



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: The Arora Group, Inc.

File: B-280978.3; B-280978.4

Date: January 27, 1999

Edward J. Tolchin, Esq., Fettmann, Tolchin & Majors, for the protester.
Johnathan Bailey, Esq., Theodore M. Bailey, P.C., for Professional Performance Development Group, Inc., an intervenor.
Maj. David Newsome, Jr., Department of the Army, for the agency.
Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency improperly evaluated protester's proposal is denied where review of record demonstrates that the evaluation was reasonable and consistent with the stated evaluation factors.
 2. Cost/technical tradeoff was reasonable where agency considered the costs and technical merits of each proposal in deciding that the awardee's proposal represented the best value to the government.
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DECISION

The Arora Group, Inc. protests the evaluation of its proposal under request for proposals (RFP) No. DADA10-98-R-0014, issued by the U.S. Army Medical Command for occupational health services.

We deny the protest.

The RFP, issued to procure occupational health services at Federal Occupational Health Centers (FOH) and Wellness and Fitness Centers, provided for the award of an indefinite-delivery, indefinite-quantity contract. The RFP, at sections M.2.5.2. and M.3, stated that proposals would be evaluated against the following factors and subfactors:

(1) Technical Quality ([based on an] Oral Presentation and documentation)

(A) Management Capability

- (B) Recruitment and Retention (including Compensation Plans, descriptions and Employee handbook)
- (C) Employee/Subcontractor Qualifications

- (2) Contractor Quality Control Plan
- (3) Past and Present Performance
- (4) Cost/Price

The solicitation also provided that the contract would be awarded on the basis of the best value to the government, with price worth significantly less than nonprice factors in the award decision. RFP §§ M.2.5, M.3. Eleven offerors submitted proposals, which were evaluated by a technical evaluation team (TET). Each member of the team first assigned a numerical score between -10 and +10 to each proposal for each factor and subfactor. Agency Report, Oct. 2, 1998, at 3. The evaluators then reached a consensus score for each factor and subfactor, and a total score which was weighted based on the relative importance of the factors and subfactors. Following the evaluation, the proposals of Professional Performance Development Group (PPDG) and a second offeror were rated superior, with scores of 8.3 and 8.5, respectively, while Arora's proposal, with a score of 1.7, was rated acceptable. Contracting Officer's Statement, at 2 (submitted in connection with B-280978). The agency awarded the contract to PPDG after determining that its proposal represented the best value to the government. Price Negotiation Memorandum, at 4.

Arora challenges the agency's evaluation of its proposal under the technical quality and quality control factors, as well as the cost\technical tradeoff.

When a protester challenges an agency's evaluation of its proposal, we will examine the evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. EBA Eng'g Inc., B-275818, Mar. 31, 1997, 97-1 CPD ¶ 127 at 5. We find that the evaluation of Arora's proposal met this standard.

TECHNICAL QUALITY

Management Capability

Under the management capability subfactor of technical quality, the evaluators criticized Arora's proposal because they found it did not provide a discussion of

specific management techniques, tools and practices to ensure quality and timeliness of services, as specifically required by RFP § L.22, at L-22.¹ More specifically, the agency found that, while the proposal generally discussed how Arora's management practices were consistent with the American Nursing Association and Joint Commission and listed broad objectives (such as complete FOH mission support, delivery of responsive services, and achievement of client satisfaction), the proposal did not provide specific practices to achieve those objectives. TET Chairperson Statements, Nov. 10, 1998, at 1; Dec. 3, 1998, at 1. With respect to management techniques, the evaluators noted that Arora proposed an interdisciplinary quality team that would hold weekly teleconferences. The agency found, however, that this technique was focused only on problem identification, and did not demonstrate how Arora would ensure the timeliness and quality of all services. Moreover, the agency questioned the effectiveness of the teleconferences given that they would require participation by more than 50 individuals. Id. The agency was also concerned because Arora's proposal failed to discuss techniques to assess or evaluate provider competencies, subcontract management, or maintenance of a backup relief pool or management of planned and unplanned employee absences. Id.

Arora argues that the criticisms in this area were unreasonable because its proposal did discuss specific management tools to ensure quality and timeliness of service, and the proposed weekly teleconferences in fact would not be unduly labor intensive. In addition, Arora asserts that its proposal did address techniques to assess work performance, as well as subcontract management, maintenance of a backup relief pool, and management of planned and unplanned absences.

The agency reasonably downgraded Arora's proposal. First, the record shows, and Arora does not dispute, that its proposal discussed management practices and objectives only in general terms, without discussing how the practices would be implemented. Oral Presentation Outline, at 20-21. Second, with respect to management techniques, whether or not teleconferencing is termed labor intensive, we see nothing unreasonable in the Army's concern that a weekly teleconference involving 50 individuals (including nurse program coordinators, nurse coordinators, wellness/fitness center coordinators, the contract administrator, and the director of

¹Arora also challenges the evaluators' conclusion that the discussion of its overall supervision process was unclear as to how program coordinators would be managed and supervised, as well as their criticism, under the recruitment and retention subfactor, that Arora did not clearly address how employees of the incumbent contractor would be approached and educated on benefits. The information on which these arguments are based was provided to Arora as part of a written debriefing on September 1, 1998. Since Arora did not protest these issues until October 19, they are untimely and will not be considered. 4 C.F.R. § 21.2(a)(2) (1998).

performance improvement) would be neither an efficient nor a particularly effective process. Further, Arora has not refuted the agency's finding that the teleconferences as proposed generally would be limited to problem identification, and by themselves would not ensure overall quality and timeliness of services performed. Oral Presentation Outline, at 20-21; Quality Control Plan, at 15-16. Finally, while Arora's proposal mentions subcontract management, monitoring employee performance, and management of planned and unplanned absences, the discussions are very limited. For example, the proposal discusses a yearly performance appraisal for employees, but does not discuss how employee performance will be monitored on a daily basis. Oral Presentation Outline, at 25, Quality Control Plan, at 21-25. Similarly, the proposal mentions that the program coordinator will handle unscheduled absences, but does not provide any specifics other than that a relief pool will be available. Oral Presentation Outline, at 25; Quality Control Plan, at 18.

The agency also criticized Arora's proposal under the management capability subfactor for stating that the contracting officer's representative (COR) would work with Arora's contract administrator, and that the contracting officer (CO) would work with Arora's administrative director. The agency found that this approach reflected a lack of understanding of the team approach that is required on this contract. TET Chairperson Statements, Nov. 10, at 2; Dec. 3, at 2. Arora argues that its approach is reasonable because the individuals in charge of administrative matters for the agency and the protester (the CO and the administrative director), and the personnel in charge of day-to-day activities (the COR and the contract administrator) would work together. Arora asserts that its proposal of an interdisciplinary quality team, and a corporate quality management board also reflected its understanding of the importance of a team approach to perform the contract.

There is nothing unreasonable in the agency's evaluation of Arora's proposed working relationships. In this regard, as the agency has explained, it is not always possible to clearly differentiate between administrative matters and daily activities; for this reason, the agency found that Arora's proposal of specific jobs for the contract administrator and the administrative director--without some recognition of the need for flexibility--could impede performance of the contract in cases where one would have to perform a function not generally assigned to it. Similarly, even if the protester is correct that its proposal reflected some understanding of the need for an overall team approach to the contract, we see nothing unreasonable in the agency's conclusion that the mere proposal of teams to address certain areas was not sufficient to demonstrate an adequate understanding in this area.

Recruitment and Retention

Under the recruitment and retention subfactor under the technical capability factor, offerors were required to explain the method they would use to recruit personnel to ensure that services would commence on the date set forth in the solicitation, and to describe a recruitment and replacement plan demonstrating how required staffing would be maintained throughout the life of the contract. RFP at L.22, at L-21. The evaluators criticized Arora's proposal under this subfactor because the solicitation represents an increase from previous contracts in the number of sites at which services will be provided, but Arora did not provide evidence of an organized, systematic effort to recruit incumbent staff by area and site. TET Chairperson Statements, Nov. 10, at 2; Dec. 3, at 2.

Arora maintains that the agency's concern with Arora's ability to hire incumbent personnel ignores the fact that it already is the incumbent at many sites. However, the agency reasonably could be concerned with Arora's ability to recruit personnel at the sites where it is not the incumbent. Arora also notes that at the oral presentation it discussed recruitment logistics, introduced the person in charge of personnel recruitment, and provided a detailed time line of its strategy. However, while this information provided some detail regarding recruiting, it did not address the agency's specific concerns regarding the lack of evidence of a systematic recruiting scheme. For example, Arora's proposal did not address anticipated problems, how incumbent staff would be approached, or the role that key personnel would have in any recruitment effort. Oral Presentation Outline at 27-29; TET Chairperson Statements, Nov. 10, at 2; Dec. 3, at 2. There thus is no basis to question the evaluation in this area.

Employees/Subcontractor Qualifications

Under the employee/subcontractor qualifications subfactor under the technical capability factor, offerors were advised to explain their understanding of the personnel qualifications required to provide services under the contract by both labor category and specific position. To further illustrate, the solicitation provided:

For example, the offeror may describe the qualification requirements for occupational health nurses as a labor category group by identifying the requirements of all nurses required by the solicitation. The offeror must then elaborate on those instances where the requirements differ for specific labor categories, for example Certified Occupational Health Nurse or Occupational Health Nurse, Case Manager. The offeror may discuss the types of individuals they will recruit for these positions; for example, nurse coordinators with management experience and demonstrated personnel skills; or wellness/fitness personnel certified by the YMCA, and coordinators certified by the ACSM.

RFP at L.22, at L-22. The evaluators criticized Arora's proposal because it recited employee qualifications in accordance with the statement of work, but did not discuss skills which would contribute to the performance of tasks and the provision of quality services. For example, Arora proposed certain personnel for supervisory positions, but did not discuss whether the positions would be filled by individuals with supervisory experience. TET Chairman Statements, Nov. 10, at 2; Dec. 3, at 2.

Arora argues that it was improper for the agency to downgrade its proposal for not describing skills greater than the minimum required by the RFP. This argument is without merit, however, since the solicitation specifically instructed offerors to elaborate on the individuals who would be hired for specific positions where more than the minimum skills identified in the solicitation would be required to adequately perform the services. The evaluation was consistent with this requirement. Arora asserts that, in any case, it did provide detailed resumes for its key personnel, which described their supervisory experience. However, Arora proposed some nonkey personnel (such as site coordinators) as supervisors, without indicating what supervisory experience these individuals had, despite instructions in the RFP to do so. Accordingly, we have no basis to question the evaluation in this area.

QUALITY CONTROL PLAN

For the quality control plan factor, the RFP, at L.22, at L-17, advised offerors to describe the methods, processes and tools they would use to ensure the quality of services provided, including the specific criteria/data for evaluation, the thresholds that will trigger corrective action, the process for identifying and correcting deficiencies and the process for overall supervision of the services. Offerors were also advised that the FOH quality assurance tools described in FOH Clinical Product Line Occupational Health Center Policy M-26 and Wellness/Fitness Center Policy 0-10 were required key elements of their processes.

Arora challenges the downgrading of its proposal in several areas under this factor, including the agency's finding that (1) Arora included policies M-26 and 0-10 in its quality control plan, but did not discuss how these policies would be utilized or how they otherwise related to the overall plan; and (2) while Arora identified relevant quality control issues, the thresholds it identified to trigger correction did not demonstrate a proactive approach. TET Chairperson Statements, Nov. 10, at 3; Dec. 3, at 2-3.

The evaluation in these areas was reasonable. While Arora argues that it did discuss how the M-26 and 0-10 policies fit within its quality control plan, our review shows that Arora only generally stated that the policies would be used for an annual review. Oral Presentation Outline, at 21; Quality Control Plan, at 29-30. The proposal contains no further discussion regarding how this review or the policies themselves relate to the overall plan. With respect to the identification of quality

control issues, Arora asserts that the agency's criticism is unreasonable because the triggers it identified included any complaint, operational deficiency or unexpected closing. However, the agency downgraded this approach on the ground that it did not focus on identifying potential problems and taking action before problems occurred. For example, the agency was looking for an approach that would take action to avoid unexpected facility closings, not one that would take action after the closing occurred. TET Chairperson Statements, Nov. 10, at 3; Dec. 3, at 3. The agency therefore reasonably downgraded Arora's proposal.²

COST/TECHNICAL TRADEOFF

Arora maintains that the cost/technical tradeoff was improper because the agency did not specifically compare Arora's proposal to the awardee's higher technically rated, higher-cost ([DELETED]) proposal in making its best value determination. The argument is without merit. The award document lists the costs of all proposals and specifically discusses the merits and deficiencies of the proposals with respect to nonprice factors; in other words, the agency was fully aware of the protester's and awardee's prices, as well as the relative merits of the technical proposals, when the tradeoff was made. Price Negotiation Memorandum, at 2-4. Against this backdrop, the agency clearly did not consider the protester's proposal the best value to the government. Technical factors were significantly more important than price in the award decision, and Arora's proposal received only 1.7 out of 10 points, which ranked it only fifth among the six acceptable proposals. We conclude that the agency's tradeoff decision encompassed consideration of the price and technical merit of Arora's proposal, and was reasonable.

The protest is denied.

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²Arora also complains that the evaluation scoring of its and the awardee's proposals was inconsistent. Specifically, Arora notes that, while it received a score of 3 (out of 10) points for the quality control factor based on a criticism that reporting requirements between the site and program coordinators was unclear, the awardee, with an almost identical criticism, received a score of 7 points. This argument is without merit. As discussed, Arora's score for the quality control factor reflected additional criticisms--it did not adequately address FOH policies M-26 and O-10 and did not propose a proactive approach on quality control issues. Thus, the different scoring of the proposals was reasonable.