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**Comptroller General
of the United States**

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

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Decision

Matter of: The Arora Group, Inc.

File: B-297838.3

Date: September 12, 2006

Edward J. Tolchin, Esq., and Robyn Guilliams, Esq., Fettmann, Tolchin & Majors, P.C., for the protester.

Daryle A. Jordan, Esq., Patrick Henry LLP, for STG International, Inc., an intervenor.
Julia P. Hatch, Esq., Department of the Navy, for the agency.

Linda S. Lebowitz, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the agency reasonably evaluated proposals in accordance with the terms of the solicitation and where the solicitation provided for award on the basis of the most advantageous proposal, the agency reasonably selected for award a higher technically rated, lower priced proposal.

DECISION

The Arora Group, Inc. protests the award of a contract to STG International, Inc. under request for proposals (RFP) No. N62645-05-R-0021, issued by the Department of the Navy, Naval Medical Logistics Command, for radiology support services¹ for the Naval Medical Center in Portsmouth, Virginia. Arora challenges the agency's evaluation of the offerors' past performance.

We deny the protest.

¹ Under the RFP, there were 10 radiology support labor categories, as follows: radiology registered nurses, magnetic resonance imaging technologists, computed tomography technologists, ultrasound technologists, vascular (angiography) technologists, mammography technologists, nuclear medicine technologists, diagnostic radiology technologists, dosimetrists, and radiation and chief radiation therapists.

BACKGROUND

Solicitation and Evaluation Results

The RFP, issued on June 10, 2005 as a total small business set-aside, contemplated the award of a fixed-price, indefinite-delivery/indefinite-quantity contract for a base period and four 1-year option periods to the offeror whose proposal was determined to be most advantageous to the government, technical evaluation factors (past performance and management planning and market research) and price considered. With respect to past performance, the RFP required an offeror to provide information about not more than five of its previous or current contracts that were relevant to the RFP requirements, that is, those contracts performed within the last 5 years “that demonstrate the prior experience of corporate officials or subcontractors/teaming partners who will be performing in support of the contract resulting from this solicitation; such contracts shall be clearly notated to show the relationship of the past performance entry to the offeror.” RFP amend. 2, § L.2.2.a(1), at 202.² More specifically, in terms of whether an offeror’s past performance information was relevant, the RFP stated that the agency would consider the “age of the previous/current contracts, the range of labor categories provided, the clinical settings in which the past performance occurred, and the numbers of personnel provided.” RFP amend. 2, § L.3.1.a(1), at 205. Based on the “quantity and quality” of the offeror’s past performance, and giving greater consideration to past performance that was more relevant to the RFP requirements, the RFP stated that the agency would assess the risk to the government of non-performance of the requirements by the offeror. The RFP advised that the agency would not restrict its past performance evaluation to information submitted by the offeror, but would consider “any other relevant information in its possession” or information obtained from past performance references. RFP amend. 2, § L.3.1.a(2), (3), at 205.

The RFP stated that the past performance evaluation factor would be considered significantly more important than the management planning and market research evaluation factor,³ and that the combination of technical evaluation factors would be

² In the event that an offeror listed more than five contracts, the RFP stated that the agency would evaluate only the first five contracts listed. In addition, we note that while past performance and experience are separate concepts, the contemporaneous evaluation and source selection record uses these terms interchangeably.

³ The management planning and market research evaluation factor required the offeror to demonstrate its contract management capabilities, including a discussion of its corporate personnel (their qualifications and experience and how these things would contribute to successful contract operations) and their responsibilities in terms of contract start-up and the ongoing administration of key functional areas, for example, recruitment, retention, and scheduling.

considered significantly more important than price (which would be evaluated for completeness, reasonableness, and realism). RFP amend. 2, § M.1.b, at 206. The RFP explained that as the technical merit of proposals became closer, price would become more important in making the award determination; in the event that proposals were determined to be technically equal, the RFP provided that the award could be made to the offeror with the lower priced proposal.

Following corrective action in response to an earlier protest filed by Arora (the incumbent contractor) and the agency’s conduct of discussions, eight firms, including Arora and STG, submitted final revised proposals. As relevant here, the final revised proposals of Arora and STG were evaluated as follows:

	Arora	STG
Past Performance	[deleted]	Very Low Risk
Management Planning/Market Research	[deleted]	Very Low Risk

Proposal Analysis Report, May 10, 2006, at 6.⁴

Arora’s total evaluated price (\$[deleted]) was approximately [deleted] percent higher than STG’s total evaluated price (\$43,265,778.03). *Id.* at 15. (The agency evaluated the prices proposed by both of these offerors as complete, reasonable, and realistic.)

Arora’s Past Performance

Arora submitted five past performance references--two for services it provided and three for services provided by its proposed subcontractor, Spectrum Healthcare Resources. With respect to its own past performance, Arora’s first reference was for an Air Force contract at Wright Patterson Air Force Base in Ohio, where Arora, the incumbent contractor, provided personnel in 2 of the 10 required labor categories; the reference characterized Arora’s performance as “excellent,” noting that there was no personnel turnover. Final Technical Evaluation Report at 9. Arora’s second reference was for an Army contract at Walter Reed Army Medical Center in Washington, DC, where Arora provided, as the prime contractor, personnel in four of

⁴ The adjectival ratings that could be assigned to the technical evaluation factors included the following: very low risk, low risk, moderate risk, substantial risk, and unknown risk. As relevant here, and as reflected in the contemporaneous evaluation documentation, for past performance, the “very low risk” rating assigned to STG’s proposal meant that the agency believed that there was a high probability of successful contract performance by STG. In contrast, the “[deleted]” rating assigned to Arora’s proposal, *i.e.*, going in the direction of a low risk or very low risk rating, meant that the agency believed that there was an equal probability of successful or unsuccessful performance by Arora.

the required labor categories; the reference reported no performance problems and rated the firm as “excellent,” noting that Arora demonstrated “exceptionally responsive” corporate interaction. The reference reported that Arora would definitely be considered for future work. Id.

Arora’s third reference was for services provided by Spectrum at Fort Campbell in Kentucky in three of the required labor categories. The reference reported, among other things, that at the start of contract performance, Spectrum submitted incomplete credentialing packages; however, as a result of training, the problems were corrected. The reference stated that Spectrum was an “average performer” and that he would probably recommend the firm for future work. Id. Arora’s fourth reference was for services provided by Spectrum at Scott Air Force Base in Illinois in four of the required labor categories. The reference reported that since Spectrum was the incumbent contractor, the firm was able to provide timely start-up; however, since then, the reference reported that the firm “persistently” submitted incomplete credentialing packages and maintained a fill rate of “75-80%,” while the requirement was for immediate replacement. The reference also reported that corporate interactions greatly improved as a result of Spectrum’s recent assignment of a new regional manager. The reference characterized Spectrum’s overall performance as “acceptable.” Id. at 10. Arora’s fifth reference was for services provided by Spectrum at Nellis Air Force Base in Nevada in four of the required labor categories. The reference stated that the only problem under this contract involved a delay by Spectrum in filling a physical therapy assistant position, which was vacant for 9 months. The reference characterized Spectrum’s performance as “very good,” noting that the firm would be considered for future work. Id.

As previously stated, Arora is the incumbent contractor for the current requirements. The agency noted, however, that Arora did not list in its proposal this highly relevant past performance, where Arora has provided personnel in all 10 of the required labor categories. Under its incumbent contract, Arora successfully developed a cross-training program; it had a high retention rate; and, it established an employee recognition program. A reference for this contract reported that Arora’s start-up of the contract was fine, noting that the firm was able to retain many of the incumbent personnel. In addition, the reference reported that Arora initially [deleted]. The reference indicated that he would work with Arora again. Id.

Finally, the Naval Medical Logistics Command is responsible for the clinical support agreements issued in support of the TriCare Management Authority (TMA), which provides critical backfill support related to the Gulf War on Terrorism at the Naval Hospital in Bremerton, Washington. The agency noted that under a specific clinical support agreement, while Spectrum (the subcontractor to the TMA contractor) was required to provide personnel for a number of positions, the firm had filled only one of these positions approximately 4 months after the issuance of a task order. Although all of the positions were filled by Spectrum at the time of the agency’s evaluation here, the agency noted that Spectrum had acknowledged, and expressed

regret for, the delays in filling all of the positions, which the firm attributed to “uncommon working arrangements” and to the scarcity of personnel. Id.

In sum, in assigning the moderate risk (high end) past performance rating to Arora’s proposal, the agency concluded that between Arora and its proposed subcontractor, Spectrum, the firms had demonstrated experience in filling all 10 of the required labor categories and demonstrated that they were capable of providing significant numbers of personnel covering complex requirements. The agency recognized that the references would consider Arora for future work, noting, however, that two of the references stated that Spectrum was either “acceptable” or only an “average performer.” The agency commented that, as the incumbent contractor with past performance directly relevant to the current requirements, Arora initially [deleted]. The agency further commented that Spectrum demonstrated “significant non-compliance” in delivering Gulf War on Terrorism positions. The agency concluded that the cumulative record of past performance for Arora and Spectrum indicated that deficiencies were evident, but considering the magnitude of the services that were delivered by these firms, successful or unsuccessful performance of the current requirements was equally probable. In the agency’s view, the absence of widely reported high quality past performance precluded the assignment of a low risk past performance rating to Arora’s proposal for the past performance evaluation factor. Id. at 11.

STG’s Past Performance

STG submitted seven past performance references, but in accordance with the terms of the RFP, the agency only considered the first five listed references. STG’s first reference was for an Air Force contract at Lackland Air Force Base in Texas, where its proposed program manager, Mr. X, provided radiology support services while employed as a project manager for Arora. As the project manager under Arora’s Lackland contract, Mr. X was involved in providing personnel in 7 of the 10 required labor categories. The reference stated that Arora’s performance under the Lackland contract during Mr. X’s tenure was “very good” and the reference would have Mr. X provide services in the future. The record reflects that the agency attributed Arora’s favorable performance under the Lackland contract to Mr. X, who is now STG’s proposed program manager. The reference also stated that Mr. X was “very professional,” and that Arora, apparently as a result of Mr. X’s performance as its project manager, was always able to maintain adequate staffing levels for radiology support personnel who were, locally, in very high demand. Id. at 27.

STG’s second reference was for a commercial contract to provide radiology support services to a commercial company and, under that contract, Ms. Y, STG’s proposed corporate quality assurance/compliance coordinator, recruited and staffed six of the required labor categories when she was employed as the chief operating officer at a medical staffing firm. The reference at the commercial company reported that Ms. Y was “significantly involved” in providing radiology support personnel when she was

employed at the medical staffing firm. (The agency recognized that the personnel provided under the referenced contract were furnished on both a backfill basis and a long-term temporary basis, which was not analogous to providing long-term, hospital-based personnel as required under the current RFP.) The reference rated the quality of the performance of the medical staffing firm where Ms. Y was employed as “excellent.” Id.

STG’s third reference was for a commercial contract to provide radiology support services to a nationally known healthcare provider and, under that contract, Mr. Z, STG’s proposed recruiter, recruited radiology personnel for positions in states in the mid-Atlantic region in five of the required labor categories. The reference characterized Mr. Z as an “outstanding professional,” reporting that while the primary role of Mr. Z when employed at the healthcare provider was as a recruiter, he also participated in the development of corporate strategies and was noted for his contributions in recruiting radiology personnel when the healthcare provider was experiencing severe personnel shortages. The reference reported that Mr. Z was “very meticulous in assuring that qualifications and credentials were verified and up to date.” The reference reported that while Mr. Z did not maintain staff and fill rates, he was very knowledgeable in the area of human relations including, for example, labor laws and personnel benefits. Id.

STG’s fourth reference was for a contract to provide radiation therapy services at Keesler Air Force Base in Mississippi with STG providing personnel in two of the required labor categories. The reference stated that contract start-up was timely and that the personnel provided were “very well[-]qualified.” The reference reported that on the rare occasion when there was any kind of administrative issue, STG took aggressive steps to resolve any concerns. The reference further reported that credentialing packages were submitted in a timely manner and that STG would “do everything [it] could to satisfy [its] customers and provide the best service possible.” The reference characterized STG’s overall performance as “very good” and “above average,” stating that he would very much want STG to provide services in the future. Id. at 27-28.

STG’s fifth reference was for a multi-disciplinary healthcare services contract at the hospital at the United States Air Force Academy in Colorado with STG providing personnel in one of the required labor categories. The reference was “pleased and impressed” with STG’s performance where the positions filled were backfills in support of the Global War on Terrorism. The reference reported that after the requirement was established, STG recruited, hired, credentialed, and began services within less than approximately 2 months. The reference considered STG’s performance “excellent in all respects.” Id. at 28.

In sum, in assigning the very low risk past performance rating to STG’s proposal, the agency concluded that STG demonstrated experience in filling all 10 of the required labor categories. The agency stated that the quality of STG’s experience, as reflected

by the references, was “exemplary” and that there was a high probability of successful performance of the current requirements. The agency concluded that STG exhibited extensive past performance within required timeframes on services relevant or closely matched to those required by the current RFP. The agency also commented that STG’s expedited response to the Global War on Terrorism requirements was a “noteworthy accomplishment.” Id.

In making its source selection decision, the agency considered that both Arora and STG demonstrated relevant past performance and experience in providing personnel in all of the required labor categories. The agency believed that STG had a stronger record of past performance as compared to Arora, [deleted]. In addition, the agency noted that Arora’s proposed subcontractor, Spectrum, has had past performance problems, with references characterizing Spectrum’s performance as “acceptable” or only “average.” The agency further considered that both firms were very low risk in terms of management planning and market research. With respect to price, the agency concluded that both firms submitted prices that were complete, reasonable, and realistic, with STG’s total evaluated price being slightly less than Arora’s total evaluated price. The agency pointed out, however, that for the base year line items for healthcare workers, STG proposed higher overall hourly rates than Arora for approximately 60 percent of the line items. As a result, the agency concluded that STG’s higher overall hourly rates would be more favorable in terms of recruiting and retaining the incumbent workforce, especially in turnover situations. Therefore, in light of STG’s stronger record of past performance, its higher overall hourly rates for the majority of healthcare worker line items, and its lower overall price, the agency determined that STG’s higher technically rated, lower priced proposal represented the best value to the government. Proposal Analysis Report, supra, at 15.

ISSUES AND ANALYSIS

In evaluating its record of past performance, Arora contends that the agency improperly considered its performance as the incumbent contractor at the Naval Medical Center in Portsmouth, Virginia, for the identical requirements that are the subject of this protested procurement, as well as the performance of its proposed subcontractor, Spectrum, at the Naval Hospital in Bremerton, Washington, related to that firm’s provision of critical backfill support for the Gulf War on Terrorism. Arora maintains that it was improper for the agency to consider the Portsmouth and Bremerton contracts because these contracts were not listed by Arora in its proposal. In any event, Arora maintains that even considering these contracts, there was nothing reported by the references that would have justified assigning the firm’s proposal a moderate risk (high end) rating for the past performance evaluation factor. Arora’s Supplemental Comments at 2.

In reviewing a protest against an agency’s proposal evaluation, we will consider whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Kira, Inc.; All Star Maint., Inc.,

B-291507, B-291507.2, Jan. 7, 2003, 2003 CPD ¶ 22 at 5. Mere disagreement with an agency's evaluation is not sufficient to render the evaluation unreasonable. Bevilacqua Research Corp., B-293051, Jan. 12, 2004, 2004 CPD ¶ 15 at 8 n.8.

Here, while the RFP required offerors to submit information about not more than five previous or current relevant contracts, the RFP specifically advised offerors that the agency would not restrict its past performance evaluation to information submitted by the offeror, but rather, the agency would consider "any other relevant information in its possession." Although Arora narrowly reads these provisions to mean that the agency could only consider "any other relevant information" to the extent such information related to the five contracts the firm listed in its proposal, we conclude that there was nothing in the RFP that restricted the agency's consideration in this manner. In this regard, in evaluating proposals, an agency may properly consider information from sources that are not listed in an offeror's proposal. See, e.g., Pearl Props.; DNL Props., Inc., B-253614.6, B-253614.7, May 23, 1994, 94-1 CPD ¶ 357 at 7. In accordance with the terms of the RFP, since the Naval Medical Logistics Command had direct knowledge of Arora's and its proposed subcontractor's performance under the Portsmouth and Bremerton contracts, respectively, we conclude that while Arora did not list these contracts in its proposal, the agency nevertheless reasonably considered past performance information related to these contracts to be relevant to the evaluation of Arora's proposal under the past performance evaluation factor.

More particularly, with respect to Arora's performance as the incumbent contractor under the Portsmouth contract—arguably the most relevant of Arora's contracts, despite the fact that the firm did not list this contract in its proposal—the record shows, and Arora does not meaningfully dispute, that the firm initially [deleted]. While Arora characterizes these matters, which ultimately were resolved, as "paperwork related," Arora's Supplemental Comments at 2, the fact is that these issues involved critical threshold requirements having a direct impact on whether Arora's proposed personnel and staff were qualified in the first instance to perform the contract requirements.

With respect to Spectrum's performance of the Bremerton contract, the record shows, and Arora again does not meaningfully dispute, that 4 months after the task order was issued, Spectrum had filled only one of the critically required positions. Although Spectrum filled all of the required positions approximately 8 to 9 months after the task order was issued, the agency still had to deal with the delays in Spectrum filling all of the critically required positions, with the agency expressing concerns with Spectrum's "significant non-compliance in delivering [Global War on Terrorism] positions." Final Technical Evaluation Report at 11; Proposal Analysis Report, supra, at 9.

On this record, and in our view, there is no basis to question the reasonableness of the agency's evaluation of Arora's proposal for the past performance evaluation factor.

Arora also challenges the agency's evaluation of STG's record of past performance, contending that in crediting STG with the past performance of its proposed key personnel—its proposed program manager (Mr. X), its proposed corporate quality assurance/compliance coordinator (Ms. Y), and its proposed recruiter (Mr. Z)—the agency failed to “tie [their] work to [STG]” so that the “quantity and quality” of STG's past performance was evident. Arora's Supplemental Comments at 3. Arora goes on to state that, “assuming that the employee[s'] work can be somehow tied to [STG],” the agency must, as required by the RFP, “examine the age of the previous/current contracts, the range of labor categories provided, the clinical settings in which the past performance occurred, and the numbers of personnel provided,” giving “greater consideration to past performance that is more relevant to the RFP” and assessing “the risk to the Government of future non-performance of solicitation requirements by the offeror.” *Id.*; RFP amend. 2, § L.3.1.a(1), at 205.

Contrary to Arora's position, the record shows that the agency, in fact, evaluated STG's past performance in accordance with the terms of the RFP. In this regard, for each of the contracts listed by STG, including the ones where STG was credited with the past performance of its proposed key personnel (where the RFP allowed an offeror to demonstrate its past performance based on the “prior experience of corporate officials”),⁵ the agency considered the age of the contracts, the range of labor categories provided, and the number and types of radiology personnel provided in each particular clinical setting.⁶

For example, STG's first reference was for services performed by its proposed program manager, Mr. X, at Lackland Air Force Base in Texas from 1999 until 2003, when this individual was working for Arora as a project manager. Under the

⁵ Relying on the “corporate officials” language in the RFP, as quoted above, the agency states that the RFP permitted an offeror to submit information on its proposed key personnel for the agency's consideration in the evaluation of the offeror's past performance. While we think it would have been better for the RFP to have used the term “key personnel,” *see* Federal Acquisition Regulation § 15.305(a)(2)(iii), rather than “corporate officials,” the agency explained that it recognizes the mobility of the modern day workforce and, with respect to the healthcare field in particular, that personnel often relocate due to new contract awards, resulting in a former contractor's personnel bringing extensive experience to another contractor. Supplemental Agency Report, Aug. 4, 2006, at 3.

⁶ The contracts listed by Arora and STG, as well as the other relevant information considered by the agency, involved efforts performed within the relevant timeframe.

Lackland contract, Mr. X was involved in providing “4 Diagnostic Radiology Technologists, 1 Radiology Registered Nurse, 1 MRI Technologist[], 1 Computed Tomography Technologist[], 1 Vascular/Angio Technologist, 1 Ultrasound Technologist, 1 Mammography Technologist, and an Oncology Data Specialist,” personnel who corresponded to 7 of the 10 labor categories required under the current RFP. Final Technical Evaluation Report at 27.⁷ Consistent with the above-described requirements of the RFP, the agency used this same substantive format to evaluate each of STG’s (as well as Arora’s) listed contracts in the area of past performance. In our view, it is clear from the contemporaneous evaluation record that STG’s proposed key personnel, each of whom gained experience while working for firms other than STG, had past performance that was relevant to the requirements each would be performing for STG under its Portsmouth contract to provide radiology support services, for example, requirements involving program management, corporate quality assurance and compliance, and recruitment.

In addition, in assigning a very low risk past performance rating to STG’s proposal, the agency considered STG’s past performance record—both STG’s own past performance and the past performance of its proposed key personnel—and concluded that the firm demonstrated its experience in filling all of the required labor categories within the required timeframes based on providing services that were relevant or closely matched to those services required under the current RFP; the agency also favorably commented on STG’s expedited response to the Global War on Terrorism requirements. On this record, we conclude that the agency reasonably evaluated STG’s proposal in accordance with the past performance requirements of the RFP.

In conclusion, where the agency reasonably evaluated proposals in accordance with the terms of the RFP, we have no basis to question the agency’s decision to award the contract to STG, the firm whose higher technically rated, lower priced proposal was determined to be most advantageous to the government.

The protest is denied.⁸

Gary L. Kepplinger
General Counsel

⁷ In the course of developing the protest record, our Office requested, and the agency provided, a labor category tally for each of STG’s listed contracts based on the information included in the contemporaneous evaluation record. (This tally was consistent with the tally provided by the agency in the contemporaneous evaluation record for each of Arora’s listed contracts.)

⁸ Arora has raised some collateral issues that we have considered and find to be without merit; these collateral issues do not warrant detailed analysis or discussion.