



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Technology Services International, Inc.

File: B-276506

Date: May 21, 1997

Nancy O. Dix, Esq., and Mary E. Shallman, Esq., Gray, Cary, Ware, and Freidenrich, for the protester.

John E. Lariccia, Esq., Department of the Air Force, for the agency.

Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's technical evaluation, and source selection based upon that evaluation, are unreasonable where the agency evaluated the awardee's proposal with the highest rating under a significant quality control technical subfactor, even though the awardee's proposal did not submit a detailed work scheduling system as contemplated by this subfactor.

DECISION

Technology Services International, Inc. protests the award of a contract to Oahu Tree Experts under request for proposals (RFP) No. F64605-96-R-0046, issued by the Department of the Air Force, for grounds maintenance services, at Hickam Air Force Base, Hawaii. Technology Services challenges the evaluation of proposals and the best value award decision.

We sustain the protest.

The RFP, issued October 18, 1996, contemplated the award of a fixed-price contract for grounds maintenance services at Hickam Air Force Base for a 6-month base period with 5 option years. The RFP included a performance work statement (PWS), which detailed the work requirements. The RFP advised offerors that this was a "performance based contract," and that the agency "will no longer tell the contractor how to do the job," but will provide performance standards while the contractor will provide the "how to." In this regard, the PWS stated that the contractor's technical proposal, and any subsequent negotiated changes thereto, would be incorporated into the contract upon award, and the commitments made thereto shall be binding upon the offeror.

The RFP set forth a best value award evaluation scheme and stated that the government was more concerned with obtaining superior technical features than with making an award at the lowest overall cost, but that the government would not make an award at a significantly higher overall cost for slightly superior technical features. The RFP listed four evaluation areas: Technical (Grounds Maintenance), Management (Manpower Planning), Past Performance, and Price. The first three areas were equally weighted, and in combination, were said to be more important than price. The RFP further stated that in order to be eligible for award, the proposal must meet all solicitation requirements.

For the technical area, the RFP listed the following equally weighted subfactors: (a) Quality Control, (b) Equipment, Material and Supplies and Work Procedures, and (c) Customer Service. For the management area, the equally weighted subfactors were: (a) Start-up and Mobilization Procedures, and (b) Adequate Manning of Quality Personnel. For the technical and management areas, the RFP stated that additional consideration would be given when the "offeror includes value-added enhancements to the government's requirements." Past Performance was to be assessed from the offeror's past performance record and the proposed prices were to be evaluated for completeness, realism and reasonableness.

With respect to the quality control subfactor, the RFP stated that the offeror will be evaluated to assess whether its quality control plan included, among other things, "a work scheduling system which shows by area the day and time when all requirements covered in the PWS will be accomplished." The RFP required the quality control plan to include "a work scheduling system based upon the contractor's technical proposal," the schedule to "show by area, the day and time when all requirements covered under the PWS will be accomplished," and the contractor shall comply with the submitted schedule as incorporated into the contract.

For purposes of rating the proposals under the various factors and subfactors, the RFP designated the following color-coded rating system:

<u>Color</u>	<u>Rating</u>	<u>Definition</u>
Blue	Exceptional	Exceeds specified performance or capability in a beneficial way to the Air Force; and has no significant weaknesses.
Green	Acceptable	Meets evaluation standards and any weaknesses are readily correctable.
Yellow	Marginal	Fails to meet evaluation standards; however, any significant deficiencies are correctable.

Red	Unacceptable	Fails to meet minimum requirement of the RFP and the deficiency is uncorrectable without a major revision of the proposal.
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In addition, each factor and subfactor was to be rated with regard to proposal risk.

The Air Force received 11 proposals, including Oahu's and Technology Services's, by the November 29 closing date. The Air Force evaluated initial proposals. Oahu's proposal received red ratings in a number of the evaluation areas. One red rating was in the area of quality control because Oahu's quality control plan failed to include a work scheduling system. During discussions, the Air Force advised Oahu of a deficiency report because it "failed to provide a work scheduling system" and further advised Oahu that "failure to satisfactorily respond [could] result in elimination from the competitive range and render the proposal ineligible for award." Oahu responded by advising that the required "work schedule will be developed" and provided to the government.

Best and final offers (BAFO) were received on February 7, 1997. The final evaluation of the BAFOs resulted in Oahu's and Technology Services's proposals being rated with similar color-code ratings. Oahu's BAFO received green/low risk ratings under every factor and subfactor, except quality control where it received a blue/low risk rating; the record evidences that the blue rating was based on Oahu's proposal of a value added enhancement of an "integrated pest management plan." Technology Services's BAFO received green/low risk ratings under every factor and subfactor, except customer service where it received a blue/low risk rating; Technology Services's blue rating was based on its proposal of a value added enhancement for its customer service procedure. Technology Services received a "good" performance rating, while Oahu received a "neutral" performance rating because it had no experience. Oahu submitted a BAFO priced at \$4,827,522 and Technology Services's BAFO was priced at \$6,550,368; both offerors' prices were determined to be reasonable, realistic, and complete.

Based upon the foregoing evaluation, the source selection authority (SSA) determined Oahu and Technology Services's proposals to be technically equal and, because Oahu proposed the lowest price, concluded that Oahu's BAFO represented the best value. Award was made to Oahu on February 18. This protest followed.

The evaluation of proposals is a matter within the discretion of the contracting agency. Our Office will only question the agency's evaluation where it lacks a reasonable basis or conflicts with the stated evaluation criteria for award. Tidewater Homes Realty, Inc., B-274689, Dec. 26, 1996, 96-2 CPD ¶ 241 at 3.

Technology Services argues that the agency's evaluation of Oahu's technical proposal was unreasonable, particularly with regard to the quality control subfactor

because Oahu's BAFO failed to include a work scheduling system which shows by day and time when all requirements in the PWS would be accomplished. We agree.

Our review of the record confirms that Oahu's proposal failed to provide a work scheduling system showing the day and time work was to be done as was required by the RFP. The record indicates that instead of providing such a work scheduling system (which was expressly requested during discussions), Oahu promised to develop and provide the work schedule after the contract was awarded, generally described what this schedule would contain, and generally agreed to perform various requirements under the PWS on certain days. The schedule included in the BAFO did not address each area to be maintained or specify the frequencies of the tasks necessary to fulfill each PWS requirement. In contrast, Technology Services provided a work schedule, which reflected the day and time by area for the performance of each type of service in each area under the PWS and specified the frequencies of each service.

The Air Force argues that notwithstanding the lack of day and time breakdown in Oahu's proposal, Oahu's mere promise to provide such a schedule was sufficient to support its rating. The record does not support this argument. First, the RFP language specifically and unambiguously calls for the work scheduling system to show by area the day and time when all requirements covered under the PWS would be met, and it is not disputed that Oahu's proposal does not contain such a system. Second, as indicated above, the "performance based" RFP intended that offerors provide the precise details of how the work was to be accomplished, and that the work schedule developed by the offerors would be the subject of the agency's evaluation and would be incorporated into the terms of the contract and reflect the contractor's binding commitment.

We therefore do not believe that the Air Force evaluators could have reasonably rated Oahu's proposal "blue" under the quality control factor, notwithstanding its one recognized value-added enhancement, because the quality control plan did not contain a required element. As noted, a blue rating was reserved for proposals that exceeded the specified performance and had no significant weaknesses, and Oahu's proposal not containing the requisite work schedule cannot reasonably be said to contain no weaknesses. Since the record does not support the agency's evaluation of Oahu's proposal under the quality control subfactor, we cannot conclude that the SSA's determination, based solely upon the evaluators' color ratings, that Oahu's and Technology Services's proposals were technically equal overall is reasonably

supported.¹ See Ogden Support Servs., Inc., B-270012.2, Mar. 19, 1996, 96-1 CPD ¶ 177 at 6; Ogden Support Servs., Inc., B-270012.4, Oct. 3, 1996, 96-2 CPD ¶ 137 at 4.

We recommend that the Air Force reevaluate the proposals, conduct discussions if necessary, and make a new source selection. If the Air Force determines that award should be made to Technology Services, the Air Force should terminate Oahu's contract and make award to Technology Services. In addition, we recommend that the protester be reimbursed its costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1) (1997). The protester should submit its certified claim for costs to the contracting agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

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¹Technology Services also protests the agency's technical evaluation of its proposal and the agency's price evaluation of Oahu's proposal. We have reviewed the protester's allegations in these respects and find them to be without merit. For example, while Technology Services contends that Oahu's price should have been assessed as unreasonably low because it was premised on a much lower staffing level than that proposed by Technology Services, the record shows that the agency reasonably determined that Oahu's price reflected its proposed technical approach that the agency considered to be acceptable.