



## Decision

**Matter of:** La Dolce Vida Catering

**File:** B-402421

**Date:** April 15, 2010

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Joshua Carraha for the protester.

Lee Wolanin, Esq., Department of Transportation, 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 of source selection is denied where record shows award determination was reasonable and consistent with solicitation's terms.

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### DECISION

La Dolce Vida Catering, of Chelsea, Massachusetts, protests the award of a contract to Regent School Catering FCS, Inc., of Glendora, California, under request for proposals (RFP) No. DTRT57-10-R-20001, issued by the Department of Transportation for cafeteria services at the Volpe National Transportation Systems Center. The protester challenges the agency's evaluation of proposals and the selection of Regent for award under the RFP.

We deny the protest.

The RFP, which was issued as a small business set-aside, commercial item procurement, contemplated the award of a no-cost contract for operation of the Volpe Center cafeteria. The RFP required each offeror to submit a written proposal that included a "technical description of the items being offered in sufficient detail to evaluate compliance with the requirements of the solicitation." RFP at 2. The RFP's statement of work included requirements related to the operation of the facility, food quality, menu (including cycling and pricing structure), personnel and supervision, trash removal, government-furnished equipment maintenance and repair, cleaning and janitorial services, security and reporting, and inspections. The RFP also contained terms limiting the contractor's profit, as well as providing that any monetary loss from performance was to be absorbed by the contractor with no financial liability on the part of the government.

The RFP stated that offerors' technical proposals were to include information regarding "on-site/off-site food preparation, transportation, catering plans and procedures," and whether the firms have a "bulk food purchasing system." Id. at 2-3. Marketing information, including "any ideas to increase business from within the Volpe Center's on-site population," id., was requested, and offerors were to "[d]emonstrate a variety of menus . . . with prices included." Id. at 3. Offerors were required to show the qualifications and experience of the proposed on-site manager, as well as submit a staffing plan with sufficient personnel to maintain sanitary conditions and satisfactory services, including adequate reserve staff. Id. The RFP advised that award would be made to the firm submitting the proposal deemed most advantageous to the agency giving equal weight to technical capability, staffing, and relevant past performance; the reasonableness of the firm's pricing structure, including prices for certain breakfast and lunch items for which the offerors were to provide sample prices, was to be assessed. Id.

Three proposals were received and determined to be reasonably priced. In terms of overall technical merit, Regent's proposal was ranked highest, having received adjectival ratings of exceptional under each of the evaluation factors. The evaluators identified various strengths in Regent's proposal, including its detailed approach to performance of the work requirements (including quality control, sanitation, and maintenance), its on-site manager's substantial experience in food services operations and management, the firm's successful performance of cafeteria services involving a similar or larger number of daily meals than those anticipated under the RFP, high-quality and varied menus, as well as several marketing plans to increase sales by encouraging use of the cafeteria through, for example, promotions and convenience features.

La Dolce Vida's proposal was rated acceptable under the technical and staffing factors; it received a rating of exceptional under the past performance factor based on its favorable reference information, even though the prior work described in the proposal was of a smaller magnitude than the work called for under the RFP.<sup>1</sup> The proposal was rated acceptable overall. The evaluators noted as weaknesses the lack of detail in the firm's proposal regarding its plan to meet various RFP requirements, such as maintenance of the facility, and the lack of detail regarding marketing efforts to increase the use of the cafeteria and sales to agency personnel. Agency Report, Tab 13, Technical Evaluation Report, at 11. Strengths were noted regarding, for

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<sup>1</sup> While both firms received ratings of exceptional under the past performance factor, Regent's proposal received a higher point score in this area. Our review of the proposals and evaluation record confirms that Regent's higher point score reasonably reflects additional strengths in the proposal, since Regent's experience, supported by favorable references, includes more cafeteria services experience and the preparation and service of more daily meals compared to the protester's experience.

example, the firm's diverse menus, its manager's experience, and its customer service and quality control. The proposal was credited with a strength for offering a "comfort food" concept, which, in the evaluators' view, "would allow for the freshest ingredients and new offerings which would be nutritionally balanced." *Id.* The evaluators also assigned the proposal a weakness in this area, however, based on their finding that the protester's comfort food concept was not clearly defined. The evaluators also found that the protester offered adequate staffing and demonstrated the capability to run a cafeteria even though the firm's prior experience mostly involved catering.

The contracting officer concluded that the Regent proposal was most advantageous to the agency and selected it for award, noting various strengths in the proposal, including its detailed explanation of the firm's planned maintenance, sanitation, and quality control, its favorable and reasonably priced menu selections and options, as well as the marketing plans presented to increase cafeteria sales. In making the selection decision, the contracting officer noted that the protester's proposal, while acceptable, failed to demonstrate as much relevant experience with similar cafeteria management and operations as Regent's proposal, and failed to detail how the protester intended to perform much of the work required under the solicitation.

In reviewing a protest against the propriety of a source selection, it is not our function to independently evaluate proposals and substitute our judgment for that of the contracting activity. Barents Group, L.L.C., B-276082, B-276082.2, May 9, 1997, 97-1 CPD ¶ 164 at 6. Rather, we will review an evaluation to ensure that it was reasonable and consistent with the evaluation criteria in the solicitation and applicable procurement statutes and regulations; a protester's mere disagreement with the evaluation does not show it lacked a reasonable basis. *Id.* On the record here, we see no basis to question the evaluation of the proposals or the selection of Regent.

As noted above, the RFP expressly required technical submissions from the offerors demonstrating compliance with the stated requirements; the offerors were also specifically requested to propose ideas to increase cafeteria sales. Our review of the record confirms that in each evaluation area (technical, staffing and past performance), the additional detail and associated strengths in the Regent proposal were reasonably given more evaluation credit compared to the protester's proposal, both in terms of technical merit and specific advantages in Regent's proposal (such as several marketing plans to increase business at the cafeteria), as well as the degree to which Regent demonstrated its planned procedures and capability to perform, thereby reducing performance risk.

While the protester challenges the adjectival ratings under the staffing factor (exceptional for Regent and acceptable for La Dolce Vida), our review of the record confirms the reasonableness of the difference in ratings, since Regent was credited, and we believe reasonably so, with proposing an on-site manager with more years of food services operations and management experience than the protester's manager.

The record also shows that both firms were assessed the same minor weakness under the staffing factor for proposing a larger staff than currently used by the incumbent contractor, prompting a remark by at least one evaluator that additional sales may be necessary to remain profitable with a larger staff. In light of the evaluator's remark, the protester suggests that Regent's proposal should have been downgraded for proposing more staff than the protester, and thus presenting a greater risk to profitability. We cannot conclude that the evaluation was unreasonable; both proposals were given a weakness in this area and to the extent Regent's higher staffing presents more risk, Regent is not precluded from adjusting its staffing levels during performance as appropriate to maintain successful performance and profitability.

An offeror is responsible for demonstrating affirmatively the merits of its proposal and risks rejection if it fails to do so. See HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5. No matter how competent a firm may be, the technical evaluation must be based on information included in the firm's proposal. See Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371 at 3-4. While La Dolce Vida's proposal did not take exception to the RFP requirements and was determined to be acceptable, the evaluation reasonably reflects the lack of detail in the protester's proposal. Further, the record provides no reason to question the propriety of the agency's selection of Regent on the basis of its technically superior proposal.<sup>2</sup>

The protest is denied.

Lynn H. Gibson  
Acting General Counsel

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<sup>2</sup> To the extent the protester challenges the qualifications of the evaluators, the selection of individuals to serve as proposal evaluators is a matter within the discretion of the agency; accordingly, we will not review such a challenge absent a showing of possible fraud, conflict of interest, or actual bias on the part of the evaluation officials, none of which have been shown here. See Eggs & Bacon, Inc., B-310066, Nov. 20, 2007, 2007 CPD ¶ 209 at 4. The protester also generally contends that the agency's actions during the procurement involved a "combination of incompetence and preferential treatment," Protest at 4, and that the "award was a direct result of discrimination." Comments at 1. The protester's general allegations do not provide any reason to question the fairness of the evaluation and award determination. Since procurement officials are presumed to act in good faith, we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. See Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6.