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Decision

Matter of: Computer Associates International, Inc.

File: B-292077.3, B-292077.4, B-292077.5

Date: January 22, 2004

Claude P. Goddard, Jr., Esq., J. Michael Littlejohn, Esq., J. William Eshelman, Esq., and Elizabeth M. Gill, Esq., Wickwire Gavin, and James M. Black, Esq., Computer Associates International, Inc., for the protester.

Marion T. Cordova, Esq., Department of Agriculture, for the agency.

Louis A. Chiarella, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Under a request for quotations issued in a competitive procurement under the Federal Supply Schedule, protest that the agency improperly made award based on a price discount that had expired by the terms of the vendor's quotation is denied as the vendor's submission was not an offer to which the standard for expired bids generally applies.
 2. Protest that the evaluation method used by the agency for the evaluation of vendors' quotations was arbitrary is denied where the evaluation method used was reasonable.
 3. Protest that the agency failed to evaluate vendors' quotations consistent with the stated evaluation criteria is denied where the record fails to show that the protester was competitively prejudiced by any such inconsistency.
 4. Protest that the agency's evaluation of vendors' quotations and selection decision were based upon the application of an unstated minimum requirement is denied where the record does not support protester's assertion.
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DECISION

Computer Associates International, Inc. (CA) protests the issuance of a purchase order to Serena Software, Inc. under request for quotations (RFQ) No. RFQ-OPPM-3-1007VT, issued by the Office of Procurement and Property Management, Department of Agriculture (USDA), for quotations from Federal Supply Schedule (FSS) vendors

for “change management” software. CA argues that the agency’s evaluation of vendors’ quotations and the resulting award decision were improper.

We deny the protest.

BACKGROUND

The RFQ, initially issued on December 13, 2002, requested quotations from three FSS vendors, including Serena and CA, for a change management software product, to include installation, configuration, training, and maintenance, for use at the USDA National Finance Center, New Orleans, Louisiana, and the National Information Technology Center, Kansas City, Missouri. The solicitation informed vendors of the various computer platforms and operating systems upon which the change management software would be installed, and advised that “[i]t is only essential that the functional requirements [of the proposed software] be satisfied in the same manner for each participating platform.” RFQ at 5.

The RFQ contemplated the issuance of a fixed-price purchase order for a 3-year period of performance. The solicitation also set out three evaluation factors in descending order of importance—price, technical, and corporate experience and past performance—and stated that technical merit and corporate experience when combined were more important than price. Award was to be made to the responsible vendor whose quotation conformed to the solicitation and provided the overall “best value” to the government, based on consideration of all factors.

The agency received quotations from the three vendors it solicited by the January 6, 2003, closing date. A technical evaluation team (TET) evaluated vendors’ technical quotations as to the functional requirements set forth in the solicitation’s statement of work (SOW) using a numeric rating system. Agency Report (AR), Tab N, TET Evaluation Report, Jan. 23, 2003. Following both the technical and price evaluation of quotations, the USDA determined that the quotation of the third vendor, Merant/Northrop Grumman Computing Systems, Inc., represented the best overall value.

On March 13, following a debriefing by the agency, CA filed a protest with our Office, arguing that the USDA had improperly evaluated CA’s technical and price quotations and that the agency had failed to follow the solicitation’s stated source selection criteria in making its best-value determination. On April 8, the agency notified our Office of its intent to take corrective action in response to CA’s protest. Specifically, the USDA stated that its source selection decision had not been documented adequately, and that the contracting officer should have sought clarification of certain aspects of CA’s price quotation.¹ Accordingly, the agency stated its intent to

¹ The solicitation required vendors to provide a description of all services to be provided at no cost with the purchase of the software. RFQ at 16. Although CA

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seek clarification from CA regarding its price quotation, and once this clarification was received, to perform a new price/technical tradeoff and arrive at a new source selection decision. Letter from USDA to GAO, Apr. 8, 2003. CA then withdrew its protest in light of the agency's proposed corrective action.

On May 16, the agency issued amendment No. 1 to the RFQ seeking price clarifications from all three vendors. The amended solicitation required vendors to submit detailed, standardized price templates indicating the software, maintenance, training, and consulting prices being proposed.² When CA asked the contracting officer whether vendors could also submit revised technical quotations, the agency informed vendors that no new technical quotations would be accepted or evaluated, as the purpose of the amended solicitation was to clarify and standardize vendors' price submissions.

CA then filed a second protest with our Office, challenging the propriety of the agency's decision not to allow vendors to submit revised technical quotations as well as revised price quotations. We determined that the USDA's corrective action was unobjectionable because the agency had a reasonable basis for restricting the scope of revisions that vendors could make to their quotations, and the agency's corrective action resolved the suspected impropriety.³ Computer Assocs. Int'l, Inc., B-292077.2, Sept. 4, 2003, 2003 CPD ¶ 157. The USDA completed its reevaluation of vendors' quotations, and determined that Serena's quotation was both higher technically rated and lower-priced than those of the other vendors, and represented the overall best value to the government. AR, Tab V, Source Selection Decision, Tab W, TET Award Recommendation, June 6, 2003. These protests followed.

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offered to provide one of two proposed change management software products at no cost, its price quotation did not address whether this offer also extended to the software's maintenance and upgrades. The contracting officer then used CA's FSS listed prices for software maintenance and upgrades in the agency's evaluation of the vendor's price.

² The agency specified use of standardized templates so that vendors' prices would be submitted in a uniform and consistent manner, thereby permitting the agency to conduct an "apples-to-apples" price analysis. Contracting Officer's Statement, June 4, 2003, at 2.

³ CA also protested that the solicitation was defective because it failed to set forth the agency's actual minimum requirements (i.e., that there existed an unstated minimum requirement). We determined that CA's protest was in essence a challenge to the evaluation of vendors' quotations, and thus was premature where award had not yet been made.

CA's protests here raise several issues regarding the USDA's evaluation of vendors' quotations. The protester first argues that the agency improperly made award to Serena based on an expired quotation. CA also alleges that in several different ways the USDA conducted an unreasonable and arbitrary evaluation of its quotation "against a fluid baseline of requirements and evaluation factor weightings."⁴ CA's Protest, Nov. 17, 2003, at 2. Although we do not here specifically address all of CA's complaints about the USDA's evaluation of vendors' quotations, we have fully considered all of them and find that they afford no basis to question the agency's selection decision.

ANALYSIS

CA first protests that the USDA acted unreasonably by making award to Serena based on a price discount that had expired by the terms of Serena's quotation. CA further argues that since Serena's discounted price had expired, the agency could only evaluate Serena's price based on the vendor's regular, undiscounted GSA FSS rates, which would have increased Serena's evaluated price here by some \$6 million. Under these circumstances, CA contends, the USDA could not reasonably have determined that Serena offered a lower price than that offered by CA, or that Serena's quotation was the overall best value here.⁵

The solicitation here requested the submission of quotations from vendors holding GSA FSS contracts, and established that "[t]his is a request for information, and quotations furnished are not offers." RFQ at 1. As part of its revised price quotation, Serena stated as follows:

Serena has taken this opportunity to not only provide price clarification but to also revise down our pricing to the Government. . . .

⁴ CA also protested that the agency made an improper best value determination by choosing a higher-priced and lower technically rated vendor, Serena, and that the agency unfairly allowed Serena to make technical revisions to its quotation while denying CA the opportunity to do the same. As the agency addressed these allegations in its reports, and the protester failed to respond in its comments, we consider CA to have abandoned these arguments and will not consider them further. MFVega & Assocs., LLC, B-291605.3, Mar. 25, 2003, 2003 CPD ¶ 65 at 4.

⁵ As a preliminary matter, we note that where, as here, an agency solicits FSS vendor responses and provides for a technical evaluation and price/technical tradeoff—that is, uses an approach that is like a competition in a negotiated procurement, our Office will review the agency's actions, if challenged pursuant to our bid protest regulations, to ensure that the evaluation was reasonable and consistent with the terms of the solicitation. COMARK Fed. Sys., B-278343, B-278343.2, Jan. 20, 1998, 98-1 CPD ¶ 34 at 4-5.

Serena Software, Inc. is offering to USDA an Enterprise offer that represents an 80% discount of our published GSA pricing and a 40% discount off Serena's initial offer. In addition, Serena has significantly discounted services below GSA. Enclosed please find our best and final pricing represented in Tables A, B and C. This offer is valid through June 31 [sic], 2003.

AR, Tab Z, Serena's Revised Price Quotation, at 1.

The USDA found that Serena's evaluated price totaled \$1,525,780.⁶ Following its determination that Serena's quotation represented the overall best value to the government, on September 5 the agency issued a purchase order to Serena under the vendor's GSA FSS contract for the first year's performance (i.e., configuration management software, consulting and training services) at the unit prices set forth in Serena's revised price quotation. AR, Tab V, Purchase Order, at 1-2. Serena subsequently accepted and performed the purchase order issued by the USDA at the quoted prices. Agency Report, Dec. 9, 2003, at 2-3.

Quotations in response to an RFQ are not offers that can be accepted by the government to form a contract. FAR § 13.004; KPMG Consulting LLP, B-290716, B-290716.2, Sept. 23, 2002, 2002 CPD ¶ 196 at 11, Intelligent Decisions, Inc., B-274626, B-274626.2, Dec. 23, 1996, 97-1 CPD ¶ 19 at 7; Eastman Kodak Co., B-271009, May 8, 1996, 96-1 CPD ¶ 215 at 2 n.2. Rather, they are informational responses that indicate the products that vendors would propose to meet the agency's requirements and the prices of those products and related services that the government may use as the basis for issuing a purchase order. Intelligent Decisions, Inc., supra; Crown Furniture Mfg. Inc., B-225575, May 1, 1987, 87-1 CPD ¶ 456 at 2, and it is the government's purchase order which represents the offer that the vendor may accept through performance or by a formal acceptance document. KPMG Consulting LLP, supra.

We find that the agency's issuance of a purchase order to Serena here was not improper, notwithstanding that Serena's quoted price discount had expired, because the vendor's submission was not an offer to which the standard for expired bids generally applies. As set forth above, the USDA evaluated Serena's prices based on the discounts within the vendor's revised price quotation. Following its evaluation and source selection decision, the agency issued a purchase order to Serena at the discount prices contained in Serena's quotation, an offer that Serena accepted.⁷

⁶ If this represented an 80 percent discount, then Serena's regular pricing would have totaled \$7,628,900 here ($\$1,525,780 \times 5 = \$7,628,900$).

⁷ The contracting officer was aware of Serena's continued interest in this solicitation by various phone calls inquiring about the status of CA's earlier protest. Contracting Officer's Statement, Dec. 9, 2003, at 1.

Serena was under no duty to accept the USDA's offer here, irrespective of any expiration date in the vendor's quotation, because it did not constitute an offer. Quite simply, the agency's decision to offer a purchase order to Serena here was not improper, because it did not violate a procurement statute or regulation, nor was it unreasonable.

CA also protests that the agency's evaluation of quotations was in various ways improper. Specifically, the protester contends that the USDA utilized a point scoring system in its evaluation of vendors' quotations that was both arbitrary and capricious and contrary to the terms of the solicitation; improperly penalized CA for not offering "Workbench," another of its change management software products; improperly imposed an unstated minimum requirement for an integrated multiple-platform solution in the evaluation of vendors' quotations; improperly considered and evaluated vendors as to financial viability; and unreasonably evaluated vendors' prices.

In reviewing a protest against an agency's evaluation of proposals (or, as here, quotations), our Office will not reevaluate the vendors' submissions, but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. See Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3; Hydraulics Int'l, Inc., B-284684, B-284684.2, May 24, 2000, 2000 CPD ¶ 149 at 14. A protester's mere disagreement with the agency's judgment does not establish that the evaluation was unreasonable. C. Lawrence Constr. Co., Inc., B-287066, Mar. 30, 2001, 2001 CPD ¶ 70 at 4. Our review of the record, including the agency's reports, vendors' quotations, and the pleadings, provides us no basis to find the agency's evaluation here unreasonable or otherwise objectionable.

As noted above, the RFQ set forth three evaluation factors in descending order of importance: price, technical, and corporate experience and past performance. Each factor contained multiple subfactors without specifying their relative importance. The solicitation also established that, while price would be considered the highest value factor once the baseline software product functionality had been confirmed, technical merit and corporate experience when combined were more important than price. The agency also informed vendors that, as to the evaluation of price, "total dollar value will become the sole [price] evaluation factor," and "[price] will not be 'scored.' The total [price] will be weighed against the other two evaluation factors." AR, Tab H, CA's Questions to RFQ amend. 1, at 2.

In its initial evaluation, the TET rated vendors' technical quotations against the functional specifications set forth in the SOW using a numeric rating system. Out of a possible 256 points, the baseline technical merit ratings assigned to the vendors' quotations were as follows:

Vendor	Technical Merit Score
Merant	230
Serena	226
CA	216 ⁸

Agency Report (AR), Tab N, TET Evaluation Report, Jan. 23, 2003, at 8.

The technical merit scores became an essential aspect of the TET's subsequent determination that the vendors' rankings under the technical evaluation factor were Merant, Serena, and CA, in that order. AR, Tab M, Price and Technical Team Report, Feb. 5, 2003, at 5-7. The agency then determined, based on consideration of all factors, that Merant's quotation represented the overall best value to the government.

As explained above, in response to CA's initial protest challenging the USDA's original source selection decision, the agency took corrective action, including receipt of vendors' revised price submissions and a new evaluation of quotations both as to price and technical factors and subfactors using a percentage/point rating system.⁹ The TET's revised ratings for the vendors' revised quotations were as follows (with available points for each criterion in parentheses):

⁸ The agency later recognized that CA's technical merit point score had been inaccurately computed and should have totaled 228. AR, Tab X, TET Award Recommendation (Corrected), at 6-7.

⁹ We note that, in response to CA's second protest challenging the USDA's corrective action for improperly failing to allow vendors to submit revised technical quotations as well as revised price quotations, the agency informed our Office that it had found no weaknesses in its evaluation of the vendors' technical quotations and that permitting vendors to submit new or revised technical quotations would unnecessarily duplicate the time and cost (estimated at more than \$42,000) already incurred in the agency's initial technical evaluation. Agency Report, June 20, 2003, at 5-6, Contracting Officer's Statement, June 18, 2003, at 1.

Factor		CA	Serena	Merant
1. Price				
	Amount	\$1,586,629	\$1,525,780	\$3,536,693
	1.1, Price (15)	14	15	6
	1.4, Volume Discounts (4)	0	2	2
	1.5, Training (4)	3	4	2
	1.5, Implementation Support (4)	4	4	2
	1.6, Expansion (5)	5	5	0
	1.7, Upgrades (5)	0	5	5
	Total (37)	26	35	17
2. Technical				
	2.1, Functionality			
	Raw score (256)	228	226	230
	Points (20)	20	20	20
	2.2, Documentation (4)	2	2	4
	2.3, Innovation (10)	0	10	5
	Total (34)	22	32	29
3. Corporate Experience				
	3.1, Experience (12)	12	12	12
	3.2, Usage Breadth (5)	3	5	0
	3.3A, Product Maturity (6)	3	0	6
	3.3B, Commitment (6)	0	6	3
	Total (29) ¹⁰	18	23	21
Total		66	90	67

AR, Tab W, TET Award Recommendation. The agency then determined, based on consideration of all factors, that Serena's quotation represented the overall best value to the government.

CA first argues that the USDA's use of a point scoring system for the evaluation of vendors' quotations was arbitrary and capricious. The protester points to the fact that under the USDA's original evaluation rating system, vendors' technical quotations were only scored against the SOW's functional specifications, and that CA scored higher than Serena (228 points to 226 points). CA also contends that in its initial evaluation the TET found no discriminators between the quotations of Serena

¹⁰ For subfactors 1.1, 1.5 (Training), 1.5 (Implementation Support), 1.6, 1.7, and 2.1, the rating scheme gave maximum evaluative credit to the highest-rated vendor, and percentages thereof to the other vendors. By contrast, for subfactors 1.4, 2.2, 2.3, 3.1, 3.2, 3.3A (Maturity), and 3.3B (Commitment), the evaluation scheme gave full evaluative credit to the highest rated quotation, half credit to the second-rated quotation, and no credit to the third-rated quotation.

and CA as to the technical innovation subfactor. CA alleges that, by contrast, the USDA developed post hoc an arbitrary point rating system with random subfactor weightings and an inconsistent scoring methodology in an effort to explain away CA's technical superiority over Serena.

Agencies have considerable discretion in determining the particular method used in evaluating vendors' quotations, see Preferred Sys. Solutions, Inc., B-292322 et al., Aug. 25, 2003, 2003 CPD ¶ 166 at 9, and we will not question an agency's choice of evaluation methods unless it is unreasonable or inconsistent with the solicitation. Federal Computer Int'l Corp., B-276885, July 29, 1997, 97-2 CPD ¶ 35 at 3.

We find that the revised point rating system applied by the USDA here was reasonable. Unlike the USDA's initial evaluation system that scored vendors' quotations under only one technical subfactor, and employed a narrative description for the evaluation of the remaining non-price factors and subfactors, the agency's revised rating system utilized a common evaluation methodology for each of the factors and subfactors set forth in the RFQ. Additionally, the relative point weightings assigned by the agency to each evaluation factor were consistent with the solicitation. The agency then applied the point scoring rating system to its evaluation of vendors' quotations in a consistent manner. To the extent that CA argues that the USDA's point scoring evaluation system is unreasonable merely because it yielded ratings different from the agency's initial ratings of vendors' quotations, where CA scored higher than Serena as to technical merit, the fact that the USDA's revised evaluation scoring system did not result in the same ratings or rankings as those initially achieved does not make the agency's revised rating system unreasonable.

We note, however, as does the protester, that the USDA developed its point scoring system after it already possessed the technical quotations of the vendors, which it had precluded vendors from revising. While the protester does not allege bad faith—only the post hoc development of the agency's evaluation methodology—and the record does not reveal any violation of law or regulation by the agency, in our view the integrity of the public procurement process is not enhanced here by the USDA's actions of obtaining and reviewing vendors' technical submissions first and developing an evaluation methodology second.¹¹ See Finlen Complex, Inc., B-288280, Oct. 10, 2001, 2001 CPD ¶ 167 at 9.

¹¹ Moreover, the agency's decision to develop a new evaluation methodology and reevaluate vendors' technical quotations in addition to revised price quotations is inconsistent with the representations that the USDA made to our Office. The USDA stated that the agency's earlier corrective action was limited only to an "apple-to-apples" comparison of vendors' prices and a better-documented source selection decision. The USDA also defended the reasonableness of its decision not to permit vendors to revise their technical quotations by representing that the agency did not

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CA also argues that the point rating system applied by the USDA to the evaluation of vendors' quotations was contrary to the terms of the solicitation. The protester points out that the RFQ established that the evaluation factors were listed in descending order of importance, and asserts that this implies that the same must be true for evaluation subfactors as well. CA contends, for example, that the agency's decision to assign more than twice as many points to the technical innovation subfactor (10 points) as to the technical documentation subfactor (4 points) was arbitrary and inconsistent with the solicitation.¹² Having already determined that the USDA's overall evaluation rating system was not arbitrary or unreasonable, we need not resolve whether the agency's evaluation of vendors' quotations improperly weighted various subfactors contrary to the terms of the solicitation, because the record demonstrates that the protester could not have been prejudiced as a result of any alleged error in this regard.

Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility of prejudice, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Parmatic Filter Corp., B-285288.3, B-285288.4, Mar. 30, 2001, 2001 CPD ¶ 71 at 11; see McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3 (prejudice is an essential element of every viable protest); see also Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996). Here, Serena's and CA's quotations received equal points for two of the three technical subfactors (functionality and documentation), and Serena's received more points for the third technical subfactor (innovation). Accordingly, regardless of the relative weight assigned to documentation and innovation, Serena's quotation would have been higher rated technically than that of CA.¹³ Under these circumstances, we conclude that CA could not have been prejudiced, even assuming, arguendo, that the agency's evaluation of vendors' quotations was inconsistent with the solicitation, as asserted by the protester.

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want to incur the additional time and cost associated with a new evaluation here, where it had found nothing improper in its initial evaluation of vendors' technical quotations. It now appears that, at the very time the agency was making this argument, it was, in fact, reevaluating vendors' technical quotations using a new rating system.

¹² Similarly, CA argues that the USDA's evaluation of vendors' prices--both by applying a point scoring scheme and by weighting price subfactors in other than descending order of importance--was also contrary to the terms of the solicitation.

¹³ Likewise, even if the USDA improperly applied a point scoring system to the evaluation of vendors' prices instead of considering only vendors' total prices, CA has not demonstrated that it was prejudiced by the agency's action, since Serena's total price of \$1,525,780 was lower than CA's total price of \$1,586,629.

CA also protests that the USDA improperly penalized the protester for not offering its Workbench configuration management product. Specifically, CA contends that the agency precluded it from revising its technical quotation in response to amendment No. 1, but then downgraded the evaluation of CA's quotation under both the technical innovation and corporate experience/commitment subfactors for not offering its Workbench product. CA argues that, in doing so, the agency's acted unreasonably. We disagree.

Under the technical innovation subfactor, the agency evaluated a vendor's innovations in software product design yielding up advantages to the government. RFQ at 17. As part of its evaluation of CA's quotation under the technical innovation subfactor the TET stated:

CA's two product[] solution has inherent administrative and support disadvantages since the products do not look and function in similar manners. CA's two-product design could become obsolete resulting in a significant re-investment. . . . In addition, CA has a product 'Workbench' that may enhance the 2-product design. Workbench is shown on the CA web site at release 1.1 and beta users are requested (beta users are the first users of a software product). When clicking on beta user request, the next display is page not found (this is unusual). It is not clear whether 'Workbench' is a viable product. CA did not offer 'Workbench' as a solution for the USDA.

AR, Tab W, TET Award Recommendation, at 2.

Under the corporate experience/commitment subfactor, the agency evaluated a vendor's long-term commitment to product support based on the vendor's product focus and overall condition of the company. RFQ at 17; AR, Tab W, TET Award Recommendation, at 9. As part of its evaluation of CA's quotation under the corporate experience commitment subfactor, the TET stated:

CA develops, acquires and integrates a number of products across many areas. The level of commitment to [change management] does not appear as strong as Serena or Merant. One product CA discussed was Workbench; it had been developed but at the time had no initial users. This product was not offered to USDA, and we can assume there could be problems or that the product may not be viable.

AR, Tab W, TET Award Recommendation, at 9.

An agency is not required to confine its evaluation to the "four corners" of a vendor's quotation, and it may properly consider other information known or available to it. See Forest Regeneration Servs. LLC, B-290998, Oct. 30, 2002, 2002 CPD ¶ 187 at 6. Here, as part of its evaluation of CA's quotation under the technical innovation and

corporate experience/commitment subfactors, the USDA properly looked at whether CA was developing another configuration management product, and what impact that would have on the products offered here. We find that the agency did not penalize CA for not offering its Workbench product, and the decision to look at CA's product line as part of its evaluation of CA's quotation was reasonable and consistent with the solicitation.

CA also asserts that the USDA improperly downgraded CA's quotation based on an unstated minimum requirement for an integrated multiple platform solution. CA contends that while the RFQ had no requirement that vendors offer a single integrated change management solution, and permitted vendors to offer multiple products so long as the products offered functioned in a common way, the USDA's evaluation clearly demonstrates that the USDA improperly downgraded CA based on an unstated requirement for an integrated multiple platform solution. We disagree.

In the context of an RFQ where the agency requests that vendors prepare non-price submissions for evaluation, it is fundamental that vendors must be treated fairly, Garner Multimedia, Inc., B-291651, Feb. 11, 2003, 2003 CPD ¶ 35 at 3; Draeger Safety, Inc., B-285366, B-285366.2, Aug. 23, 2000, 2000 CPD ¶ 139 at 4, and advised of the bases upon which their submissions will be evaluated. See Omniplex World Servs. Corp., B-290996.2, Jan. 27, 2003, 2003 CPD ¶ 7 at 5; H.J. Group Ventures, Inc., B-246139, Feb. 19, 1992, 92-1 CPD ¶ 203 at 4. Therefore, an evaluation based on unstated minimum requirements is improper. Omniplex World Servs. Corp., *supra*; RJO Enters., Inc., B-260126.2, July 20, 1995, 95-2 CPD ¶ 93 at 11.

As set forth above, the solicitation informed vendors that "[i]t is only essential that the functional requirements [of the proposed software] be satisfied in the same manner for each participating platform." RFQ at 5. In its evaluation of CA's quotation, the TET rated it as essentially equal overall to those of the other vendors under the technical functionality subfactor (20 each points for CA, Serena, and Merant) notwithstanding that CA's two-product solution was downgraded under certain functional criterion. Under the technical innovation subfactor, which evaluated innovations in software product design yielding advantages to the government, the TET stated:

The government indicated in [SOW] paragraph 3.0 that it was essential that the functional requirements be satisfied in the same manner for each participating platform. While not requiring an 'integrated solution,' the government desires the solution to look and feel the same over the various platforms. . . . A solution that looked the same yet requires multiple products would involve additional support costs such as systems programmers for the government. A vendor with multiple products that have a different look and feel would require additional software support, additional end user training support and additional administration support.

AR, Tab W, TET Award Recommendation, at 7. The TET then proceeded to evaluate all vendors' quotations under the technical innovation subfactor.¹⁴

We find that the protester's assertion that the USDA utilized an unstated minimum requirement in its evaluation of vendors' quotations is not supported by the record. The agency's evaluation of vendors' quotations did not require an integrated multiple platform solution, and CA's decision to quote a two-product solution did not result in a determination that its quotation was technically unacceptable. Moreover, we think the agency's decision to evaluate whether vendors had proposed an integrated multiple platform solution was reasonably encompassed within both the technical functionality and technical innovation subfactors, see Independence Constr., Inc., B-292052, May 19, 2003, 2003 CPD ¶ 105 at 4, and the award of higher technical scores to those vendors who did propose an integrated software product was also reasonable.

CA also protests that the agency improperly considered and evaluated vendors as to financial viability, which was not a stated evaluation factor or subfactor. CA points to the statement of the TET chairman noting that he considered vendors' financial viability based on publicly-available information. CA argues that the agency's decision to consider vendors' perceived financial viability, and to downgrade CA on the basis of unfounded financial concerns, was improper.

As set forth above, the RFQ informed vendors of the various evaluation factors and subfactors upon which the USDA would base its award decision; the solicitation did not state that a vendor's financial condition would be evaluated, and did not request that vendors furnish financial data as part of their quotations. As part of the agency's report, the TET chairman stated that in May 2003, the TET reviewed the financial viability of the competing vendors because "[t]he team wanted to ensure the vendor selected was viable over the long haul." AR, Tab T, Statement of TET Chairman, Nov. 7, 2003, at 3. Based on the data gathered, the TET chairman concluded that CA had extremely large losses over the last 3 years and that Serena "is clearly the most solid and would be able to support aggressive pricing." Id.

It is clear from the chairman's statement that the TET looked into the vendors' financial condition. However, the record simply does not show--and the protester points to nothing in the record indicating--that the information regarding vendors' perceived financial viability was factored into the agency's evaluation of quotations

¹⁴ The TET determined that CA's two-product solution had inherent administrative and support disadvantages because its products did not look and function in similar manners, and would cost the agency approximately \$[DELETED] in increased administration and training costs over the 3-year performance period. AR, Tab W, TET Award Recommendation, at 1, 4-5.

and source selection decision. Accordingly, we cannot conclude that CA was prejudiced by the agency's action in this regard, even if the TET should not have considered vendors' financial condition.

Lastly, CA asserts that the USDA improperly discussed its evaluation of vendors' quotations with the Gartner Group, an independent industry analysis organization, and improperly used the Gartner Group's recommendations in the evaluation.

As part of the agency report, the TET Chairman declared that,

On 2-4-2003, [TET] project team members . . . conducted a conference call with the Gartner Group. USDA purchases research and consulting from the Gartner Group. We shared our analysis and conclusions that Serena and Merant were our top technical choices. We also discussed the rationale for not selecting CA. Gartner discussed their thoughts on the vendors and products.¹⁵

AR, Tab AE, Statement of TET Chairman, Dec. 8, 2003, at 1.

We need not determine if the TET improperly relied on the Gartner Group's recommendations because any actions by the agency in connection with the initial evaluation of quotations were rendered academic by the subsequent reevaluation, which we have concluded was reasonable and consistent with the solicitation.

The protest is denied.

Anthony H. Gamboa
General Counsel

¹⁵ The TET did not provide the Gartner Group with vendors' technical quotations, the solicitation, or any other documents either before or after the February 4 conference call. Agency Report, Dec. 11, 2003.