



United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** Precision Prosthetics, Inc.

**File:** B-401023

**Date:** April 9, 2009

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John K. Lee for the protester.

Donald C. Mobly, Esq., Department of Veterans Affairs, for the agency.

Susan K. McAuliffe, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging agency's evaluation of protester's proposal is denied where the record establishes that the evaluation was reasonable and consistent with the solicitation's evaluation criteria.

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### DECISION

Precision Prosthetics, Inc. (PPI), of El Paso, Texas, protests the evaluation of its proposal under request for proposals (RFP) No. VA-258-08-RP-0066, issued by the Department of Veterans Affairs (VA) for the fabrication and repair of artificial limbs for VA patients in El Paso, Texas and Las Cruces, New Mexico.

We deny the protest.

The RFP, set aside for small business concerns, contemplated the award of multiple fixed-price, indefinite-delivery/indefinite-quantity contracts for a base period and 4 option years. Awards were to be made to those offerors whose proposals were deemed most advantageous to the agency considering technical and price factors. The RFP set out four equally weighted evaluation factors for award, including the following three technical evaluation factors: 1) management and experience; 2) quality and past performance, including evaluation of a synopsis to be included in the proposal explaining the offeror's overall approach to quality control and quality improvement; the offeror's proposed quality improvement plan; and past performance information; and 3) technical certification. Price, the fourth factor, was to be evaluated in terms of the amount of the firm's offered yearly discount, calculated as a percentage reduction to published price lists for orthotic and prosthetic devices referenced in the solicitation. RFP at 7, 33-34. Offerors were

advised that they must provide sufficient information to demonstrate the capability to satisfactorily perform the work and meet RFP requirements, and that, since discussions and revised proposals were not anticipated, initial proposals were to contain sufficient detail for evaluation and to demonstrate compliance with the RFP's requirements. RFP at 7.

Five proposals were received by the closing time; one offeror, a large business, was excluded from consideration. The remaining four proposals were evaluated by a technical evaluator who assigned point scores under the evaluation factors (20 points were available under each factor). The contracting officer reviewed the proposals and considered the evaluator's recommendations in making the award determination. Two offerors' technical scores were higher than PPI's, and they proposed substantially higher discount amounts (and thus lower prices). The third firm received the same score on the technical factors as PPI, but offered the highest discount percentage (and thus the lowest price) of all offerors; as a result, that firm received a higher overall score than PPI. PPI offered a substantially lower discount percentage (and thus a substantially higher price) than all the other firms. PPI's proposal received the lowest overall score and was ranked last among the four proposals.

Regarding the evaluation of the protester's offer under the technical factors, the record shows that PPI's proposal received the maximum number of points available under both the management/experience and technical certification factors. Under the quality and past performance information factor, the proposal received 15 out of 20 points. In support of the rating assigned under that factor, the technical evaluator noted that PPI's proposal provided limited information about its experience with veterans, that VA staff questioned what appeared to be intimidating actions by the firm's owner, and that the performance of PPI's prior contract for the same services was terminated in 2005, following a federal criminal conviction of the firm's owner. The contracting officer also noted that the firm failed to provide details about its proposed quality control/quality improvement plan, a requirement under the same evaluation factor.

The other three firms' proposals, which, as noted above, received technical ratings equal to or higher than the protester's proposal, and offered more favorable pricing terms, were found to be most advantageous to the agency. The agency then awarded three contracts under the RFP; two firms were awarded contracts for the work in El Paso, Texas, and the third firm was awarded a contract for the work in Las Cruces, New Mexico. This protest followed.

PPI primarily protests the agency's evaluation of its proposal under the quality and past performance evaluation factor. With respect to the lack of detail regarding its quality control plan, PPI contends that, since its proposal submission was already lengthy and the firm believed that simply demonstrating that it possessed accreditation for its prosthetic work would establish that it has a quality control program, it did not provide a copy of its quality control and quality improvement

procedures in its proposal. PPI also questions the evaluator's consideration of the firm's principal's perceived demeanor with contracting personnel and his past legal affairs, which resulted in termination of PPI's prior contract for the same services.

In reviewing protests of alleged improper evaluations and source selections, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws. See Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. CACI Techs., Inc., B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5. In this regard, an offeror must affirmatively demonstrate the merits of its proposal and risks the rejection of its proposal if it fails to do so. HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5. A protester's mere disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

We think that the record shows that the agency's concern about the lack of information in PPI's proposal regarding its planned quality control/quality improvement program was reasonable and supports the rating given to the proposal under the quality and past performance evaluation factor. First, as stated above, the RFP required a synopsis from each offeror explaining the firm's planned procedures for quality control and quality improvement. Since the RFP explicitly required a description of the offeror's quality control program, the protester's suggestion that its accreditation alone adequately showed that it has such a program is unpersuasive. Second, while PPI's proposal very generally mentions tools the firm may use in the area of quality control (such as brochures, meetings, checklists, surveys, and telephone calls), and it is clear the proposal received some credit for its response, without more detail--describing, for example, how these tools will be used, who has responsibility for them, or what information will be asked of or shared with patients or personnel--we see no basis in the record to conclude that PPI's proposal warranted additional evaluation credit under this factor.

The protester provides no support for questioning the evaluator's consideration of PPI's owner's contacts with VA personnel, or the agency's consideration of PPI's prior terminated contract for the same work. The evaluation factor at issue encompassed consideration of past performance, making working relationships and termination of a prior relevant contract reasonable matters for review. Thus, we cannot find unreasonable the agency's consideration of the information and its resulting reflection in PPI's score.

In sum, given the reasonableness of the technical evaluation and the protester's higher price, the record provides no basis to question the agency's determination

that PPI's proposal was not one of the most advantageous to the agency, and its resulting decision not to select PPI for award of a contract under the RFP here.<sup>1</sup>

The protest is denied.

Gary L. Kepplinger  
General Counsel

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<sup>1</sup> PPI makes additional allegations that do not establish a basis for challenging the agency's action, since they lack sufficient information to establish the likelihood that the agency in this case violated applicable procurement laws or regulations. See Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f) (2008). For example, the protester questions the agency's decision to conduct a site visit at only one of PPI's locations, suggesting that this had some negative effect on consideration of its proposal. The agency acknowledges that it visited one of PPI's sites (El Paso), found it technically acceptable, and considered PPI for award for both locations under the RFP. There is no support in the record for any suggestion that additional site visits were required or that the agency's single site visit adversely affected the evaluation of PPI's proposal in any way. Similarly, as to PPI's contention that the agency had improper communications with other offerors, the record shows that the communication PPI references concerned an apparent error in the RFP raised by one of the offerors; the agency subsequently issued an RFP amendment correcting the error to all offerors. To the extent PPI now challenges the terms of the RFP—arguing, for example, that the RFP should have included a preference for service-disabled, veteran-owned businesses—such challenges are untimely, as protests of apparent irregularities in a solicitation must be filed prior to the closing time for receipt of proposals. 4 C.F.R. § 21.2(a)(1).