



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: J&E Associates, Inc.

File: B-278187

Date: January 5, 1998

Barbara S. Kinosky, Esq., James S. DelSordo, Esq., and Leigh H. Turner, Esq., James S. Phillips Law Offices, for the protester.

Richard A. Pelletier, Esq., Quinto & Wilks, P.C., for Zeiders Enterprises, Inc., an intervenor.

Theresa Chesnut, Esq., Department of the Navy, for the agency.

Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's contention that agency improperly evaluated proposals is denied where the record shows that the agency evaluated in accordance with the factors announced in the solicitation, and the record reasonably supports the evaluators' conclusions.

DECISION

J&E Associates, Inc. protests the award of a firm, fixed-price contract to Zeiders Enterprises, Inc. under request for proposals (RFP) No. N00244-97-R-5017, issued by the Department of the Navy to operate and manage Family Service Centers (FSC) at three installations in the San Diego, California commuting region. J&E argues that the Navy's evaluation of proposals and source selection decision were improper.

We deny the protest.

The three FSCs at San Diego Naval Station, North Island Naval Air Station, and the San Diego Submarine Base currently provide comprehensive programs and services to single and married Navy members and their families to improve the personal and family readiness of the military personnel and to assist with adaptation to military life. The successful contractor will provide administrative and professional staff, equipment, materials and supervision necessary to perform the specific categories of programs and services identified in the RFP's performance work statement.

The RFP was issued on April 30, 1997, for the purpose of determining the cost of in-house versus contractor performance under Office of Management and Budget Circular A-76. The solicitation contemplated the award of a fixed-price contract plus award fee for a base period with four 1-year options. Offerors were to submit a written proposal and to make an oral presentation. The purpose of the oral presentation was to assess the offeror's knowledge and understanding of the solicitation requirements, the offeror's technical capability to provide these services, and the offeror's ability to sustain quality and cost effective programs and services for the life of the contract.

The RFP provided that award would be to the responsible offeror whose offer, conforming to the solicitation, was determined to be the most advantageous to the government, price and other factors considered. As amended, the RFP listed four evaluation factors: technical approach oral presentation (25 percent); management plan (25 percent); past performance (50 percent); and price (the combined weight of the three technical factors was approximately equal to that of price). The RFP cautioned offerors to submit their best terms in their initial proposals, since the agency intended to evaluate proposals and select a contractor without discussions unless the agency subsequently determined that discussions were necessary.

[deleted] including Zeiders and J&E, submitted proposals in response to the RFP. A technical evaluation board evaluated the technical proposals under an adjectival rating scale of outstanding, highly satisfactory, satisfactory, marginal, and unacceptable. The evaluation board's consensus adjectival rating and evaluated prices were as follows:

[deleted]

Based on these evaluation results, the agency's source selection authority decided that Zeiders's proposal, which received the second highest technical rating overall and was the lowest priced, represented the best value to the government. A subsequent cost comparison between Zeiders's proposal and the government's proposal resulted in the determination that contractor performance was preferable to performance in-house. Following a debriefing, J&E filed this protest.

J&E contends that its proposal was misevaluated under the management plan and past performance factors compared to Zeiders's proposal. More specifically, J&E's challenge of the agency's evaluation of its management plan proposal focuses on two subfactors: organizational structure and staffing plan. J&E argues that its proposal was improperly downgraded because of the agency's judgment that [deleted].

It is not the function of this Office to evaluate technical proposals de novo; rather, in reviewing a protest against an allegedly improper evaluation, we will examine the record only to determine whether the agency's judgment was reasonable and

consistent with the stated evaluation factors. Richard M. Milburn High School, B-277018, Aug. 19, 1997, 97-2 CPD ¶ 53 at 3. The protester's disagreement with the agency does not render the evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404, 410 (1987), 87-1 CPD ¶ 450 at 7. Here, based upon our review of the agency report, including each evaluator's narrative explanation supporting each rating, and the evaluators' consensus findings, we find that the agency's evaluation of proposals was reasonable and consistent with the RFP's evaluation scheme and the selection of Zeiders's proposal was reasonable.

The record shows that the most significant concern identified by the agency in the protester's proposal related to its management plan, which was rated [deleted] overall. The management plan evaluation factor included five subfactors--organizational structure, staffing plan, operating procedures, transition plan, and inspection/quality control plan. Under each of these five subfactors, the evaluators had concerns regarding J&E's proposal. [deleted] since the protester did not provide convincing evidence that such an approach could fulfill the agency's needs. [deleted].

We see no basis to find the agency's assessment unreasonable or inconsistent with the solicitation's evaluation criteria. While the protester asserts that its approach adequately addressed the management requirements for the FSCs, we think the agency reasonably could conclude that J&E's approach was [deleted]. Further, we think the agency had a reasonable basis for concluding that J&E's [deleted]. While the protester correctly states that the RFP [deleted].

With regard to the staffing plan, another of the five subfactors within the management plan factor, [deleted].

J&E's basic response is that [deleted]. We do not find that this rebuts the reasonableness of the agency's evaluation. First, this does not address the agency's concern [deleted]. Second, J&E's response essentially expresses disagreement with the agency's view [deleted]. Under these circumstances, we have no basis to question [deleted] under the staffing plan subfactor.

In sum, we find that the agency's evaluation of these two subfactors of the management plan was reasonable and consistent with the solicitation's evaluation criteria. Since the protester does not challenge the agency's evaluation of its proposal under the other three subfactors--operating procedures, transition plan, and inspection/quality control plan--about which the evaluators also had concerns, we conclude that the agency's overall evaluation of J&E's management plan as [deleted] was reasonable.

In light of this conclusion, we need not reach the other protest issues, because they could not call into question the reasonableness of the source selection. Particularly relevant in this regard is the fact that the protester has not challenged the

evaluation under the technical approach factor--where Zeiders's proposal was rated [deleted] while J&E's was rated [deleted]. As to the remaining technical evaluation factor, past performance, even identical ratings for the protester and the awardee would not outweigh the evaluation advantage enjoyed by Zeiders' proposal under the technical approach and management plan factors, particularly since Zeiders's price was lower than J&E's.¹

The protest is denied.

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¹Regarding price, J&E argues that Zeiders's proposal was improperly based on compensation rates so low as to be insufficient to attract and retain a quality professional staff, as required by the RFP. This argument is without merit. The record shows that the direct labor rates proposed by Zeiders were comparable to the rates proposed by the other offerors, including J&E. Thus, the average direct labor rate for Zeiders is [deleted] whereas the rate for J&E is [deleted] and for [deleted], respectively. The agency found Zeiders's compensation rates to be adequate and in line with the other offerors', and there is nothing in the record to indicate that the agency's analysis or conclusions were erroneous.