in itself does not permit a protester, who has protested in general the agency's best value determination, to later present a specific, and otherwise untimely argument concerning the evaluation of proposals. GE Gov't Servs., supra. As such, Metrica's argument that the agency's evaluation of its proposal under the Recent Past Experience subfactor is untimely because it was raised more than 14 days after the protester received the agency report and thus knew or should have known of this basis for protest. Id.

Metrica also challenges the agency's selection of Kajax's higher-priced proposal for award. Metrica argues in general that the agency, in selecting Kajax for award, gave undue weight to Kajax's evaluated technical superiority, and specifically contends that the agency gave undue weight in its selection decision to Kajax's evaluated superiority under the Staffing and Operational Plan subfactor.

In a negotiated procurement, award may be made to an offeror submitting a higher-rated, higher-priced offer, where the decision is consistent with the solicitation's evaluation criteria and the agency reasonably determines that the technical superiority of the higher-priced offer outweighs the price difference. D & M Gen. Contracting, Inc., B-259995; B-259995.2, May 8, 1995, 95-1 CPD ¶ 235.

We find that the agency's selection of Kajax for award was reasonable and in accord with the RFP's evaluation scheme. In selecting Kajax for award the agency noted that Kajax's proposal was technically superior to Metrica's overall, as

²Although our Bid Protest Regulations require that comments be filed within 14 days after the report is received, Metrica requested and received an extension. Bid Protest Regulations, section 21.3(h) supra. The granting of such an extension does not waive the timeliness requirements for filing bid protests. Keci Corp.-Recon., B-255193.2, May 25, 1994, 94-1 CPD ¶ 323.

evidenced by Kajax's overall higher point score of 1,597.5 as compared to Metrica's overall score 1,370.5. Indeed, Kajax's proposal was rated higher than Metrica's under each of the RFP's evaluation factors and subfactors. In addition to the overall superiority of Kajax's proposal, the agency noted Kajax's clear technical superiority under four of the evaluation subfactors: Recent Past Experience; Management Coordination and Authority Delegated to Lead Operators; Problem Resolution; and Staffing and Operational Plan. For example, with regard to the offerors' proposals under the most important evaluation subfactor, Recent Past Experience, wherein Kajax's proposal received a score of 405 out of 450 available points and Metrica's proposal received 337.5 points, the agency found that Kajax had significant experience in staffing and managing mainframe computer operations, such as those at the National Finance Center, National Computer Center, and Washington Service Center, which are in operation 24 hours per day, 365 days per year, and that Metrica did not. The agency also found here that all of the references cited by Kajax in its proposal recommended Kajax highly, in contrast to Metrica's references, which were characterized by the agency as being "lukewarm" concerning Metrica's performance.

Regarding the Management Coordination and Authority Delegated to Lead Operators subfactor, the agency explains that delegating authority to on-site supervisors is essential to prompt problem resolution. Although both offerors proposed to delegate authority to their on-site supervisors, Kajax's proposal received a score of 178 and Metrica's proposal received a score of 140 under this subfactor because of problems, as reported by Metrica's references, concerning Metrica's actual delegation of authority during contract performance.

With regard to the merits of the proposals under the Problem Resolution evaluation subfactor, the agency found that Kajax had provided an "excellent plan" for problem resolution in its proposal, which included the use of electronic reporting of problems and a response team comprised of specialists who will be assigned to work on different aspects of any problems which arise. The agency also noted that Kajax had provided specific examples of past success in problem resolution. Kajax's proposal received a score of 142.5 points out of 150 under the Problem Resolution subfactor. In contrast, the agency determined that although Metrica's proposal contained a well-written problem resolution plan, the examples of past success were generic in nature rather than specific; Metrica's proposal received a score of 112.5 under this evaluation subfactor.

As indicated by the discussion above, the record demonstrates that the agency's selection of Kajax for award was based upon the overall technical superiority of Kajax's proposal, and the proposal's significant superiority under certain of the evaluation subfactors. Although Kajax's superiority under the Staffing and Operational Plan evaluation subfactor was considered by the agency in its best value determination, the record does not evidence, as the protester suggests, that

the agency gave undue weight to the merits of Kajax's proposal under this subfactor in selecting Kajax for award.

In sum, as evidenced by the examples above and the previous discussion of the agency's conclusions regarding the merits of the offerors' staffing and operational plans, the record shows that the agency found Kajax's proposal significantly better than Metrica's under the most important evaluation subfactor, and superior to Metrica's under every other evaluation subfactor and overall. The record reflects that the contracting officer, in selecting Kajax for award, weighed Kajax's evaluated technical superiority against Metrica's lower price, and determined that Kajax's technical superiority more than offset the associated additional cost. Although Metrica disagrees with this assessment, it has not demonstrated that the agency's judgment is unreasonable.

The protest is denied.

Comptroller General
of the United States