Comptroller General
of the United States

Washington, D.C. 20548

Decision

DECISION FOR PUBLIC RELEASE

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Matter of: EC Corporation

File: B-266165.2

Date: February 20, 1996

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DIGEST

Agency's failure to downgrade awardee's proposal for lack of understanding based on price realism analysis that initially found unrealistically low item prices was reasonable where agency determined that awardee's technical proposal, together with its responses to discussion questions concerning the low prices, demonstrated an acceptable level of understanding.

DECISION

EC Corporation protests the award of a contract to Tate Facilities Services, Inc. under request for proposals (RFP) No. N62470-95-R-1151, issued by the Navy for base operating services at the Naval Security Group Activity, Northwest, and its military family housing complex, in Chesapeake, Virginia.

We deny the protest.

The RFP contemplated award of a fixed-price, indefinite quantity (with award fee) contract for a base period with 4 option years. The work to be performed was specified in approximately 224 sub-contract line items (CLIN); 167 were described as fixed-price and 57 were described as indefinite quantity. Section B of the RFP contained a pricing schedule that required, for the base and each option year, a single price for the fixed-price work, and unit and extended prices for each line item of indefinite quantity work. Estimated requirements were provided for the indefinite quantity items, so that total prices could be computed.

Offerors were to submit both technical and price proposals (in addition to the section B pricing schedule). Technical proposals were to be evaluated based on three equally weighted factors: organizational experience and past performance; work accomplishment and methodology; and financial capability. Price proposals were to be evaluated for reasonableness and realism. Price was equal in weight to the technical rating and award was to be made to the responsible offeror whose offer, conforming to the solicitation, would be most advantageous to the agency, price and other factors considered.

Three proposals were received, including Tate's and EC's (the third proposal is not relevant here). The evaluators assigned all proposals adjectival ratings of unacceptable but susceptible to being made acceptable, and included all in the competitive range. In the ensuing discussions, which encompassed specific questions and notification of deficiencies, each offeror was advised of sub-CLIN prices having "significant variances" from the government estimate, i.e., prices judged to be either unreasonably high or unrealistically low, and was asked either to reevaluate those prices or to explain the variances in its revised proposal. EC's and Tate's revised proposals were rated acceptable, although the Navy continued to have concerns about excessive pricing by EC. Best and final offers (BAFO) then were requested and submitted; both firms' BAFOs were rated acceptable. Since Tate's BAFO price was [deleted], substantially lower than EC's price of [deleted], and was judged reasonable and realistic based on the government estimate, [deleted], and the third offeror's price, [deleted], the agency concluded that Tate's offer represented the best value to the government, and thus made award to Tate.

LOW ITEM PRICES

EC maintains that Tate's technical proposal should have been downgraded, based on the price realism analysis, for lack of understanding under the work accomplishment and methodology factor because of "excessive" underpricing of numerous items; EC notes that its own proposal was downgraded for high prices. EC concludes that a proper evaluation would have resulted in a higher rating for EC's proposal than for Tate's and an award to EC based on its superior technical rating.[1]

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[1]EC also initially argued that: (1) its technical proposal should have been rated superior based on its experience, technical capability, and performance as the incumbent; and (2) the Navy failed to conduct meaningful discussions with EC. The Navy refuted both of these allegations in its report, and EC failed to address them in its comments. We thus consider these issues abandoned and will not consider them. PHP Healthcare Corp.; Sisters of Charity of the Incarnate Word, B-251799 et al., May 4, 1993, 93-1 CPD ¶ 366.

EC's argument is without merit. First, there is no evidence supporting EC's implicit position that its evaluation was negatively affected by the agency's concerns with its overpricing of certain items, and that its proposal therefore was not evaluated on the same basis as Tate's. EC's proposal was rated acceptable (after it responded to the initial discussion questions)--it was not denied a superior rating based on its pricing (and, as indicated above, EC abandoned its specific argument that its proposal should have received a superior rating)--and the record shows that Tate's high prices for certain items similarly were viewed as a weakness in its proposal. The proposals thus were treated equally in this regard.

The agency was not required to downgrade Tate's proposal for lack of understanding based on its low pricing. More specifically, providing in a solicitation for a fixed-price contract that a price realism analysis will be conducted does not require the agency mechanically to downgrade an offeror's technical proposal if it is found to contain low prices. See generally Birch & Davis Assocs.,Inc.--Protest and Request for Recon., B-246120.3; B-246120.4, Apr. 20, 1992, 92-1 CPD ¶ 372. While a price realism analysis may be used in fixed-price procurements as a means of assessing an offeror's understanding of the solicitation's technical requirements, Birch & Davis Assocs., Inc.--Protest and Request for Recon., supra; PHP Healthcare Corp., B-251933, May 13, 1993, 93-1 CPD ¶ 381, the evaluation must be based on consideration of the proposal as a whole. See Allied Cleaning Servs., Inc., 69 Comp. Gen. 248 (1990), 90-1 CPD ¶ 275; KCA Corp., B-255115, Feb. 9, 1994, 94-1 CPD ¶ 94.

Here, the evaluators determined that Tate's technical proposal demonstrated an acceptable level of understanding under the work accomplishment and methodology factor. As discussed, in evaluating the initial proposals the agency brought unrealistic/unreasonable item prices to each offeror's attention and requested that the offeror either adjust the prices or explain them. In response, Tate raised several of the prices and explained to the agency why it left other prices unchanged. For example, in addressing a list of prices identified as "low to unrealistically low," Tate responded that:

> "We have reviewed the [items] identified, as well as others not identified, and revised our projected manpower requirements to more accurately reflect the requirements. In most cases, significant increases were made. We did not increase [certain items] due to our review leading to an assessment that we can accomplish the work with the hours proposed."

The record shows that, rather than automatically conclude that low item prices reflected a lack of understanding--notwithstanding the acceptable level of understanding demonstrated in the technical proposal--the agency considered high item prices in both offerors' proposals as offsetting low prices; in other words, the agency viewed any low item prices in the context of the entire pricing scheme, not individually, in determining whether low item prices reflected a lack of

understanding.[2] Based on Tate's technical proposal, its revised prices, and its explanation for not changing certain prices, the agency determined that its revised proposal (and BAFO) was acceptable under the work accomplishment and methodology factor. Given these conclusions and the agency's discretion in the price realism area, the mere fact that Tate's item prices remained low compared to the estimate did not require the agency to downgrade Tate's proposal. See Birch & Davis Assocs., Inc.--Protest and Request for Recon., supra.

In any case, it is clear that EC's and Tate's proposals were treated equally regarding low item prices. In this regard, while EC's total price was substantially higher than Tate's (and the estimate), and most of its item prices were higher than the estimate, many of its prices were also significantly below the estimate, and many were lower than Tate's. Following are several examples:

Item	Tate	Estimate	EC
C5-02	[deleted]	[deleted]	[deleted]
C8-05	[deleted]	[deleted]	[deleted]
C8-09	[deleted]	[deleted]	[deleted]
C8-10	[deleted]	[deleted]	[deleted]
C10-04	[deleted]	[deleted]	[deleted]
C15-03	[deleted]	[deleted]	[deleted]
C16-03	[deleted]	[deleted]	[deleted]
C16-25	[deleted]	[deleted]	[deleted]
C17-01	[deleted]	[deleted]	[deleted]

[2]The mere fact that Tate's total price was [deleted] below the government estimate is not a basis for finding the price realism evaluation inadequate. See, e.g., Birch & Davis Assocs., Inc.--Protest and Request for Recon., supra (price realism evaluation adequate even though award price was 24 percent below government estimate); J&J Maintenance, Inc., B-244366.2, Mar. 7, 1994, 94-1 CPD ¶ 177 (award price was 16 percent below government estimate).

The agency did not determine that EC's low prices for these numerous items showed a lack of understanding of the work covered by the items; it obviously concluded that low item prices by themselves did not show a lack of understanding. EC has not demonstrated, and it is not apparent, why the same rationale would not apply to the evaluation of Tate's proposal.[3]

ESTIMATE

EC also maintains that the government estimate should have been higher which, it concludes, would make Tate's prices even more unrealistic than they appeared. More specifically, EC maintains that the RFP significantly increased the scope of work, relative to the current contract (the basis for the estimate), and added a number of requirements, all of which should result in a significant increase over the current contract price.

This argument is without merit. The Navy concedes that some work items were increased in both the fixed-price and indefinite quantity portions of the RFP, but also states that other work was decreased. The Navy estimates that the monetary impact of the deletions and additions to the fixed-price portion of the contract is only approximately $10,700. For the indefinite quantity portion of the contract, the Navy states, the most significant increase in work is under item 0014AJ, Installation of Carpeting. The government estimate for this work was [deleted], however, and EC's price for this item was only [deleted]; these figures obviously do not support a claim that the estimate was too low. EC has provided little information in support of its position and has not indicated what it believes the estimate should have been. As EC has not otherwise demonstrated that the Navy's position is incorrect, we have no basis for questioning the accuracy of the estimate.

The protest is denied.

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[3]EC argues that Tate cannot perform all the required services for its award price, and that the Navy therefore must have improperly relaxed the requirements for Tate. There is no evidence, however, that the award was based on any relaxed or waived requirements.