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**Comptroller General
of the United States**

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

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The decision issued on the date below was subject to a GAO Protective Order. No party requested redactions; we are therefore releasing the decision in its entirety.

Decision

Matter of: Phoenix Management, Inc.

File: B-299477

Date: May 16, 2007

Johnathan M. Bailey, Esq., and Theodore M. Bailey, Esq., Bailey & Bailey, P.C., for the protester.

Lt. Col. Frank A. March, Maj. Gregory A. Moritz, Maj. P. Daniel DiPaola, Capt. John J. Pritchard, Capt. Robert B. Nelson, Capt. Charlene T. Storino, and Raymond M. Saunders, Esq., Department of the Army, for the agency.

Paul N. Wengert, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where the agency reasonably found the protester's proposal did not adequately explain protester's approach to utilizing staff to ensure that multiple tasks of performance work statement would be performed according to stated standards (without disrupting the performance of other tasks), and where the agency had provided comments during discussions that reasonably alerted the protester to that concern, but the revised proposal failed to alleviate the agency's concern.

DECISION

Phoenix Management, Inc. (PMI) protests the decision of the Department of the Army, pursuant to Office of Management and Budget Circular A-76, to accept the agency tender for performance by the government's most efficient organization (MEO) to perform in-house the requirements for airfield support services at Fort Rucker, Alabama, rather than to award a contract for these services, under request for proposals (RFP) No. W911SO-06-R-0011. PMI argues that, but for the agency's unreasonable evaluation, its lower priced proposal would have been viewed as acceptable, and it would have received the award.

We deny the protest.

BACKGROUND

The Army issued the RFP on July 20, 2006, seeking firm fixed-price proposals, and an agency tender, for performance of airfield support services for a 10-month base

period (preceded by a 60-day phase-in period), followed by four 1-year option periods. The performance work statement (PWS) described services in three main areas—flight operations,¹ motor vehicle operations,² and airfield support³—to be performed at five sites: Cairns Army Airfield, Hanchey Army Heliport, Lowe Army Heliport, Shell Army Heliport, and Knox Army Heliport. RFP amend. 4, Revised Performance Work Statement (PWS), at C-5-1.

The RFP specified that proposals would be evaluated under three evaluation factors: mission capability, past performance, and price. The mission capability factor was divided into two subfactors of equal importance: (1) management and organization; and (2) technical approach. The RFP further explained these were “critical subfactors,” and therefore a rating of marginal or unacceptable in either subfactor would “automatically carry forward to the [f]actor rating.” RFP amend. 7, at 2. The RFP then provided that the mission capability and past performance factors were of equal importance in determining technical acceptability, and that award would be made to the offeror submitting the lowest-priced technically acceptable offer. Id.

With respect to the mission capability portion of proposals, the RFP instructed offerors to be “specific, detailed, and complete to clearly and fully demonstrate that the offeror has a thorough understanding of the requirements,” and required that proposals

address how tasks in each functional area (except Quality Control [addressed elsewhere]) of the PWS will be accomplished by addressing how you will be organized and staffed along with specifically describing how work will be scheduled (including use of any automated systems or workloading procedures), proposed work processes and outputs,

¹ This section of the PWS required offerors to have two air traffic assistants on duty at each airfield at all times during specified hours to handle in-person and radio communications with instructors and students, in addition to other tasks. RFP amend. 4, Revised PWS, at C-5-1.

² This section of the PWS included transporting students and instructors to aircraft, picking up students and instructors who land off-base (such as for mechanical or emergency weather conditions), and transporting distinguished visitors (VIPs). RFP amend. 4, Revised PWS, at C-5-8.

³ This section of the PWS primarily involved buildings and grounds maintenance, but also included many airfield-specific tasks, such as regular runway checks to remove debris (known as FOD for “Foreign Object Debris”), and inspection and repair of aircraft tie-downs. RFP amend. 4, Revised PWS, at C-5-10.

process interfaces, innovations, assumptions of support, and cross-utilization training and plans. . . .

RFP amend. 6, at 6.

The RFP explained that under the management and organization subfactor the agency would “focus on organization, personnel qualifications for labor categories, qualifications for key personnel, labor hours, and demonstrated understanding of personnel requirements.” RFP amend. 7, at 2. Additionally, the RFP indicated that under the technical approach subfactor the agency would scrutinize the proposal “to determine the offeror’s understanding of the technical requirements and assess the offeror’s ability and methodology to meet the minimum requirements.” Id.

The Army received initial proposals from PMI and two other offerors, as well as an agency tender. After evaluating the offers, the Army determined that even though PMI’s proposal was considered unacceptable under both subfactors (and thus under the mission capability factor itself), the agency would nonetheless conduct discussions with PMI. During these discussions, PMI was advised that its proposal was evaluated as unacceptable, and was provided with extensive comments about its approach. With respect to PMI’s proposed staffing, the Army specifically advised that

Staffing levels are far too thin to provide adequate coverage of all required tasks. Although the proposal states the intention of utilizing the part-time employees to back fill areas as needed, no clear explanation of how these employees will be activated or how they are guaranteed to be available at the same rate and time as the demand is presented. Please explain[.]

The Army also provided the following comment on PMI’s organizational structure:

No clear description exists on who will be trained and performing specific required functions. The offeror proposes that both Flight Operations and Motor Vehicle Operation personnel will provide VIP support as needed, but does not clearly define how/who/what personnel are cross trained to perform these functions, how or when are they trained and in what areas. Please explain.

AR, Tab 10, Discussions Letter, at 3-4.

In addition, the evaluation of the flight operations technical approach led the Army to comment that “the proposal does not accurately describe how this and all other Motor Vehicle Operations and Airfield Support functions can and/or will be accomplished at the proposed manning level.” The Army further commented that PMI did not seem to have a clear understanding of all requirements in the PWS, and

noted, in particular, that PMI proposed to appoint both a Primary and an Alternate Publications Officer from the pool of Air Traffic Assistants. This apparent double-tasking led the Army to note that PMI had not clearly explained “how operations will continue to be supported with two individuals while this person is picking up, delivering and distributing publications to respective areas. Please explain.” Id. at 4.

Finally, with respect to motor vehicle operators, the agency again asked PMI to explain how it would accomplish the PWS tasks with the proposed staffing, and advised that the proposal did not provide details on “how all required [motor vehicle operations] functions as stated in the PWS will/can be accomplished at existing manning level.” The Army also asked PMI to explain how it would accomplish regular pilot shuttle service tasks on the occasions when it must also simultaneously retrieve an aircraft crew from a remote site. Id. at 4-5.

Generally, PMI’s responses to these questions advised that the company was increasing staffing, and directed the Army to review PMI’s revised total full-time equivalent (FTE) staffing level and revised organizational chart. The responses also advised that “[u]pon review, we expect the Government will find the newly proposed numbers will meet all of the requirements and expectations within the PWS while affording superb customer service and eliminating all risk to the Government.” AR, Tab 6.a, PMI Negotiation Questions & Responses, at 2; see also id. at 8, 9, and 10.

After receiving and evaluating revised proposals, the Army concluded that PMI’s revised proposal was still unacceptable. Although the Army found certain aspects of PMI’s proposal had been improved, and acknowledged that PMI had added staff and revised its organizational chart, the agency also concluded that PMI had not sufficiently explained its approach for performing the PWS, as required by the RFP, and as specifically requested during discussions. For example, the Army evaluators noted that, despite the increased staff levels, “the proposed placement of personnel, lack of detail and methodology for accomplishing required tasks at proposed staffing levels, and the lack of clarification on the provided Organizational Chart, leaves a remaining high level of risk.” AR, Tab 11, Source Selection Evaluation Board Results for PMI, at 1.

The Army evaluators also observed that PMI’s proposed placement of Air Traffic Assistants (ATAs) and Motor Vehicle Operators (MVOs)—coupled with concerns about the proposal’s lack of description about how all these functions could be accomplished at all airfields over the required operational times—“provides no assurance that all required functions will be accomplished, thus incurring a high level of risk.” Id. Specifically, the evaluators noted that “the revised proposal for ATAs and MVOs provides absolute minimum manning (one layer deep for MVOs) . . . without a detailed description as to how all functions could be accomplished at all times, in all locations, and by whom.” Id. at 1-2.

Given the Army’s conclusion that PMI’s revised proposal remained technically unacceptable, the agency eliminated PMI from the competition, and ultimately

selected the MEO to perform these services. The Army provided PMI with a debriefing, and this protest followed.

DISCUSSION

PMI argues that its revised proposal should not have been found technically unacceptable; and specifically, that the staffing increases added after discussions were adequate to perform the PWS tasks. In addition, PMI contends that the Army's explanation for concluding that PMI's approach was unacceptable is vague and unfounded.

In response, the Army explains that PMI's decision to increase its staffing in its revised proposal simply did not resolve the concerns identified in discussions about how PMI would accomplish the tasks in the PWS. Legal Memorandum at 16-20. To better understand the Army's rationale for its conclusion, as well as PMI's views, our Office convened a hearing.

During the hearing, the chair of the source selection evaluation board provided specific examples of how an offeror's failure to ensure that appropriate staff was available to handle multiple tasks simultaneously could impair the operation of the airfields. In addition, the Army witness highlighted areas in PMI's proposal where there was no detail to explain how PMI would accomplish all the required tasks. In contrast, PMI officials could not point to specific provisions in the revised proposal that addressed the Army's concerns. Rather, PMI witnesses offered explanations that had not been included in the revised proposal, and indicated that the 1-page organizational chart should have been sufficient to persuade Army evaluators that PMI could accomplish all PWS tasks with its staffing.

In our view, the hearing confirmed the concerns raised by agency evaluators that the revised proposal did not explain PMI's management approach in narrative form. The hearing also confirmed that, in the absence of narrative explanations, PMI's approach could only be inferred from revisions to an organizational chart, which set forth numerical staffing levels in terms of full-time equivalents and full- and part-time employees. Hearing Transcript at 109-111, 124-26, 129-34, and 143-45.

In its post-hearing comments, PMI argues that the complexity and fluctuation of workflow described by the Army's evaluator during the hearing was not captured by the PWS. Specifically, PMI contends that the workload tables in the PWS, which consisted of 13 pages tallying the monthly incidence of each PWS task at each of the five sites over a year, implied that PWS tasks were evenly distributed within daily operational periods.

We think PMI's contentions about its interpretation of the PWS are not supported by the record. The PWS here focused on providing rapid-response service and support at five separate sites to student and instructor pilots, transient aircraft and crews, and other aviators not affiliated with the pilot training mission--a focus that is

inherently inconsistent with the regular, steady process that PMI contends was conveyed in the RFP. Moreover, this interpretation of the PWS was not supported by the hearing testimony of PMI's own managers, including one of whom had several years of work experience on airfields at Fort Rucker. E.g., Hearing Transcript at 106, 108-111, 123-24, and 138-44.

Offerors bear the responsibility to submit an adequately written proposal with sufficient detail to demonstrate an understanding of, and ability to meet, solicitation requirements; proposals that fail to make this showing may properly be found unacceptable. See, e.g., Aerostat Servs. P'ship, B-244939.2, Jan. 15, 1992, 92-1 CPD ¶ 71 at 6 (agency reasonably found protester's proposal unacceptable where proposal failed to adequately explain how staff needed continually for particular duties would also perform unrelated tasks that would necessarily divert their attention, time, and energy away from ongoing core duties). Based on our review of the record, including the detailed hearing testimony, we conclude that the Army evaluators reasonably found that several aspects of PMI's management approach did not go beyond depicting staffing in numerical form for particular days and hours, which left the evaluators without a clear explanation of how PMI's plan would address the tasks identified in the PWS, and unsure about whether PMI's staffing was sufficient.⁴

The protest is denied.

Gary L. Kepplinger
General Counsel

⁴ We also find no merit in PMI's argument that the discussions questions failed to advise the company of the Army's concerns. In our view, the record confirms that in each case, the Army reasonably directed PMI to the aspects of its initial proposal that caused concern. PMI's decision to respond by relying primarily on staffing increases--with no meaningful narrative description of its management approach to accomplishing the tasks--reasonably became the focus of the Army's evaluation of the revised proposal, and led the evaluators to rate it as unacceptable.