

Protest of )  
 ) Date: January 31, 1989  
 FIVE STAR CATERING )  
 ) P.S. Protest No. 88-68  
 Solicitation No. 072358-88-B-0147 )

### DECISION

Five Star Catering (Five Star) timely protests the award of Contract No. 072358-89-U-0007 to Service America Corporation (Service America), for cafeteria food services at the General Mail Facility in Denver, CO. Five Star questions the fairness of the evaluation of its technical proposal.

Solicitation No. 072358-88-B-0147 was issued by the Procurement and Materiel Management Service Office, Denver, CO on May 13, 1988 with a closing date of June 15. The solicitation set out the evaluation criteria upon which award was to be made as follows: 1) reputation, experience and resources (maximum score possible, 300); 2) sanitation practices (maximum score possible, 400); 3) personnel staffing and management (maximum score possible, 150); 4) menu prices, portion sizes and management controls (maximum score possible, 250); 5) menu variety (maximum score possible, 200); and 6) budget, accounting systems, and controls (maximum score possible, 100). The solicitation required the evaluators to make written comments about each element of the evaluation criteria.

Five offers were received in response to the solicitation. Service America received a score of 1391.5 points out of a possible 1400 points. Five Star received a score of 1251 points, losing 140.5 because of deficiencies in the areas of staffing and management, sanitation practices, and menu prices. Following the receipt of best and final offers, award was made to Service America, the incumbent contractor on September 29.

In its protest,<sup>1/</sup> Five Star alleges that the evaluation process did not give it a fair chance for award. First, it complains that its proposal was evaluated improperly. Five Star claims that in the area of cafeteria management, its credentials "may not have been adequately presented," since the selection committee did not visit any of the sites

<sup>1/</sup>Five Star filed an appeal with the Postal Service Board of Contract Appeals, which forwarded a copy to this office on October 7. On October 20, having determined that the "appeal" was a bid protest, the Board dismissed the action because it lacks jurisdiction over bid protests. Five Star Catering, PSBCA No. 2396, November 21, 1988.

serviced by it. Next, it maintains that the sanitation rating did not reflect the reality of its hygienic practices. It asserts that the low Health Department rating at one of the cafeterias it manages was due to the poor sanitation practices of the prior manager, and that Five Star had raised the rating significantly in just four months. In response to the finding that its prices seemed somewhat high, Five Star argues, without explanation, that it had agreed to "adjust prices to the employee population."

Five Star also thinks that Service America's proposal was not evaluated properly. It suggests that the inferior condition of the Denver cafeteria reflected poor management skills on the part of Service America. Finally, Five Star contends that the procurement process may have been compromised, as Service America had been asking questions about Five Star's business prior to award.

In his report, the contracting officer states that the evaluations were conducted properly. The evaluation committee included both postal management and union personnel. Five Star received a lower score for its sanitation practices, based on the most recent Health Department ratings. Service America received a higher score in the personnel staffing and management area because of its employee training program. The evaluation showed that Service America offered better menu prices and portion sizes. Service America also rated higher in the budget category due to its experience in the food service area. He states that some of the bad conditions in the cafeteria, noted by Five Star, were due to architectural deficiencies outside of the control of Service America, rather than to poor performance under its contract. Service America submitted several proposals for dealing with the building's deficiencies. Finally, the contracting officer notes that the alleged impropriety in the procurement process is unfounded, as no information about Five Star originated from the procurement office.

This office has consistently held that "[w]e will not substitute our judgment for that of the evaluators or disturb the evaluation unless it is shown to be arbitrary or in violation of procurement regulations." Cohlma Airline, Inc., P.S. Protest No. 87-118, April 13, 1988, quoting H & B Telephone Systems, P.S. Protest No. 83-61, February 6, 1984. Furthermore, we will not evaluate the proposal de novo, but will only "examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria..." ATI Industries, Comp. Gen. Dec. B-215933, November 19, 1984, 84-2 CPD & 540; see also Rice Services, Comp. Gen. Dec. B-218001.2, April 8, 1985, 84-2 CPD & 400; Penny H. Clusker, P.S. Protest No. 80-37, August 27, 1980.

Five Star suggests that the evaluation of its proposal in the area of cafeteria management may have been higher if the Postal Service procurement personnel had visited sites managed by it. Technical evaluations are based upon the information contained in the proposal and "the burden is clearly on the offeror to submit an adequately written proposal." ATI Industries, supra; Marvin Engineering Co., Inc., Comp. Gen. Dec. B-214889, July 3, 1984, 84-2 CPD & 15; see also H & B Telephone Systems, supra. In this case, if information favorable to Five Star was not included in its proposal, it did not meet its burden and cannot fault the evaluators. Concerning Five Star's assertion of possible extenuating circumstances surrounding its Health Department ratings, there is no evidence that the evaluation in the sanitation category was unreasonable. It is not clear what Five Star means by its statement that it had agreed to "adjust prices to the employee population," made in response to the finding

that its prices were too high. In our view, the record shows that the evaluations were reasonable and in accordance with the listed criteria.

Five Star complains that the procurement process may have been compromised due to Service America's pre-closing date inquiries about Five Star's business. It contends that, since this was a solicitation for a negotiated contract, information about the offerors should not have been released. The contracting officer states that no information about any prospective offerors was released by the procurement office. "Mere supposition, however plausible, is insufficient to overcome the presumption of regularity attending a contracting officer's reported determinations." Penny H. Clusker, supra; see also Book Fare, Inc., P.S. Protest No. 80-29, July 3, 1980; Haselrig Construction Co., On Reconsideration, P.S. Protest No. 76-2, March 22, 1976. Five Star offers no evidence to support its allegations. Therefore, these allegations fail for lack of proof. Service America Corporation, P.S. Protest No. 86-96, January 14, 1987.

This protest is denied.

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**[checked against original JLS 3/4/93]**