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Washington, DC 20548

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## Decision

**Matter of:** Career Innovations, LLC

**File:** B-404377.4

**Date:** May 24, 2011

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Stan Hinton, Esq., for the protester.

Amy L. O'Sullivan, Esq., and Richard Arnholt, Esq., Crowell & Moring LLP, for the intervenor.

Peter J. Dickson, Esq., and Herman J. Narcho, Esq., Department of Labor, for the agency.

Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging an agency's evaluation of the protester's proposal and source selection decision is denied where the record shows that the agency reasonably concluded that the protester's and awardee's proposals were technically equal and selected the awardee's proposal for award based upon that firm's lower evaluated cost.

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### DECISION

Career Innovations, LLC (CI),<sup>1</sup> of Peoria, Arizona, protests the award of a contract to Cornerstone Solutions, Inc., of East Point, Georgia, under request for proposals (RFP) No. DOLJ09SA00012, issued by the Department of Labor for Job Corps outreach and admissions services.

We deny the protest.

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<sup>1</sup> CI is a joint venture comprised of Innovations Group, Inc. (the incumbent contractor for these services) and Oceanus Group, LLC. Protester's Proposal, Part 3, Past Performance, Tab 1, at 1-2.

## BACKGROUND

The RFP, issued as a small business set-aside, provided for the award of a cost-plus-incentive-fee contract for outreach and admissions services to enroll youth at Job Corps Centers in Arizona. Job Corps, which is administered by Labor, provides educational and career technical skills training and support for disadvantaged youth. See RFP, Statement of Work (SOW), at 5.

Offerors were informed that award would be made on a cost/technical tradeoff basis considering the following factors and associated maximum point scores: technical proposal (45 points); staffing resources proposal (20 points); past performance and experience (25 points); and cost justification (10 points).<sup>2</sup> RFP at 89, 98. The technical factors were stated to be more important than cost. Id. at 98. Offerors were also advised that the point scoring reflected the relative importance of each factor, but that the point scoring was advisory only and was not binding on the source selection official. Id. at 89-90.

The RFP also identified subfactors and associated maximum point scores under certain of the evaluation factors. See id. at 89-95. With regard to the technical proposal evaluation factor, the RFP identified two subfactors: outreach (20 points) and admissions (25 points). Under these subfactors, offerors were instructed to respond to a list of questions by describing, among other things, their proposed outreach plans and admissions methods, as well as their understanding of the work and their approach to meeting outcomes and quality indicators. See id. at 77. Offerors were also required to describe in detail how they would provide innovative outreach to Native American and other populations. Id. at 78.

With regard to the staffing resources proposal evaluation factor, the RFP identified the following five subfactors (each worth 4 points): staffing level and adequacy; staffing qualifications; project director's credentials and experience; adequacy of staff development, retention, and incentives; and management/corporate contract support and oversight. See id. at 91-92. Offerors were instructed to provide, among other things, a detailed organizational chart showing all staff working on the project, including subcontractor staff, a resume for the proposed project director, position descriptions, and a list of all proposed key personnel. See id. at 79, 97; attach. J-8, Staffing Chart, at 56.

With regard to the past performance and experience evaluation factor, the RFP required different submissions depending upon whether the offeror was an experienced Job Corps outreach/admissions or career transition services contractor;

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<sup>2</sup> The RFP also required the submission of transition/phase-out proposals but provided that these proposals would not be point scored or comparatively evaluated. RFP at 97.

a new firm with relevant experience; or a new firm without relevant experience. Id. at 79-81; attachs. J-5, J-6, at 50-54 (past performance questionnaire; experience matrix).

With regard to the cost justification evaluation factor, the RFP instructed offerors to propose fees for outreach/admissions and career transition services operations and submit a business management proposal showing proposed costs. See id. at 17, 20, 61, 81-83, 95. The RFP stated that the agency would evaluate proposed costs under the following five subfactors (each worth 2 points): adherence to the RFP requirements; explanation and support of all proposed costs; general and administrative costs; consistency of costs with technical proposal; and total staff compensation. See id. at 95. Offerors were advised that the agency would assess whether an offeror's proposed costs supported its technical proposal and the extent to which its cost allocations and supporting explanations assured a reasonable and prudent expenditure of federal program funds. See id. The RFP also advised offerors that, under the cost factor, the agency would evaluate offerors' proposed costs and fixed fees for reasonableness and realism. See id. at 98-99.

The agency received [DELETED] proposals, including those of CI and Cornerstone, which were evaluated by the agency's technical evaluation panel (TEP). Contracting Officer's (CO) Statement at 1. CI proposed to continue a support program with [DELETED] for, among other things, transitional living skills, transportation to Job Corps centers, and tribal counseling for Native American students. See Protester's Technical Proposal, Tab A, Outreach, at 12. CI's proposal also stated that it had "negotiated" a direct trade referral process with a local [DELETED] and proposed to create partnerships with other [DELETED], detailing processes for admitting student referrals into Job Corps centers. See id. at 18. CI's proposal also estimated that the centers could expect between [DELETED] students per admissions counselor, based on CI's direct experience. See Protester's Staff Resources Proposal, Narrative, at 5.

The agency included [DELETED] proposals, including CI's and Cornerstone's, in the competitive range and conducted discussions with those offerors. CO's Statement at 1, 3. With respect to CI's proposal, the agency identified 41 evaluation concerns. Among other things, the agency requested that CI provide detailed assurances that [DELETED] had agreed to the proposed responsibilities and to specify how many students had been served through the partnership with the [DELETED]. AR, Tab, 18, Discussion Questions, nos. 8, 12, at 1-2. The agency also asked CI to provide a rationale and specify functions for CI's proposed project director and outreach/admissions manager, as well as clarify how CI determined its range of [DELETED] new arrivals. Id., nos. 1, 14, at 2-3.

The agency requested revised proposals, which were evaluated as follows:

|                                         | <b>CI</b>    | <b>Cornerstone</b> |
|-----------------------------------------|--------------|--------------------|
| Technical proposal (45 points)          | 35.00        | 35.25              |
| Staff resources proposal (20 points)    | 16.75        | 13.75              |
| Past performance/experience (25 points) | 15.59        | 19.71              |
| Cost justification (10 points)          | 5.00         | 5.00               |
| <b>TOTAL</b>                            | <b>72.34</b> | <b>73.71</b>       |
| Evaluated cost                          | \$5,631,198  | \$5,277,287        |

Agency Report (AR), Tab 10, Final Technical Evaluation Memo (Aug. 30, 2010) at 3; Tab 6, Selection Memorandum (Aug. 30, 2010), at 2.

The TEP's point scoring of the offerors' revised proposals was supported by narrative discussions of their respective strengths and weaknesses. AR, Tab 11, Final Technical Evaluation Report (Aug. 2010). With respect to CI's revised proposal, the TEP noted a number of strengths under each of the evaluation factors. The TEP remained concerned, however, under the technical proposal factor that CI had not assured the agency that [DELETED] had agreed to the responsibilities presented in CI's initial proposal. See id. at 1-3. Under the staff resources proposal factor, the TEB found that CI had not clarified how the firm determined its annual student arrivals, and expressed concern that CI's proposed outreach/admissions manager position implied more of an outreach and marketing role than a management role. See id. at 4-5. Under the past performance factor, the TEP evaluated CI as an experienced Job Corps outreach/admissions or career transition services contractor (because of Innovation Group's incumbent experience), but found that the other joint venture partner, Oceanus Group, had no Job Corps experience. See id. at 5.

The CO evaluated the offerors' business management proposals under the cost justification factor. CI's and Cornerstone's proposal both were considered satisfactory, and the CO noted no weaknesses under either offeror's proposal. See AR, Tab 8, Cost Justification Evaluation Forms. The CO also found that CI's proposed costs were generally realistic for the work to be performed and consistent with the offeror's technical proposal. See AR, Tab 11, Final Technical Evaluation Report, at 6.

Cornerstone received award on the basis of its higher technical score and lower evaluated costs. CO's Statement at 4; AR, Tab 6, Selection Memorandum (Aug. 30, 2010), at 3, 7. CI protested to our Office, challenging the evaluation of its proposal under each of the evaluation factors. In particular, with respect to the evaluation of the firm's past performance and experience, CI complained that CI should have been considered a new firm with relevant experience, and not an experienced Job Corps outreach/admissions or career transition services contractor.

Prior to submitting a report in response to the protest, the agency advised our Office that it would take corrective action by suspending contract performance and reevaluating CI's past performance. See Agency E-mail to GAO, Dec. 2, 2010. We dismissed CI's protest as academic.

The CO reevaluated CI's past performance and experience, considering the joint venture to be a new firm with relevant experience. CI's total point score increased by 3.33 points. As a result of the reevaluation, CI's overall point score became 75.67, which is 1.96 points higher than Cornerstone's overall score of 73.71. See CO's Statement at 5-6. The CO concluded that CI's and Cornerstone's proposals were technically equal and that Cornerstone's remained entitled to award on the basis of its lower evaluated costs. See AR, Tab 6, Selection Memorandum (Jan. 27, 2011), at 5. This protest followed.

## DISCUSSION

CI challenges its evaluation under the technical proposal, staff resources proposal, and cost justification factors, and contends that it should have received higher point scores under each factor. See Protest at 27-31; Comments at 3-7, 17.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. A protester's mere disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

CI complains that the agency unreasonably assessed a weakness in its proposal under the technical proposal factor by viewing CI's lack of an agreement with [DELETED] to be a weakness. CI contends that the RFP did not state that the agency would evaluate, or require offerors to submit, such agreements.<sup>3</sup> Protest at 28-29; Comments at 8. CI also argues that any such agreements would have to be approved by the agency after contract award and regardless, its revised proposal explained that [DELETED] is in the process of [DELETED] elections and that CI will have to negotiate a new memorandum of understanding once new [DELETED] leadership is elected. See Protest at 20, 29.

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<sup>3</sup> CI also contends, citing one evaluator's notes, that it was unreasonably assessed a weakness for the lack of an agreement with the local [DELETED]. Comments at 13-14. This weakness was not identified in the consensus evaluation report.

Contrary to CI's arguments, the record shows that the TEP's concern with CI's relationship with [DELETED] was not based upon CI's failure to provide an agreement memorializing that relationship. Rather, the assessed weakness reflected the TEP's concern that CI had failed to provide any details discussing [DELETED] acceptance of the responsibilities that CI identified in its proposal, despite the agency's specific discussions request for such details. Not only did CI not substantively respond to the agency's discussions in this regard, CI's final revised proposal introduced further ambiguity by stating that its agreements with its partners (including [DELETED]) were either not completed or still under negotiation. See, e.g., Protester's Final Revised Proposal, Part 1, at 5-6. We find that assessing a weakness in this regard was reasonable given that offerors were required to provide detailed, complete, concrete, and feasible approaches and strategies to achieve the specified outcomes. See RFP at 77.

The protester also disputes the agency's assessed weaknesses with regard to CI's determination of student arrival rates and its proposed management positions under the staff resources proposal factor. CI contends that its proposal stated that it intended to continue the incumbent's procedures which, according to the protester, have often exceeded current Job Corps admissions capacity over the past 2 years. Protest at 29-31. The protester also asserts that the incumbent joint venture partner has used the same two management positions without any agency objections.

Although the protester disagrees with the agency's evaluation of CI's staff resources proposal, the protester provides no basis to question the reasonableness of the evaluators' judgments in this regard. Here, the agency points out that CI did not explain how it calculated its range of [DELETED] student arrivals. See AR at 19. Indeed, the record shows that CI did not substantively respond to the agency's request but largely repeated its earlier estimate. Compare Protester's Staff Resources Proposal, Narrative, at 5 with Protester's Final Revised Proposal, Part 2, at 29. Moreover, although the protester disagrees with the TEB's assessment that CI's proposed OA manager position implied more of an outreach and marketing role than a management role, CI's proposal states that the primary role of the OA manager is to oversee CI's extensive marketing program and implement CI's marketing plan, including managing media, advertising, and promotional campaigns. See Protester's Final Revised Proposal, Part 2, at 19-20.

CI also complains that it should have received a higher score under the cost justification factor, because the agency identified a number of strengths and no weaknesses under that factor.

This argument is without merit. There is no legal requirement that an agency must award the highest possible rating, or the maximum point score, under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as

having any weaknesses. See Applied Tech. Sys., Inc., B-404267, B-404267.2, Jan. 25, 2011, 2011 CPD ¶ 36 at 9. Here, apart from its disagreement with the point score assigned to its proposal under the cost justification factor, CI identifies no aspect of its proposal that should have been viewed as superior to Cornerstone's under this factor. We note in this regard that the TEP also found that Cornerstone's proposal (which received the same point score as CI's proposal under this factor) had a number of strengths and no weaknesses.

CI also protests the CO's determination that the protester's and awardee's proposals were technically equal, contending that this determination reflects bias in favor of Cornerstone. Specifically, CI complains that the initial selection decision to Cornerstone was based upon the fact that the CO had found that Cornerstone's proposal had a 1.37 higher overall point score than CI's. Protest at 26; Comments at 5-7. CI contends that, because its proposal had the highest overall point score (by 1.96 points) following the reevaluation of the firm's past performance/experience, the agency was required to find that CI's proposal was technically superior to Cornerstone's.

There is no merit to this protest argument.<sup>4</sup> It is well established that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision making in the procurement process. Burchick Constr. Co., B-400342.3, April 20, 2009, 2009 CPD ¶ 102 at 4-5. In this respect, the RFP advised offerors that point scores were advisory only and were not binding on the source selection official. Here, as noted above, the TEP's assignment of point scores was supported by narrative discussions of the offerors' respective strengths and weaknesses. CI does not identify any aspect of its proposal that establishes that its proposal should have been found technically superior to Cornerstone's. Rather, CI's arguments reflect nothing more than mere disagreement with the CO's selection decision, which does not demonstrate that the CO's judgment was unreasonable. See Citywide Managing Servs. of Port Washington, Inc., supra, at 10-11.

Lastly, we find no basis to conclude that the selection of Cornerstone's proposal reflects bias on the part of the CO. Government officials are presumed to act in good faith, and we will not attribute unfair or prejudicial motives to procurement officials

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<sup>4</sup> CI is incorrect that the CO's initial selection of Cornerstone's proposal was based only upon the awardee's higher point score. Rather, the record shows that CO's initial selection decision was based upon the fact that Cornerstone's proposal was both higher-rated and lower-priced, and therefore no cost/technical tradeoff analysis was necessary.

on the basis of inference or supposition. See XtremeConcepts Sys. B-402438, Apr. 23, 2010, 2010 CPD ¶ 99 at 7. Here, apart from CI's unsupported argument, there is no evidence in the record showing bias in favor of Cornerstone.

The protest is denied

Lynn H. Gibson  
General Counsel