



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Vero Property Management, Inc.

File: B-285563.2

Date: October 19, 2000

Terrence M. O'Connor, Esq., for the protester.

Gary A. Nemec, Esq., Department of Housing & Urban Development, for the agency.

Katherine I. Riback, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably determined protester's proposal for property inspection services was unacceptable because the proposal, which offered a very short timeframe for each inspection, indicated that the protester did not understand the nature of the detailed inspection required by the solicitation and the realities of traveling in the metropolitan and urban areas where the inspections were required.

DECISION

Vero Property Management, Inc. protests the rejection of its proposal for special property inspections (SPI) services as technically unacceptable under request for proposals (RFP) No. R-DEN-01108, issued by the U.S. Department of Housing and Urban Development (HUD).

We deny the protest.

Upon foreclosure of Federal Housing Administration insured mortgages, insured lenders' claims are paid and ownership interests are transferred to HUD, which then contracts with managing and marketing contractors (M&M) to manage the properties. The services provided by the M&Ms include providing maintenance and repair services, as well as marketing and selling the properties in order to recoup funds HUD paid on the mortgage insurance claim. HUD then contracts for SPI services to inspect the condition of HUD-owned single family properties that are maintained by the M&Ms to insure that they remain in marketable condition. Contracting Officer's Statement at 1.

The RFP, issued on November 30, 1999, requested proposals for SPI services for HUD's single family properties located within the jurisdiction of HUD's Santa Ana

Homeownership Center in four geographic areas, including area 1a (Southern California counties of Los Angeles, San Luis Obispo, Santa Barbara and Ventura) and area 1b (Southern California counties of San Bernadino, Riverside, Orange, Inyo, Mono and San Diego). RFP § B.2.

The RFP statement of work (SOW) specified that the contractor shall furnish all personnel, material, equipment and transportation to provide the required services. RFP § C.1.3; the contractor “shall inspect and assess the physical condition of each assigned property to determine the cognizant M&M compliance with the property maintenance standards specified in the M&M contract,” RFP § C.3.1.1; and that the inspector is required to complete a two-page Property Inspection Form that outlines the inspector’s responsibilities in the form of questions.¹ RFP attach. 1. Some of the items required during an inspection are a physical walk-through of the entire property, including every interior room, walk-up attic and the complete exterior of the property; a physical examination of the inside of closets, drawers, and cabinets, to determine if the M&M has performed required clean-out and housekeeping; an examination of any repairs performed by the M&M or its subcontractors; and a reporting of any damage or vandalism to the property. RFP § C.3.1.1.1-8. The inspector is required to include with each inspection report a photograph of the exterior front and rear of each property, and a photograph “showing in detail” each deficiency item noted in the inspection report with a description. RFP § C.3.1.2.

The RFP contemplated the award of an indefinite-quantity contract with fixed-price line items for a base year with 4 option years for each geographic area. RFP §§ L.1.2.2, M.1.3. The RFP lists the estimated number of inspections that are expected for each area. Of relevance to this protest, for area 1a, HUD estimated a quantity of 7,260 scheduled and special inspections per contract year (605 per month), and for area 1b, a quantity of 7,884 scheduled and special inspections per contract year (or 657 per month). RFP § B.4.

The awards under the RFP were to be based on the best value to the government, cost or price and other factors considered. RFP § M 1.5.a. The following technical factors were listed: (1) prior experience, (2) technical understanding, (3) management and oversight capability, and (4) past performance. Of particular relevance to this protest is the technical understanding factor, which required that an offeror “demonstrate that it will dedicate sufficient key personnel that possess technical skills and knowledge necessary to perform the scope of work required by the solicitation.” The RFP stated that the failure of the offer to be found acceptable

¹ Many of the questions require a yes or no answer that require only a check mark, but further explanations may be required depending on the answer; for example, the form asks if appliances and fixtures are in place, and if so, that they be itemized. RFP attach. 1.

for any one of the first three listed factors would render the entire proposal unacceptable. RFP § M.1.6.

The agency received numerous proposals for each geographic area. The technical evaluation panel (TEP) found Vero's proposal technically acceptable for the prior experience factor and technically unacceptable for the technical understanding, and the management and oversight capability factors in geographic areas 1a and 1b. In this regard the TEP stated that:

The technical plan shows insufficient number of inspectors to perform the services in Areas 1a, 1b and 4 which clearly reflects the offeror does not have an understanding of the technical requirements of the SOW and that timely performance will be accomplished. Offeror indicates that it has in the past performed up to 44 inspections per day, and that it can average 25 inspections per day in the urban areas of 1a and 1b-- the panel has determined that the number of daily inspections for that geographical area is unacceptable, and reflects a lack of understanding of the geographical area.

Agency Report, Tab 9, Initial Technical Evaluation of Offers, at 7.

Vero was then notified by the agency that its proposal was found to be technically unacceptable and was therefore excluded from the competitive range, for geographic areas 1a and 1b. Agency Report, Tab 3, Letter from Contracting Officer to Vero (June 20, 2000). Vero filed an agency-level protest contesting this determination, which was denied by the agency. Agency Report, Tab 10, Vero Agency Protest (June 29, 2000); Agency Report, Tab 11, Agency Denial of Vero Protest (July 21, 2000). This protest to our Office followed.

Vero contends that the evaluation documentation shows that the agency either misunderstood or failed to read its proposal concerning the number of inspections that it would perform daily. Vero states (and its proposal indicates) that it broke each geographic area down into metropolitan, urban and rural areas, and that for geographical areas 1a and 1b, it proposed to perform 25 inspections a day in metropolitan areas, 20 inspections a day in urban areas, and 15 inspections a day in rural areas. Vero contends that the statement in its proposal that it had performed up to 44 inspections in a day was simply anecdotal, and that the agency improperly used this statement as evidence that Vero proposed to perform in a similar manner here. Vero also notes that its proposal demonstrated its experience in performing numerous inspections of this type with very good performance ratings in Florida, Atlanta, and in adverse weather conditions on the east coast. Vero maintains that it will use technology, such as a global positioning system, that will allow it to more efficiently perform inspections, and that the agency has exaggerated the work that the inspectors are required to do; for example, Vero states that it can fill out the Property Inspection Form in 30-40 seconds. Protest at 2-3; Protester's Supplemental Comments at 1-3.

The evaluation of technical proposals is a matter within the discretion of the contracting agency, since 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 at 5. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria. MAR, Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367 at 4. 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 at 18.

The agency responds that it read and understood Vero's proposal, but determined that Vero was unrealistic in proposing to perform 20-25 inspections per day in the metropolitan and urban portions of areas 1a and 1b, noting that Vero's approach contemplated performing the required inspections on each property in approximately 25 minutes, including travel time between properties.² Contracting Officer's Statement at 6-9. The agency notes that, "while it may be possible to visit 25 properties in one day with a drive-by or windshield inspection, it is physically impossible for one person to travel between properties and perform 25 of the type of thorough inspections HUD is seeking in one day."³ Agency Report, Tab 11, Agency Denial of Vero Protest, at 2. In this regard, the agency references the SOW inspection requirements detailed above, including the completion of the 40-question Property Inspection Form for each property, which required, among other things, written descriptions where indicated, a rating of the contractor's performance, and photographs. Contracting Officer's Statement at 9. The agency also notes that the protester's approach does not adequately account for the fact that geographic areas of 1a and 1b in Southern California are notorious for traffic congestion. Contracting Officer's Statement at 7 n.7. While the agency acknowledges the high performance ratings that Vero received for its other HUD work, it concludes that Vero's time estimate per inspection shows that Vero does not understand "the realities of operating in Southern California." Agency Report, Tab 8b, TEP Consensus Evaluation of Vero, at 3.

² Under area 1a Vero proposed three inspectors who were to perform 19.5 daily inspections or 2.4 inspections per hour in an 8-hour day, with each inspection lasting approximately 25 minutes, including travel time. Contracting Officer's Statement at 7; Agency Report, Tab 4, Vero Proposal, at 33, 38, 47. For area 1b, Vero also proposed three inspectors, who were to complete the inspections, including travel time, in approximately the same timeframe. Contracting Officer's Statement at 8; Agency Report, Tab 4, Vero Proposal, at 33, 38, 48.

³ The agency estimates that an individual inspector working for a qualified contractor could complete an average of 15 inspections per day at the detail level required by the RFP in the densely populated areas covered by geographic areas 1a and 1b. Statement from TEP (Sept. 19, 2000) at 1.

In our view, the agency reasonably determined that Vero's proposal was technically unacceptable under the technical understanding evaluation factor for geographic areas 1a and 1b.⁴ It is clear from the thoroughness of the inspection requirements in the RFP that HUD places great emphasis on these inspections as a way to perform a quality check on the maintenance and repair work done by the M&Ms; indeed, HUD maintains that the SPIs are a "vital piece of the Government's quality assurance plan to provide oversight of the M&M contractors," and that "HUD's first priority is on the quality of inspection conducted by the contractor, not how fast they can be accomplished." Agency Report, Tab 11, Agency Denial of Vero Protest, at 2. Based on this record, we think that it was reasonable for the agency to question whether Vero understood the agency's requirements for detailed inspections, including the completion of Property Inspection Forms and necessity of accounting for travel time in the congested Southern California metropolitan and urban areas, based on the fact that Vero proposed to perform these functions in such a compressed timeframe.⁵ While Vero contends that HUD has overestimated the time needed for inspections given Vero's experiences on other HUD contracts and its use of advanced time-saving techniques, these contentions constitute mere disagreement with the agency's

⁴ Because we find that the agency reasonably evaluated Vero's proposal as technically unacceptable under the technical understanding factor, we need not address the evaluation of the proposal as unacceptable under the management and oversight capability factor, since the RFP stated that failure of the offer to be found acceptable for any one of the three factors would render the entire proposal unacceptable. RFP § M.1.6.

⁵ While Vero now maintains that it can complete the agency's Property Inspection Form in 30-40 seconds (Vero Statement, Sept. 22, 2000, at 2) it did not state this in its proposal and, in fact, included a new inspection form that it devised that incorporates certain features that will allow inspectors to complete the form more quickly. Agency Report, Tab 4, Vero Proposal, at 5-6.

evaluation conclusions, which does not render the agency's evaluation unreasonable.⁶

In sum we see no basis to question the agency's evaluation or rejection of Vero's proposal as unacceptable.

The protest is denied.

Anthony H. Gamboa
Acting General Counsel

⁶ Vero also contends that the evaluators may have altered the evaluation documents that were submitted to this Office as part of the agency report. We find no basis for these allegations in the record and, in any case, since we find the agency's evaluation of Vero's proposal reasonable, such alterations, even if proved, would not affect our view of the evaluation.