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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: CMC & Maintenance, Inc.

File: B-293803.2

Date: December 2, 2004

Michael McCue for the protester.

Joseph J. Mack for Secure Services Group, Inc., an intervenor.

Stephen T. Orsino, Esq., Federal Emergency Management Agency, for the agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's decision to reevaluate quotations, after award had been made to protester, was reasonable and appropriate where original award determination was based on erroneous evaluation information and agency record lacked any documentation to support original adjectival evaluation ratings.

DECISION

CMC & Maintenance, Inc. protests the termination of its contract for convenience, and the subsequent award to Secure Services Group, Inc. (SSG), under request for quotations (RFQ) No. HSFE01-04-Q-0001, issued by the Federal Emergency Management Agency (FEMA) for operation, maintenance, and repair of mechanical components at two federal buildings. CMC asserts that the agency's actions were unnecessary because the original award to CMC was proper.

We deny the protest.

The RFQ called for quotations to provide all labor and materials necessary for operation and maintenance at the Federal Regional Center and the vehicle storage and administration building in Maynard, Massachusetts. The current contract, being performed by SSG, was to expire at the end of August 2004, and the agency needed a bridge contract to cover services while it finalized a new competitive solicitation. The RFQ contemplated issuance of a fixed-price contract for a period of 1 month, with a 6-month option expiring in March 2005. Quotations were to be evaluated under three factors—technical qualifications (including resumes of individuals proposed as engineering technician IV); past performance; and cost/price. The

technical factor was considered more important than past performance and the non-price factors were considered significantly more important than cost. Award was to be made on a “best value” basis.

Four vendors, including CMC and SSG, submitted quotations, which were evaluated by the then-cognizant contracting officer, who alone evaluated their technical qualifications. The contracting officer summarized her adjectival ratings in matrix form and, without identifying the vendors by name, furnished them to the three-member technical evaluation panel (TEP) for review. Based on this review, bidder 1 (SSG) was rated technically lower, and had a lower price, than bidder 2 (CMC); the TEP thus recommended award to CMC. After awarding the contract to CMC, the contracting officer left federal service and was replaced by another individual. Thereafter, SSG requested a debriefing, but when the replacement contracting officer reviewed the contracting file, she determined that the evaluation was so flawed that it had to be redone. She notified the vendors and had the TEP review each vendor’s quotation, individually score them, and then complete a consensus evaluation. The TEP’s consensus evaluation rated CMC’s quotation as good under the technical factor and unsatisfactory under the past performance factor, while rating SSG’s quotation as outstanding under both factors. Based on SSG’s technical ratings and low price, the contracting officer terminated CMC’s contract and made award to SSG. Upon learning of the termination of its contract and the new award, CMC filed this protest.

CMC does not maintain that the reevaluation of quotations was unreasonable or otherwise flawed but, rather, asserts that the termination of its contract, and the new award to SSG, were improper because the agency had no need to conduct a reevaluation. In CMC’s view, the evaluation record was sufficient to support the original award.

With regard to contract awards, an agency must document its judgments in sufficient detail to show that they are not arbitrary. U.S. Defense Sys., Inc., B-245563, Jan. 17, 1992, 92-1 CPD ¶ 89 at 3. Contracting officials have broad discretion to take corrective action where the agency determines that such action is necessary to ensure fair and impartial competition, and we will not object to an agency’s corrective action where the agency discovers an obvious error in the evaluations and corrects the error by reassessing the proposals. Kellie W. Tipton Constr. Co., B-281331.3, Mar. 22, 1999, 99-1 CPD ¶ 73 at 4-5.

Here, the replacement contracting officer’s decision to take corrective action was both reasonable and appropriate because the original evaluation and its record were significantly flawed. Specifically, even though the quotations were to be evaluated on the basis of technical qualifications and past performance, there was nothing—no strengths or weaknesses—listed in the evaluation record to support the original contracting officer’s adjectival ratings for the vendors. Further, the evaluation matrix was inconsistent with SSG’s past performance information. Specifically, one of SSG’s past performance questionnaire respondents had indicated that he would

do business with SSG again, and the other had indicated that he “maybe” would do business with SSG again. However, the original evaluation matrix indicated that these respondents had answered “maybe” and “no,” a significant difference. Moreover, the TEP members, charged with responsibility for evaluating the proposals, had not reviewed either proposal before making their initial award recommendation. Given the agency’s reliance on erroneous information, the lack of supporting narrative, and the absence from the record of any information supporting the TEP’s award recommendation, the award determination was unsupportable and potentially subject to a successful protest challenge. U.S. Defense Sys., Inc., supra. Under these circumstances it was within the agency’s discretion to reevaluate the quotations and make a new award determination based on a fully documented evaluation record. Since following this course resulted in a determination that SSG’s proposal, rather than CMC’s, represented the best value, the termination of CMC’s contract and issuance of a new contract to SSG were unobjectionable

The protest is denied.

Anthony H. Gamboa
General Counsel