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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Consultants In Continual Improvement

File: B-289351

Date: February 12, 2002

Isidor Patapis for the protester.

John A. Kern, Esq., Federal Railroad Administration, for the agency.

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DIGEST

Protest of agency's evaluation of firm's proposal is denied where record shows that evaluation was reasonable and consistent with solicitation's terms; protester's disagreement with evaluation is insufficient to show it was unreasonable.

DECISION

Consultants In Continual Improvement (CICI) protests the agency's evaluation of its proposal under request for proposals (RFP) No. DTFR53-01-R-00037, issued by the Federal Railroad Administration (FRA). The protester contends that it was unreasonable for the agency to conclude that its proposal had weaknesses in certain areas.

We deny the protest.

The RFP anticipated the award of an indefinite-delivery/indefinite-quantity, fixed-price contract for a base year and four option periods for support services for the FRA's Office of Human Resources. The required services relate to workforce planning and training needs assessments of employees' non-technical skills. Non-technical skills to be considered include, for example, interpersonal skills, supervisory and managerial leadership, teaming, conflict resolution, oral and written communications, computer applications, and non-technical safety related subjects. RFP ¶¶ C.2, F.2, and L.5. The contractor was to assess current non-technical organizational skills of agency employees, determine gaps between current and future skill requirements, and identify appropriate training interventions to redress skill deficiencies. *Id.* ¶ C.3.

Offerors' technical, past performance, and price proposals were to be clear, complete, concise, and internally consistent. Id. ¶ L.7. Proposals were to be submitted in a double-spaced format; the RFP specifically warned that information in excess of stated limitations (e.g., 10-page, double-spaced limits for certain portions of the technical proposal) would not be considered. Id. ¶ L.7. Technical proposals were to be evaluated under the following factors, stated in descending order of importance: technical approach (consisting of two equally weighted subfactors—the offeror's demonstrated overall understanding of and approach to all tasking areas, and the offeror's understanding and ability to perform sample task requirements); key personnel; and management plan. Id. ¶ M.1(a). The RFP provided that proposals would be assigned adjectival ratings of outstanding, better, acceptable, marginal, or unacceptable. Id. ¶ M.1(b). The price proposals were to be based on sample task responses; price was less important than the stated technical factors. Offerors were advised that a preliminary competitive range would be determined to include the proposals considered to have a reasonable chance of being selected for award and that those offerors were to give oral presentations. Id. ¶¶ L.8, M.5.

Eighteen proposals were evaluated by the agency's technical evaluation team. The protester's proposal (at \$107,158) was rated technically acceptable. The agency decided, however, that seven lower-priced proposals, each of which was rated either at the same technical level or higher than the protester's proposal, were the ones that had a reasonable chance of receiving an award under the RFP; those seven proposals were subsequently included in the preliminary competitive range. Award was made to Denali Associates, which had submitted a proposal rated substantially higher than CICI's for technical merit, and which offered a substantially lower price (at \$79,605). Following a post-award debriefing, CICI filed this protest.

CICI challenges the propriety of the agency's evaluation of its proposal. The protester contends that the proposal weaknesses cited by the agency are not justified.

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. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. An offeror's mere disagreement with the agency does not render the evaluation unreasonable. Matrix Int'l Logistics, Inc., B-277208, B-277208.2, Sept. 15, 1997, 97-2 CPD ¶ 94 at 4. Based upon our review of the record, we find no basis to question the reasonableness of the agency's evaluation of the CICI proposal.

CICI first argues that the agency improperly cited as a proposal weakness the protester's intended use of telephone interviewing as a primary means to initially gather skill data from employees to identify relevant non-technical skills and

competencies for their positions. CICI argues that the agency should have regarded this approach as a well-established method for gathering employee competency data.

The agency states that, regardless of whether telephone interviewing is useful elsewhere, it simply was not a highly useful technique for meeting the agency's needs here. The agency explains, for instance, that the hazardous material railroad safety inspectors to be considered under the RFP's sample task generally do not communicate by telephone at work as they are often in the field or in transit on trains. The agency reasoned that limited data collections or inconvenience and disruption to these employees could result from the protester's proposed approach. The agency also notes that e-mail communications would have been a more appropriate method because inspectors typically travel with laptop computers. The record shows that the use of computer-oriented communications was not proposed by the protester for this early stage of information-gathering and that its proposed alternative approaches were considered too vague to justify a higher proposal rating than the acceptable rating assigned.

In its comments, CICI concedes that it intentionally excluded from its proposal detailed discussions of its proprietary data-gathering techniques and how they might have benefited the agency. An agency's proposal evaluation, however, is dependent upon the information furnished in the proposal. It was CICI's obligation to submit a proposal adequately detailing its proposed technical approach in order for the agency to evaluate the offered approach, as well as the firm's understanding of the agency's particular requirements. See GEC-Marconi Elec. Sys. Corp., B-276186, B-276186.2, May 21, 1997, 97-2 CPD ¶ 23 at 7. CICI failed to fulfill its obligation in this regard. Since the record here provides reasonable justification for the cited weakness in the initial information-gathering efforts proposed by CICI for these sample task employees, we see no basis to question the agency's failure to rate the proposal higher than it did.

Similarly, CICI protests the agency's finding that, in attempting to demonstrate CICI's understanding of the sample task requirements, its proposal merely restated RFP requirements without sufficiently detailing CICI's intended strategies. In this regard, our review of the CICI proposal confirms that, where the proposal's general subject headings indicated that a discussion of the offeror's understanding of the requirements would follow, what followed was in fact the protester's mere paraphrasing or quotation of RFP work requirements, followed by limited information as to the offeror's general approach to meeting the requirements. CICI argues that if the agency sought more detail in its proposal's discussion of CICI's proposed technical approach to meeting the sample task requirements, it should have considered information included in other sections of the CICI proposal. The agency reports that sample task responses, however, were to be evaluated separately from the proposal's more general, overall technical approach information and that, in any event, much of the information CICI suggests should have been considered in the evaluation of its sample task response was outside the scope of that sample task.

Our review of the record not only confirms the reasonableness of the agency's position, but provides further support for the agency's determination that a higher proposal rating than acceptable was not warranted here. For instance, the evaluation record also points out that the proposal was considered somewhat confusing for its internal inconsistencies (for example, referenced figures did not present the relevant information purported to be in the figures), and the proposal also indicated that CICI planned to consider both non-technical and technical skills in its assessment work, despite the fact that only non-technical skills were relevant to the current RFP. Accordingly, in light of the fact that the proposal merely restates the RFP requirements, fails to provide much detail about the actual approach to be taken, and contains internal inconsistencies and information relating to areas outside the scope of work, we cannot find unreasonable the agency's conclusion that the proposal had weaknesses in this regard.¹

Another proposal weakness challenged by the protester refers to the finding that CICI failed to clearly identify the coordination of prime contractor and subcontractors in terms of accountability; this concern was raised in the evaluation of CICI's management plan in conjunction with the evaluators' concerns that no specific plan of detailed quality control procedures was presented in the proposal. The protester, contending that its proposed personnel's responsibilities and quality assurance efforts were clear in its proposal, asserts that, since its personnel are experts who have performed high-quality work in the past, each will be in charge of instituting quality control measures for his/her work under the contract and that additional support would be available as requested. The RFP, however, specifically required a detailed quality assurance plan identifying the specific procedures to be undertaken in contract performance (for instance, describing proposed efforts for early identification and resolution of performance problems). Our review of the CICI proposal confirms the cited lack of such a detailed quality control plan, thus supporting the reasonableness of the agency's determination that, consistent with the evaluation terms of the RFP, this constituted a weakness in the proposal.

Our review of the record shows that, although the protester's overall proposal was cited as having certain strengths by the evaluators—as were all of the proposals rated acceptable and better—the CICI proposal reasonably was cited as having weaknesses as well. Despite the protester's disagreement with the agency's evaluation, the record supports the reasonableness of the cited weaknesses. Thus, the protester has

¹ We note that the record shows that the protester benefited from the agency's apparent decision to ignore CICI's failure to adhere to the RFP's proposal length restrictions. CICI's 10-page, single-spaced technical approach proposal was twice the mandatory 10-page, double-spaced limits, as noted by at least one evaluator. Application of the page limit, as the RFP required, would have excluded from consideration material terms of the offered approach affecting the technical acceptability of the offer.

not provided any basis to question the evaluation of its proposal.² Given the agency's receipt of seven proposals rated the same as or higher than the protester's proposal in terms of technical merit--each offering a price substantially lower than that offered by CICI--we likewise see no basis to question the agency's determination that CICI did not have a reasonable chance of receiving the award under the RFP and that its proposal therefore should be excluded from the competitive range. Ervin & Assocs., Inc., B-280993, Dec. 17, 1998, 98-2 CPD ¶ 151 at 3 (an agency is not required to retain in the competitive range a proposal that the agency reasonably concludes has no realistic prospect of award).

The protest is denied.

Anthony H. Gamboa
General Counsel

² The agency concedes that CICI's proposal was incorrectly found to have a weakness in one area (regarding cross checking of competency data in the data validation portion of the proposal). In light of the general lack of detail in this area of the protester's proposal, however, the agency explains that it still considers there to be a proposal weakness in this portion of the proposal. Our review of the record confirms a lack of detail in this area of the proposal (for example, specific validation questions are not presented and there is no detailed discussion of how the responses are to be tracked (individually or by group, etc.); thus we see no basis to conclude that the overall rating of acceptable would change if the cited weakness in the area of cross checking were discounted.