Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: Valenzuela Engineering, Inc.

File: B-283889

Date: January 13, 2000

Jerry H. Valenzuela for the protester.
Daniel J. Dykstra, Jr., Esq., Department of the Army, Corps of Engineers, for the agency.
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DIGEST

Selection of technically superior, higher-priced proposal is unobjectionable where the solicitation made technical considerations more important than price and the agency reasonably concluded that the technical superiority of the awardee warranted payment of the associated price premium.

DECISION

Valenzuela Engineering, Inc. protests the award of a contract to Clayton Environmental Consultants (CEC) under request for proposals (RFP) No. DACA05-99-R-0041, issued by the Army Corps of Engineers for the operation and maintenance of certain groundwater treatment systems located at the Los Alamitos Air Force Reserve Center in Orange County, California. Valenzuela principally challenges the source selection decision.

We deny the protest.

The solicitation, issued April 29, 1999, contemplated the award of a fixed-price contract to provide preventive maintenance, calibration, servicing, corrective repairs, sampling and analysis, and engineering services for the groundwater treatment systems at Los Alamitos Air Force Reserve Center. RFP § B. The solicitation provided for award to the offeror whose proposal represented the best value to the government based on technical merit, price/cost and other pertinent factors. RFP § M.2. The RFP technical evaluation criteria, listed in descending order of importance, consisted of operation and maintenance, engineering services, key

personnel and organizational structure, past performance, and small/disadvantaged/ women owned/minority business partnership compliance. RFP § M.10. The RFP provided that the technical evaluation factors were significantly more important than price and indicated that the government was concerned with striking the most advantageous balance between technical management, quality, and past performance features and price. RFP § M.6. With respect to price, the RFP provided that it would be "evaluated in accordance with FAR [Federal Acquisition Regulation §] 15.608 which states, 'The Contracting Officer shall use cost or price analysis to evaluate the cost estimate or price, not only to determine whether it is reasonable, but also to determine the offeror's understanding of the work and ability to perform the contract.'" RFP § M.7.

Valenzuela and CEC submitted the only proposals. The initial technical evaluation resulted in the following ratings:

Offeror	Technical Score	Overall Technical Acceptability
CEC	72.4	Very Good
Valenzuela	46.5	Satisfactory

Agency Report, Tab 6, at 1. While the source selection evaluation board (SSEB) rated the CEC and Valenzuela proposals as technically very good and satisfactory, respectively, the evaluators were concerned that the number of personnel both offerors proposed to perform the services was excessive.

The initial price proposals were as follows:

	Government Estimate	CEC	Valenzuela
Total Price	$18,483,362	$8,825,070	$2,211,540

The evaluators found CEC's price proposal to be reasonable and acceptable; the evaluators determined that Valenzuela's proposed prices did not reflect an accurate understanding of the work requirements because the line item prices were unrealistically low in key areas and, as a result, the evaluators determined that the proposal represented a risk of nonperformance. Agency Report, Tab 7.

By letters dated August 30, 1999, both offerors were advised that they were included in the competitive range. This letter also included amendment No. 0006, issued by the agency to resolve solicitation specifications that may have been ambiguous. Amendment No. 0006 also included the following change to the statement of work: "The proposal shall assume a maximum of 2 Full time equivalents (for example, 25% Chemist and 75% Geologist equals one full time equivalent). The persons that satisfy

those equivalents shall have a combination of the skills listed in the subsections below." As a result of amendment No. 0006, the government estimate was revised to a total estimated cost of $8,613,395.

Discussions were held with Valenzuela and CEC on September 7 and 8, respectively, and revised proposals were submitted by the September 13 closing date. The results of the evaluation of the revised proposals were as follows:

Offeror	Technical Score	Overall Technical Acceptability
CEC	76.3	Very Good
Valenzuela	49.1	Satisfactory

The evaluators concluded that CEC addressed each factor thoroughly and provided specific examples regarding knowledge of the requirement and experience with the requirement. On the other hand, the evaluators concluded that Valenzuela's proposal was merely adequate mainly because Valenzuela did not always provide relevant or complete examples or references addressing each factor. Both offerors were rated very good with respect to past performance. Agency Report, Tab 11.

By letters dated September 20, both offerors were notified of the opportunity to submit final proposal revisions. Agency Report, Tab 12. Each letter included a copy of the evaluation of the respective offeror's September 13 proposal revisions. The final proposal prices were as follows:

	Government Estimate	CEC	Valenzuela
Total Price	$8,613,395	$6,539,120	$2,208,076

Agency Report, Tab 14, at 1.

The final proposals were evaluated and the agency determined that CEC's proposal represented the best value to the government. In making the award determination, the contracting officer concluded that despite Valenzuela's satisfactory rating, it appeared that Valenzuela only nominally understood the requirement because its proposed price was so low. Agency Report, Tab 16, at 2-3. The contracting officer determined that Valenzuela's extremely low price placed doubt on Valenzuela's ability to perform the work in accordance with the requirements and represented a high risk of nonperformance. The contracting officer concluded that CEC's technical superiority warranted its additional price. Subsequently, on September 30, award was made to CEC.

Valenzuela essentially challenges the agency's evaluation of the proposals and the award decision.

The evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Federal Envtl. Servs., Inc., B-260289, B-260490, May 24, 1995, 95-1 CPD ¶ 261 at 3. In reviewing protests challenging an agency's evaluation of proposals, we will not substitute our judgment for that of the agency regarding the merits of proposals; rather, we will examine the agency's evaluation only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria, and with procurement statutes and regulations. Honolulu Marine, Inc., B-245329, Dec. 27, 1991, 91-2 CPD ¶ 586 at 3. A protester's mere disagreement with the agency's evaluation does not render it unreasonable. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454 at 5.

The protester's primary challenge to the proposal evaluation is based on its conclusion that the awardee must have been noncompliant with what the protester characterizes as the solicitation requirement of a maximum of two full time equivalent employees. The agency maintains that the amendment No. 0006 provision that an offeror should assume a maximum of two full time equivalents merely served to identify the agency's opinion as to what the probable staffing requirements for the requirement would entail. The agency states that this was not an award requirement but was merely an attempt to help the offerors to better understand how to prepare their proposals. The record shows that the agency did not evaluate whether either offeror proposed a maximum of two full time equivalent employees, but rather, the evaluation centered around whether the offeror demonstrated understanding of all the evaluation factors. In this regard, the evaluators concluded that CEC submitted the most comprehensive technical presentation that represented the best value to the government. Even if the awardee proposed in excess of two full time equivalents, we do not see how this prejudiced the protester, since Valenzuela does not assert that its proposal stayed within the limit of two full time equivalents, and neither offeror was downgraded during the evaluation for noncompliance in this regard.

The protester also contends that the agency did not perform a proper price realism analysis. The RFP provided that the contracting officer would use a price analysis to evaluate the cost estimate or price, not only to determine whether it was reasonable, but also to determine the offeror's understanding of the work and ability to perform the contract. RFP § M.7. The depth of an agency's price realism analysis when a fixed-price contract is to be awarded is a matter within the sound exercise of the agency's discretion. Family Realty, B-247772, July 6, 1992, 92-2 CPD ¶ 6 at 4.

Here, in evaluating price proposals for realism the agency compared the two proposals with each other and with the government estimate. The evaluators concluded that CEC submitted a proposal that demonstrated clear understanding of

the requirement and priced it accordingly. While the evaluators recognized that CEC's price was approximately 25 percent lower than the government estimate, it was not considered unreasonably low and consequently CEC was considered a low risk for contract performance. With respect to Valenzuela, the evaluators concluded that its prices did not reflect a clear understanding of the requirements. Agency Report, Tab 16, at 2. The evaluators found Valenzuela's prices risky for successful contract performance because it proposed unreasonably low prices in key areas such as work plans, safety plans, and monthly reporting. Agency Report, Tab 7, at 4.

We see nothing objectionable about the price analysis performed by the agency. As explained above, under a fixed-price solicitation, even when the agency provides that it will perform a price realism analysis, the depth of that analysis is a matter within the sound exercise of the agency's discretion. The protester's primary disagreement with the agency's conclusions is based on its erroneous belief that no price realism analysis was performed on the awardee's price proposal. As noted above, the agency did perform a price realism analysis of both proposals consistent with the solicitation requirement and concluded that CEC proposed price demonstrated a clear understanding of and sound approach to satisfying the requirement.

Finally, the protester contends that there is insufficient evidence to support the agency's decision that award to CEC represents the best value to the government. The agency position is that it properly awarded the contract to CEC on the basis of an appropriate technical/price tradeoff. In a negotiated procurement, agency officials have broad discretion in determining the manner and extent to which they will make use of technical and price evaluation results. Price/technical tradeoffs may be made; the extent to which one may be sacrificed for the other is governed by the test of rationality and consistency with the established evaluation factors. General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44 at 9. Where, as here, the RFP indicates that technical considerations are more important than price considerations, selection of a technically superior, higher-priced proposal is proper where the agency reasonably concludes that the price premium was justified in light of the proposal's technical superiority. Dynamics Research Corp., B-240809, Dec. 10, 1990, 90-2 CPD ¶ 471 at 2. Here, the record supports the contracting officer's decision to award the contract to CEC on the basis of its technically superior offer, notwithstanding CEC's higher proposed price. After reviewing the proposals submitted by the offerors, the agency determined that CEC was the more qualified contractor for the project. CEC demonstrated extensive knowledge/experience in design as well as operation and maintenance of the applicable treatment system, and knowledge of the emergency response procedures and state requirements for spill control. Although Valenzuela's overall price was lower, the proposal did not demonstrate that Valenzuela was capable of operating and maintaining the treatment

system and the offeror had limited experience. Moreover, Valenzuela's extremely low price raised doubt as to its ability to perform the requirements. Consequently, we see no basis to question the reasonableness of the award determination.

The protest is denied.

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