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

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## Decision

**Matter of:** Clapp & Mayne, a Division of Renaissance Information Systems, Inc.

**File:** B-292904

**Date:** December 29, 2003

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Jeffrey P. Hildebrant, Esq., and William T. Welch, Esq., Barton, Baker, McMahon, Hildebrant & Tolle, for the protester.

Diane A. Perone, Esq., Agency for International Development, for the agency.

Glenn G. Wolcott, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protester's proposals were properly excluded from the competitive range where agency reasonably identified multiple deficiencies and/or weaknesses in protester's proposed technical approach to performing the solicitation requirements for each performance sector, and concluded that, without major revisions, neither proposal had a reasonable chance of being selected for award.

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### DECISION

Clapp & Mayne, a Division of Renaissance Information Systems, Inc. (C&M), protests the U.S. Agency for International Development's (USAID) exclusion of C&M's proposals from the competitive range under request for proposals (RFP) No. M/OP-02-026 to provide technical assistance and support in furtherance of USAID objectives to stabilize world population and protect human health. C&M protests that the agency improperly determined that C&M's technical proposals contained multiple weaknesses and/or deficiencies.

We deny the protest.

### BACKGROUND

The solicitation was issued on January 17, 2003, seeking proposals to provide technical assistance and support to USAID in the following three performance "sectors": (1) child health, maternal health and nutrition, population, human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) and infectious diseases (collectively referred to as the "global health" sector); (2) tuberculosis; and (3) media relations, public opinion, polling and advocacy

(collectively referred to as the “media” sector). Agency Report, Tab 5, RFP, at 9-10. The solicitation stated that separate competitions would be conducted for each of the performance sectors and offerors were invited to submit separate proposals for any or all of the competitions. The agency stated that it intended to make multiple awards of indefinite-quantity contracts for each sector.

With regard to source selection, offerors were advised that contract awards would be made on a “best value” basis and that proposals would be evaluated with regard to cost/price and the following technical factors, listed in descending order of importance: personnel, technical approach, past performance, and management plan.<sup>1</sup> Agency Report, Tab 5, RFP, at 78. The solicitation provided that the technical factors would be “significantly more important” than cost/price. Agency Report, Tab 5, RFP, at 76.

With regard to the evaluation factor for assessing proposed technical approach, offerors were required to respond in two parts. First, offerors were directed to address various sample tasks contained within the solicitation.<sup>2</sup> Second, offerors were required to discuss their understanding and general approach to performing the contract requirements of each performance sector.<sup>3</sup>

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<sup>1</sup> Under each technical factor, proposals were assigned adjectival ratings of “outstanding,” “very good,” “good,” “marginal,” or “unacceptable.” Agency Report, Tab 5, RFP, at 78.

<sup>2</sup> With regard to the tuberculosis sector, the solicitation contained a sample task requiring offerors to address various aspects of implementing “[d]irectly [o]bserved therapy [s]hort-course” (DOTS) (a strategy recommended by the World Health Organization) in Tajikistan, with a stipulated cost ceiling of \$1 million. Agency Report, Tab 5, RFP, at 71. With regard to the global health sector, the solicitation contained five sample tasks: one regarding post-abortion care in areas with low population density; one regarding maternal health and nutrition in a sub-Saharan African country; one involving child health and nutrition in Ukraine; one involving counseling and testing services for HIV/AIDS in sub-Saharan Africa; and one regarding current programs for infectious disease for the Democratic Republic of Congo. Agency Report, Tab 5, RFP, at 70-71. In addition to describing their proposed technical approaches to performing the sample tasks, offerors were directed to provide work plans and product outlines describing the deliverable(s) and/or result(s) of each sample task. Agency Report, Tab 5, RFP, at 70.

<sup>3</sup> With regard to the global health sector, the solicitation required offerors to “provide a concise summary of [the offeror’s] understanding and general approach to (1) policy reform; (2) community and individual behavior change; (3) service delivery; (4) training and commodities; and (5) operations and applied research.” Agency Report, Tab 5, RFP, at 71. With regard to the tuberculosis sector, offerors

(continued...)

On or before the March 24 closing date, the agency received 5 proposals, including C&M's, responding to the tuberculosis requirements, and 12 proposals, including C&M's, responding to the global health sector requirements.<sup>4</sup> Thereafter, separate technical evaluation panels (TEP) evaluated the proposals for the respective sectors.<sup>5</sup>

In evaluating C&M's proposal to perform the tuberculosis requirements, the TEP identified multiple weaknesses and/or deficiencies under each of the technical evaluation factors;<sup>6</sup> C&M's technical proposal was ranked 4<sup>th</sup> of the 5 proposals submitted. More specifically, in evaluating C&M's tuberculosis proposal under the single evaluation factor for assessing technical approach, the TEP identified [deleted] deficiencies and [deleted] "significant" weaknesses,<sup>7</sup> and assigned C&M's proposal an adjectival rating of [deleted] under that evaluation factor. Agency Report, Tab 12, at 4-6.

Similarly, in evaluating C&M's proposal to perform the global health requirements, the TEP identified [deleted] significant weaknesses under the various technical evaluation factors;<sup>8</sup> C&M's technical proposal to perform the global health requirements was ranked 11<sup>th</sup> of the 12 proposals submitted. More specifically, in evaluating C&M's global health proposal under the single evaluation factor for assessing technical approach, the TEP identified [deleted] "significant" weaknesses and concluded that C&M's overall understanding and technical approach was "very superficial." Agency Report, Tab 20, at 35-37.

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(...continued)

were required to "provide a concise summary of [the offeror's] understanding and general approach to Tuberculosis programs." Id.

<sup>4</sup> C&M did not compete to perform the media requirements; accordingly, we do not further discuss that aspect of the procurement.

<sup>5</sup> The agency states that each of the evaluation panels was comprised of "mutually exclusive panel participants." Agency Report at 3.

<sup>6</sup> In evaluating C&M's proposal under all four technical evaluation factors, the agency identified a total of 64 weaknesses or deficiencies. Agency Report, Tab 12, at 1.

<sup>7</sup> Under the evaluation plan employed by the TEP, a deficiency was defined as "a material failure of a proposal to meet a Government requirement," and a "significant" weakness was defined as a weakness that "appreciably increases the risk of unsuccessful contract performance." Agency Report, Tab 6, at 8.

<sup>8</sup> In evaluating C&M's proposal under all four technical evaluation factors, the TEP identified a total of 14 "significant" weaknesses. Agency Report, Tab 20, at 34-40.

Based on the totality of the evaluated weaknesses and/or deficiencies in each of C&M's proposals, the TEPs for each of the two performance sectors separately concluded that, without major revisions, neither of C&M's proposals had a reasonable chance of being selected for award; accordingly both proposals were excluded from further consideration. Thereafter, C&M was notified that its proposals had been excluded from the competitive range for both performance sectors; this protest followed.

## DISCUSSION

C&M challenges the reasonableness of the agency's assessment of multiple weaknesses/deficiencies in its technical proposals and argues that, even if C&M's proposals were properly evaluated as containing multiple flaws, the agency should have given C&M an opportunity to correct those flaws. We disagree.

In reviewing a protest challenging an agency's evaluation of technical proposals, our Office will not reevaluate proposals but, rather, will examine the record to determine whether the agency's judgments were reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. A protester's mere disagreement with the agency's judgments does not establish that the evaluation was unreasonable. SDS Int'l, Inc., B-291183.4, B-291183.5, Apr. 28, 2003, 2003 CPD ¶ 127 at 5-6.

With regard to competitive range determinations, contracting agencies are not required to include proposals that have no realistic chance of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); SDS Petroleum Prods., Inc., B-280430, Sept. 1, 1998, 98-2 CPD ¶ 59 at 5-6. Where a proposal would require major revisions to become eligible for award, exclusion from the competitive range is generally permissible. CMC & Maint., Inc., B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2. Similarly, proposals that reflect material informational omissions regarding fundamental performance requirements may be properly excluded from further consideration. American Med. Depot, B-285060 et al., July 12, 2000, 2002 CPD ¶ 7 at 6-7.

### Tuberculosis Sector

Here, as discussed above, C&M's proposed technical approach to performing the solicitation requirements for the tuberculosis sector was evaluated as being deficient in various aspects. In describing these deficiencies, the TEP stated, among other things:

D[eficiency] -- There is a clear mismatch between [deleted] and [deleted] of [C&M's] technical proposal in terms of applying knowledge about [deleted] to [deleted]. Indeed the proposal reflects . . . an inability of the offeror to apply even the most basic technical concepts

to [deleted]. For example, [the] section [of C&M's proposal] on [deleted] mentions nothing about [deleted] or [deleted]; section on [deleted] does not describe [deleted]; description of [deleted] mentions nothing about [deleted], and how [deleted] is being implemented [deleted]; description of [deleted] is incoherent; and description of [deleted] provides no information about [deleted]. This suggests that the offeror[']s conceptual knowledge has not been [deleted], as well as an inability to [deleted].

D[efficiency] -- [deleted].

D[efficiency] -- Proposal fails to make any connection with the [deleted].

D[efficiency] -- The summary of [deleted] is incomplete. At a minimum, it should include information on [deleted].

D[efficiency] -- Offeror incorrectly implies that [deleted]. [This] suggests that the offeror does not possess a sound technical basis for [deleted].

Agency Report, Tab 12, at 6.

In its comments responding to the agency report, C&M fails to address--much less, rebut--all but one of the proposal deficiencies identified above.<sup>9</sup> Instead of substantively responding to the overwhelming majority of the agency's criticisms, C&M uses a significant portion of its comments to tout the qualifications of C&M's proposal authors and, conversely, to disparage the qualifications of the agency evaluators.<sup>10</sup> C&M Comments, Nov. 17, 2003, at 13-15. That is, rather than providing objective evidence or substantive arguments that the identified deficiencies were inaccurate or otherwise erroneous, C&M essentially maintains that C&M's

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<sup>9</sup> The only deficiency that C&M even attempts to address in any substantive manner is the agency's statement that C&M "incorrectly implies that [deleted]." Agency Report, Tab 12, at 5. In response to this identified deficiency, C&M asserts that its proposal "neither stated nor implied that [deleted]." Protester's Comments on Agency Report, Nov. 17, 2003, at 17. The record is to the contrary. C&M's proposal states: "[deleted]." Agency Report, Tab 8, at 19. On this record, we find no basis to question the agency's assessment [deleted].

<sup>10</sup> For example, C&M asserts that, "the conclusions of the evaluators indicate a limited understanding of DOTs planning and implementation, which is not surprising given their limited experience and background implementing DOTs for TB in developing countries." C&M Comments on Agency Report, Nov. 17, 2003, at 16.

perceptions regarding the qualifications of its own personnel, as compared to C&M's perceptions of the agency evaluators' qualifications, constitute ample support to overturn the evaluation. C&M summarizes its position as follows:

The relative expertise of the evaluators compared to the authors of [C&M's] proposal suggest . . . that on questions of subjective technical judgment, the proposal authors would be in a far better position to exercise better informed judgment.

Id.

Based on our review of the record, including the unrebutted identification and description of the multiple proposal deficiencies reflected in C&M's technical approach, we find no basis to question the agency's conclusion that C&M's proposal had no reasonable chance of being selected for award under the tuberculosis sector.

Global Health Sector

Similarly, in evaluating C&M's proposed technical approach to performing the global health requirements, the TEP identified multiple "significant" weaknesses in C&M's proposal. Specifically, the TEP concluded that each of C&M's responses to the five sample tasks regarding global health reflected significant flaws. For example, with regard to the sample task for post-abortion care,<sup>11</sup> the TEP stated:

[Deleted] was not addressed; [deleted] was not included in the [deleted]. (S[ignificant weakness]) No [deleted]. (S[ignificant weakness]) [Deleted] is not addressed adequately. (S[ignificant weakness]) [Deleted] are not mentioned . . . (S[ignificant weakness])

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<sup>11</sup> The solicitation described this sample task as follows: "A mission requests technical assistance to the national family health program to pilot postabortion care services at 5 community health clinics in a district with very low population density. Please describe the process you would undertake to respond including whom you would assign to the task and a draft workplan, and timeline." Agency Report, Tab 5, at 70.

[Deleted] is missing. [Deleted] missing. (S[ignificant weakness]) Does not mention [deleted]; and doesn't mention [deleted] as a major issue in [deleted]. . . . Inconsistencies between [deleted] and [deleted].<sup>12</sup>

Agency Report, Tab 20, at 35-36.

Other than asserting that its proposal does, in fact, contain a reference to [deleted], and arguing that its [deleted] were not difficult to understand,<sup>13</sup> C&M's comments offer no substantive rebuttal to any of the above-identified flaws in its proposal.

Similarly, with regard to the C&M's response to the solicitation's sample task regarding child health and nutrition in Ukraine,<sup>14</sup> the TEP stated:

(S[ignificant weakness]) No [deleted] as requested. Does not mention that [deleted]. (S[ignificant weakness]) Presents an unwieldy and over-ambitious [deleted], including inappropriate [deleted]. Does not describe [deleted].

Agency Report, Tab 20, at 36.

Again, C&M's comments responding to the agency report offer nothing of substance to challenge the agency's assessments, arguing only that the agency's concern with regard to the required [deleted] was "trivial." Protester's Comments on Agency Report, Nov. 17, 2003, at 22.

Finally, with regard to the solicitation requirement that offerors discuss their understanding and general technical approach with regard to policy reform, community and individual behavior change, service delivery, training and

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<sup>12</sup> The agency separately identified the RFP-required [deleted] in C&M's proposal as a "significant" weakness. In addition to the above-stated criticism that there were "inconsistencies between [deleted] and [deleted]," the TEP described C&M's [deleted] as "so poorly presented that they are hard to understand." Agency Report, Tab 20, at 35.

<sup>13</sup> C&M does not dispute the agency's criticism that C&M's [deleted] were inconsistent with its [deleted].

<sup>14</sup> Regarding this sample task, the solicitation stated: "If the Task Order requested providing a short-term team to assess policy constraints to an integrated program in child health and nutrition programs in the Ukraine, whom would you assign to the task? What resources would you access before the field assignment? Present an outline of the assessment, draft table of contents of the report, and timeline." Agency Report, Tab 5, at 70.

commodities, and operations/applied research, see Agency Report, Tab 5, RFP, at 71, the TEP criticized C&M's proposal, stating:

Overall Understanding/Approach: [V]ery superficial. Policy Reform: Weak comprehension of [deleted]. [Deleted] are not specific to [deleted]. Discussion does not mention [deleted]. [Community and Individual Behavior Change:] Very few details or examples--"based on theory" not sufficient. Proposal does not mention the [deleted] and [deleted]. Service Delivery: (S[ignificant weakness]). The 4 sentences don't indicate that they know what is required for delivery services: [deleted]. Proposal does not mention [deleted]. Training: No information about [deleted]. Commodities: Information insufficient on [deleted]. Discussion does not include [deleted]. Research: Unclear that offeror understands [deleted] to be different from [deleted]. There is no stated intent to [deleted]. Not much discussion on [deleted].

Agency Report, Tab 20, at 36-37.

C&M's comments responding to the agency report do not substantively address these criticisms of C&M's proposal in any way.

Again, based on our review of the record, including the agency's identification of multiple flaws in C&M's proposed technical approach to performing the global health requirements and C&M's failure to substantively refute the bases for the agency's criticisms, along with the agency's ranking of C&M's technical proposal as 11<sup>th</sup> of the 12 proposals submitted, we find no basis to question the agency's conclusion that C&M's proposal stood no reasonable chance of being selected for award under the global health sector.

The protest is denied.

Anthony H. Gamboa  
General Counsel