



G A O

Accountability * Integrity * Reliability

**Comptroller General
of the United States**

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

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Cooperativa Muratori Riuniti

File: B-294980; B-294980.2

Date: January 21, 2005

Reed L. von Maur, Esq., for the protester.
Susan L. Schor, Esq., and Laurence Schor, Esq., McManus, Schor, Asmar & Darden, for Impresa Pizzarotti & C. S.p.A., an intervenor.
Damon Martin, Esq., and Shivaun White, Esq., Naval Facilities Engineering Command, for the agency.
Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. In evaluating proposals for construction work, agency has not provided a reasonable basis for distinguishing between offerors' experience in performing multiple projects at multiple sites under a single contract and offerors' experience in performing multiple projects at multiple sites under multiple contracts, particularly where solicitation called for performance at two separate work sites.
2. Protest against evaluation of past performance is sustained where record reveals that protester's past performance was re-rated by the evaluators on a different scale and in response to different questions than those posed to the references, and it is not clear that the new ratings were reasonably based.
3. Evaluators reasonably rated protester's proposed construction schedule as good, as opposed to excellent, where they determined that protester had offered an accelerated schedule, but had failed to offer evidence that it had thought through the implications of that schedule with regard to matters such as staffing.

DECISION

Cooperativa Muratori Riuniti (CMR) protests the evaluation of its proposal and the award of a contract to Impresa Pizzarotti & C. S.p.A. (Pizzarotti) under request for proposals (RFP) No. N33191-04-R-4004, issued by the Department of the Navy for construction of two facilities at Aviano Air Force Base in Italy. The protester takes issue with the agency's evaluation of its technical proposal.

We sustain the protest.

BACKGROUND

The RFP, which contemplated the award of a fixed-price contract, requested prices for a base and six optional line items. Contract line item No. (CLIN) 0001 (the base item) and CLIN 0002 sought prices for the work associated with “Phase II” of the effort, construction of a personnel alert holding area. CLINs 0003-0007 sought prices for the work associated with “Phase I” of the effort, construction of a heavy drop rigging facility. The agency notes that the sites at which the two “phases” will be performed are approximately a half-mile apart. The solicitation provided for exercise of CLIN 0002 within 180 days after contract award, CLIN 0003 within 365 days after contract award, and CLINs 0004-0007 within 90 days after exercise of CLIN 0003.

The RFP provided for award to the offeror whose proposal represented the best value to the government. Three equally weighted factors--organizational experience, organizational past performance, and schedule--were to be considered in the evaluation of technical proposals; taken together, these factors were to be of approximately equal weight to price in the evaluation. Proposals were to be rated both overall and with regard to each evaluation factor as excellent, good, satisfactory, marginal, or poor.

Six offerors responded to the RFP. The technical evaluation board (TEB) assigned Pizzarotti's technical proposal ratings of excellent for past performance and schedule and a rating of good for organizational experience; overall, the TEB rated the proposal as excellent. The TEB rated CMR's proposal as good for past performance and schedule and as satisfactory for organizational experience, resulting in an overall technical rating of good. The other proposals were rated lower. CMR's overall price, inclusive of all options, of [deleted] was [deleted], while Pizzarotti's price of €20,716,210 was [deleted]. The source selection board determined that the additional quality of Pizzarotti's proposal outweighed the price difference between the two proposals and selected it for award. On September 23, 2004, the Navy notified Pizzarotti and CMR that Pizzarotti had been awarded a contract for CLINs 0001 and 0002. Upon receipt of a written debriefing, CMR protested to our Office.

DISCUSSION

CMR takes issue with its proposal's rating under each of the evaluation factors, contending that it should have received a rating of good rather than satisfactory for organizational experience and ratings of excellent rather than good for past performance and schedule. The protester argues that if its proposal had received the technical ratings that it deserved, the agency would have determined that it represented the best value to the government.

In reviewing a protest challenging an agency's evaluation of a proposal, we will not evaluate the proposal anew or substitute our judgment for that of the agency; we will examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria and with applicable procurement statutes and regulations, however. Symtech Corp., B-289332, Feb. 19, 2002, 2002 CPD ¶ 43 at 4. As explained below, we conclude that the agency's evaluation of CMR's proposal under both the organizational experience and past performance evaluation factors was unreasonable. Because the errors in the evaluation may have affected the outcome of the competition, and therefore prejudiced CMR, we sustain the protest.

Experience

The solicitation defined relevant organizational experience as new construction or renovation where the project was completed within the past 5 years, similar in magnitude (expressed in terms of euro amount), similar in construction features, and similar in other project features such as, but not limited to, traffic management and security issues. The RFP instructed each offeror to submit a list of five relevant projects.

The TEB assigned CMR's proposal a rating of satisfactory under the organizational experience evaluation factor, noting that "on an experience basis, [CMR] could only be considered minimally qualified to tackle the project at hand," and that awarding to the firm "would constitute some risk to the government." Technical Evaluation Report at 6. The rating was based on the evaluators' assessment of each of the protester's prior projects as only "somewhat relevant."

The evaluators arrived at the relevance ratings under this factor by assessing each project as relevant, somewhat relevant, or "non relevant" with regard to completion date, construction features, project value, and project complexity. Ratings of relevant on a minimum of three of the foregoing criteria were required for the project to be considered relevant, and ratings of relevant on a minimum of two criteria, or ratings of somewhat relevant on all four criteria, were required for the project to be considered somewhat relevant. All five of CMR's projects were rated as relevant with regard to completion date and construction features, but none was rated as relevant with regard to project value or project complexity; because each of CMR's projects was rated as relevant under only two criteria, each was rated as somewhat relevant overall.

None of CMR's projects was rated as relevant with regard to project value because none had a completed cost within the agency's estimated price range for the work to be accomplished pursuant to this solicitation of 20 to 30 million euros. Further, none of the projects was rated as relevant with regard to project complexity because none was found to be sufficiently similar, taking into account traffic management, security, and number of job sites. In particular, CMR's first project was rated as only

somewhat relevant with regard to project complexity because while it involved airport and job site security, it involved only one job site and no traffic management; CMR's second project was rated only somewhat relevant with regard to the criterion because there were no traffic management or security issues other than job site security, and while the project involved two sites, they were adjacent to one another; the protester's third project was rated as somewhat relevant because it involved only one site and no traffic management; and both the fourth and fifth projects were rated as "non relevant" because they involved a single site, job site security only, and no traffic management issues.

CMR argues that its projects demonstrated relevant experience and that it should have received a rating of good, rather than merely satisfactory, under the organizational experience factor. Specifically, the protester takes issue with the agency's rating of its projects as merely somewhat relevant with regard to project value and project complexity.

With regard to project value, the protester contends that the contract to be performed here actually consists of two separate projects with a combined value of 20 to 30 million euros that are to be performed (at least in part) concurrently, and that it demonstrated experience in handling multiple projects with a combined value of 20 to 30 million euros concurrently. In this regard, the protester's proposal referenced the following projects:

Project Title	Amount at completion	Date of award	Date of completion
Alghero Airport Terminal	€16,380,000	Jan 01	Aug 03
Siena Recycling Center	€13,161,600	Dec 00	Nov 02
Aviano Fitness Center	€9,794,250	Jul 00	Feb 03
Shopping Center Le Valli	€14,258,000	Jul 02	Aug 03
Soccer Stadium Expansion	€8,702,000	Feb 01	Sep 02

The proposal also included the following excerpt:

Multiple job sites at the same military base is a situation with which CMR is extremely familiar. In calendar year 2002, for example, CMR had 5 separate U.S. NAVY managed projects under construction at 5 different sites at Aviano Air Base alone: Integrated Communications Complex; DoDDs Kindergarten, Radar Approach Control Facility, Fitness Center, and the Golf Course Clubhouse. At that time, we had also recently completed work on the very successful Main Gate Entry

and Medical Clinic projects, also for the U.S. Navy at Aviano. In addition to this \$25M in Navy work at Aviano, during this same time period, we were responsible for the \$8.4M U.S. Air Force Saber and \$1.8M Total Maintenance contracts at Aviano Air Base. Every project under these contracts was delivered with high quality and respecting the required client delivery timelines. We have a similar experience at Vicenza and Livorno, where in 2003, we had \$19M and \$9M in projects under construction.

CMR Technical Proposal at 4.

The agency argues in response that it was clear from the terms of the solicitation that only projects with values of 20 to 30 million euros would be considered relevant, and that, therefore, it was appropriate for it to rate the protester's projects, which each had a value below that range, as only somewhat relevant with regard to project value. The agency further argues that it was reasonable for the evaluators to distinguish between experience in performing multiple projects under a single contract with an overall value of 20 to 30 million euros and multiple projects under multiple contracts with combined values of 20 to 30 million euros because supervising and administering a 20 to 30 million euro contract is a much bigger job than supervising and administering a smaller, *e.g.*, 10 million euro, contract. In this regard, the agency notes that there "is a significant difference in responsibility for [the positions of Project Manager, Project Superintendent, Assistant Project Manager, Quality Control Manager, and Safety Specialist] for a project between €20-30 million compared to a €10 million." Agency Response to Supplemental Protest and GAO Questions, Dec. 21, 2004, at 5.

Regarding the agency's first argument, the RFP did provide that for experience to be considered relevant, a project needed to be "similar in magnitude (euro amount)," which, we think, can only reasonably be interpreted as meaning that the project needed to be similar in magnitude to the project(s) here. It is not clear, however, whether the solicitation here comprised a single project (the overall work effort), with a value of 20 to 30 million euros, or two projects (construction of a personnel alert holding area and construction of a heavy drop rigging facility), with a combined value of 20 to 30 million euros. Either interpretation is reasonable in our view, given that the RFP itself refers to the work both as a project (in the specification table of contents) and as projects (on the RFP cover page, SF 1442).¹ Accordingly, we do not think that the RFP can be said to have clearly placed offerors on notice that only projects with values of 20 to 30 million euros would be considered relevant; rather,

¹ We also note that the introductory section of the agency report describes the work effort as consisting of two projects. See Agency Report at 2 ("The total estimated cost range for the two projects was between twenty million (. . .) and thirty million (. . .) euros.")

we think that it may reasonably be interpreted as providing for consideration of projects similar in value to one of the phases as relevant.²

Regarding the agency's argument that it was reasonable for the evaluators to distinguish between experience in performing multiple projects under a single contract with an overall value of 20 to 30 million euros and multiple projects under multiple contracts with combined values of 20 to 30 million euros because supervising and administering a 20 to 30 million euro contract is a much bigger job than supervising and administering a 10 million euro contract, the issue is not whether administering and supervising a larger contract is more difficult than administering and supervising a smaller one; the issue is whether administering and supervising a larger contract is more difficult than administering two smaller ones with an equivalent overall value concurrently. The agency has offered no persuasive argument as to why such is the case, whereas the protester has offered two reasonable arguments as to why concurrent administration of multiple contracts is in fact more difficult: (1) under multiple contracts, the contractor is required to deal with multiple government contract managers, each of whom may interpret and apply government procedures differently, while under a single contract, the contractor deals with only one government contract manager, and (2) increasing the number of contracts increases the number of submittals since use of the same material at multiple sites under multiple contracts requires a separate submittal for approval of the material under each, whereas use of the same material at multiple sites under a single contract does not. To the extent that the agency argues that it can assume that a company with experience with a 20 million euro contract will staff management positions under this contract with qualified individuals, but that it cannot make the same assumption for companies that have performed combined efforts of 20 million euros, see id., we do not think that the agency can reasonably make assumptions about personnel qualifications without instructing offerors to submit information pertaining thereto and evaluating such information.

In our view, the agency's evaluation of CMR's projects under the "similarity in magnitude" (or project value) criterion was unreasonable because it failed to take into consideration CMR's experience in concurrently performing smaller projects with combined values in the range of the estimated value of the contract here. We think that it was unreasonable for the evaluators not to consider concurrent performance under multiple contracts at multiple sites as relevant experience with regard to the effort to be performed here, given that concurrent performance at multiple sites is precisely what the RFP here requires.

We also think that the agency's determination that none of CMR's projects demonstrated sufficient similarity with regard to project complexity to be rated as

² Each of the phases represented roughly half of the overall value of the work effort according to the government estimate.

relevant under that criterion was unreasonable. In our view, it was not reasonable for the agency to downgrade the relevance ratings of CMR's projects on the basis that each project, on an individual basis, failed to involve multiple sites, given that the projects, as a group, demonstrated abundant experience with multiple sites. It simply makes little sense that if an offeror presented two projects, each involving security issues and multiple sites, both would be determined relevant with regard to project complexity, whereas if an offeror presented two projects, each involving security issues, that were performed at different sites at the same time, neither would be determined relevant with regard to project complexity.³

In our view, the record fails to demonstrate that the agency had a reasonable basis for its determination that CMR could only be considered minimally qualified with regard to experience and that awarding to the firm would constitute some risk to the government, and thus that it should be rated as merely satisfactory with regard to organizational experience.

Past performance

The agency evaluated CMR's past performance on the basis of information collected by the evaluation boards for other solicitations for which CMR competed at approximately the same time as the solicitation here. The agency explains that contractors frequently cite the same projects in their responses to multiple solicitations, and, thus, to save time and reduce the intrusion on the references, where a reference check has recently been made, the evaluators reuse the information rather than repeating a call.

While we see nothing objectionable in this basic approach, *i.e.*, basing a past performance evaluation on information compiled in connection with a different recent solicitation, we do find the manner in which it was implemented here objectionable. In this connection and as explained more fully below, the record reveals that the TEB here used the ratings collected by the other TEBs to re-rate CMR in accordance with a different rating scale and under different criteria than used by the original TEBs, and there is no evidence that the new ratings were reasonably based. Moreover, the record reveals that Pizzarotti, which received a

³ Regarding CMR's alternative argument that the TEB improperly limited the factors that it considered in determining whether a project was similar in complexity to whether the project involved multiple sites, whether it involved security issues, and whether it involved traffic management issues, and that it should also have considered similarity in project features such as safety program management, quality control program management, CPM [Critical Path Method] management, and coordination with the customer, we think that it was within the agency's discretion to determine which project features it would consider in assessing similarity with regard to project complexity.

past performance rating of excellent, was rated pursuant to a different, more liberal rating scale than either of the scales used to rate CMR's past performance, and it appears that use of the more liberal rating scale may have contributed to Pizzarotti's superior rating.

The agency has submitted statements from the individuals who completed the reference checks for the other TEBs, all of whom indicate that they told the references whom they contacted to rate CMR's performance on a scale of excellent/good/satisfactory/marginal/poor. The TEB rating sheets included in the agency report for four of CMR's five projects do not employ such a rating scale for the individual questions, however; they use the following rating scale: exceeded the standard, met the standard, departure from standard increased risk/impact to the client, departure from standard caused significant risk/impact to the client, unacceptable departure from standard.⁴ The statements further reveal that with regard to several of the projects, the questions asked of the reference were not the same questions as those on the rating sheets completed by the evaluators here. For example, according to the statement of the chairperson of the TEB for solicitation No. N33191-04-R-4003, who conducted several of the past performance checks that were used as a basis for the evaluation of CMR's past performance under the instant RFP, he asked the references whom he contacted the following questions:

- Did the contractor achieve high level of coordination between subcontractors, suppliers, and JV partners, of applicable, of the project?
- Was the contractor successful at managing schedule/delivery dates?
- Was the contractor successful at managing costs and maintaining the project budget?
- Did the contractor complete on the schedule dates required by the contract?
- Was the contractor responsive and cooperative during performance, and committed to customer satisfaction?
- Did the contractor comply with safety requirements of this contract?
- Did the contractor demonstrate proficiency with computerized CPM schedules?

⁴ The fifth project was rated on a scale of excellent/good/satisfactory/marginal/poor on a form that included eight questions. (The questions were similar, but not identical, to either of the lists of questions set out below.) The reference rated CMR's performance as satisfactory in response to four questions, as good in response to three, and as excellent in response to the final question, which pertained to contractor commitment to customer satisfaction. The reference rated CMR's overall performance on the contract as good, and commented that he "considered CMR ROICC Aviano's #1 Contractor for projects with dollar value of <=\$10M." Agency Report, Tab 5(B), at 8.

The forms completed by the TEB here for the same projects instead included the following questions:

- Did the contractor's performance conform to the terms and conditions of the contract, including schedule and budget, and administrative aspects of performance?
- Was the Contractor capable, efficient, and effective?
- Did the contractor's performance conform to its safety plan?
- Did the contractor's performance conform to its quality control plan?
- Was the contractor responsive and cooperative during performance?
- Was the contractor committed to customer satisfaction?

It is apparent from the foregoing that the TEB here re-rated CMR's performance under the various projects using different questions and a different rating scale than those used by the evaluators who conducted the reference checks. Given the difference between the rating scales used and the questions asked, there is no way that we can be certain that the ratings on the forms completed by the TEB here accurately reflect the opinions expressed by the individuals contacted. For example, there is no evidence that any of the references contacted expressed an opinion as to whether CMR's performance conformed to its quality control plan, yet the TEB rated CMR's performance as having met the standard (but not exceeded it) with regard to all four projects. Further, there is no evidence that it was reasonable for the TEB to translate the references' original ratings (of excellent/good/satisfactory/etc.) into virtually across-the board ratings of "met the standard."⁵ In this regard, the agency has furnished us with neither the original rating sheets, nor with an explanation as to how it translated the scores. For example, it has not been explained (and it is unclear to us) whether ratings of "met the standard" reflect original ratings of satisfactory (as would seem appropriate) or original ratings of good (pursuant to the reasoning that "met the standard" was the second highest rating under the original scale, whereas "good" was the second highest under the scale used by the TEB).⁶

⁵ CMR was rated as having "met the standard" in 21 of 24 instances. (In one of the remaining three, it was rated as having exceeded the standard, and it was not rated in the remaining two.)

⁶ There is some evidence in the record that ratings of good were translated into ratings of "met the standard." In this regard, the protester has submitted a statement from the individual whom the agency contacted regarding CMR's performance on the Siena Recycling Center project, who reports that he rated CMR as good or excellent in response to all questions posed him. The rating sheet completed by the TEB here rates CMR as having "exceeded the standard" with regard to only one question and as having merely "met the standard" with regard to the remaining five, however.

Without such information, we have no basis upon which to conclude that the agency's evaluation of the protester's past performance was reasonable.

Further, as noted above, the record reveals that Pizzarotti's past performance was initially rated using a different, more liberal rating scale than either of those described above. According to the statement of the individual who conducted Pizzarotti's reference checks pursuant to an earlier solicitation, he explained to the references whom he contacted that they were to rate Pizzarotti's performance in accordance with the following scale: met or exceeded the standard, close to the standard, departure from the standard with increased risk, departure from the standard with significant risk, unacceptable departure from the standard. This scale differs from those used to rate CMR's past performance in that it collapses the top two (in the case of the exceeded the standard/met the standard/etc. scale) or possibly three ratings (in the case of the excellent/good/satisfactory/marginal/poor scale) into the single top category of met or exceeded the standard. It would obviously have been easier for Pizzarotti to attain top ratings under this scale than for CMR to attain top ratings using either of the others. In our view, the use of these different rating scales calls into question the even-handedness of the evaluation of CMR and Pizzarotti's past performance.

Schedule

The solicitation provided that offerors' proposed schedules would be evaluated to determine the extent to which the offeror proposed to complete the work within the time frames specified in the RFP. Offerors were instructed to specify the duration of construction and to submit one schedule for both phases, including no more than 100 major project events. The solicitation also provided that the offeror's proposed schedule would be "enhanced" by addressing the following elements separately for each building: identified critical path, overall contract construction schedule, account for holiday periods (U.S. and Italian), critical equipment delivery dates, and critical submittal submission dates for the submittals required by the solicitation. The RFP further provided that "additional consideration" would be given for the following: (1) the extent to which the management approach is sufficiently detailed to assess validity, demonstrates flexibility and resourcefulness, and offers a high probability of success, and (2) early time completion of the contract.

The TEB assigned CMR's proposal a rating of good for schedule. The evaluators noted that CMR had proposed to complete both phases significantly early, Phase II [deleted] days early and Phase I [deleted] days early, according to the evaluators. The TEB went on to explain the basis for its rating as follows:

Based on having a fully compliant schedule, with advance completion dates[,] the schedule was rated Good overall. The board could not rate the schedule excellent because significant justification of these early completion dates was not provided. The firm provides a narrative that

demonstrates it understands all of the project constraints and phasing, including stating that it will use [deleted]. In addition the firm states that it intends to [deleted]. Based on its detailed, correctly constrained, early completion schedule the firm was rated Good overall for Factor 3.

Technical Evaluation Report at 6-7.

The protester takes issue with the evaluators' determination that its schedule could not be rated as excellent because "significant justification" of its proposed early completion dates was not provided. CMR argues that the evaluators imposed a requirement for significant justification based on their misunderstanding as to the degree to which its proposed schedule was accelerated. In the alternative, the protester argues that its proposal did offer significant justification.

With regard to the first point, the protester argues that the agency's requirement for significant justification of its early completion dates was based on the agency's misperception that its proposed completion dates were in fact significantly early. The protester argues that it did not propose to complete the contract work over [deleted] early, as the evaluators determined; rather, according to the protester, it proposed to complete the work [deleted] early. The difference is attributable to the fact that the agency interpreted the solicitation as providing for a 36-month performance period for each phase of the work, with exercise of the Phase I options to occur 8 months after contract award, while the protester interpreted the RFP as providing for a single period of performance of 36 months for accomplishment of both phases.⁷

⁷ The RFP was ambiguous with regard to the time period for completion of the entire work effort. In section 00202 (Evaluation Factors for Award), the solicitation instructed offerers that they should:

Provide the total number of calendar days for the construction duration. The maximum duration for construction is not to exceed 36 months. . . . Provide one schedule for both phases, including no more than 100 major project events. The schedules shall be based on exercise of all Phase I options eight months after contract award and include government review times.

We think that this passage clearly conveys the intent that both phases of construction are to be completed within 36 months. A contrary intent is conveyed in the clause entitled Commencement, Prosecution and Completion of Work, incorporated into the solicitation on page 00710-19, however. This clause provides in relevant part as follows:

(continued...)

While the protester has argued that the agency incorrectly calculated the number of days early that it proposed to complete the work effort in its entirety (i.e., both Phases I and II), it has not argued that the agency's calculation that it proposed to complete Phase II of the work [deleted] early was incorrect. We see no reasonable basis to conclude that the agency would have required lesser justification for a schedule that proposed completion of Phase II [deleted] early and completion of Phase I [deleted] early than a schedule that proposed completion of Phase II [deleted] early and completion of Phase I [deleted] early, since it is the completion date for the Phase II work, which remains the same in the two scenarios, that is the most accelerated. Accordingly, we are not persuaded by the protester's argument that the agency's miscalculation of the extent to which its schedule was accelerated resulted in the agency's requiring a higher degree of justification for the schedule.

As noted, the protester also argues that its proposal did offer significant justification for its accelerated schedule. CMR asserts that it offered significant detail in support of its proposed schedule, including:

- Reciting [deleted] events, rather than merely the required 100, in its CPM schedule.
- Itemizing the [deleted] to the job site for each project.
- Itemizing [deleted].
- Detailing how it intended to use the [deleted].

The protester is essentially disagreeing with the agency's judgment as to what constitutes significant justification. The mere fact that a protester disagrees with an agency judgment does not demonstrate that the agency judgment was unreasonable, however. American States Utilities Servs., Inc., B-291307.3, June 30, 2004, 2004 CPD ¶ 150 at 7. The evaluators desired additional evidence that the protester had thought through the implications of its accelerated schedule with regard to matters such as staffing,⁸ and the protester did not furnish this sort of additional evidence. We do not

(...continued)

The Contractor shall be required to . . .

1. CLIN 0001 Basic Work Personnel Alert Holding Area Phase II: complete the entire work, inclusive of CLIN 0002, not later than 1095 calendar days after contract award; and

2. CLIN 0003 Heavy Drop Rigging Facility Phase I: complete the entire work, inclusive of CLINs 0004, 0005, 0006, and 0007, not later than 1095 calendar days after CLIN 0003 option exercise date.

⁸ The agency explains that "[t]he issue for the board was that CMR did not provide the manpower or any other information explaining how it was projecting to

(continued...)

think that the evaluators' determination that the protester's proposed schedule could not be rated as excellent due to this shortcoming was unreasonable. Accordingly, we deny this ground of CMR's protest.

CONCLUSION AND RECOMMENDATION

Because we find that the agency lacked a reasonable basis for its rating of the protester's proposal under the organizational experience and past performance evaluation factors, we sustain the protest. We recommend that the agency reevaluate CMR's proposal with regard to both factors. With regard to the past performance factor, we recommend that both CMR and Pizzarotti's references be contacted to ensure that they are asked to rate performance on the same basis. If, as a result of the reevaluation, CMR's proposal is determined to represent the best value to the government, we recommend that the agency terminate the contract awarded to Pizzarotti and make award to CMR. We also recommend that the agency reimburse the protester for its costs of filing and pursuing the protest. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1) (2004). In accordance with section 21.8(f) of our Regulations, CMR's claim for such costs, detailing the time expended and the costs incurred, must be submitted directly to the agency within 60 days after receipt of the decision.

The protest is sustained.

Anthony H. Gamboa
General Counsel

(...continued)

accomplish the tasks in its schedule, which the TEB would have been able to use to ascertain if it was reasonable for CMR to accomplish the tasks in the schedule.” Agency Response to Supplemental Protest and GAO Questions, Dec. 21, 2004, at 8.