

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

10,806

FILE: B-193883

DATE: July 20, 1979

MATTER OF: Wheeler Industries, Inc.

*[Protest Alleging Improper Evaluation of Proposals]*

DIGEST:

1. Award of indefinite quantities contract for engineering services to firm offering lower evaluated price was proper notwithstanding protester's higher initially evaluated technical score since selection official determined that higher score did not reflect significant difference in technical merit and did not warrant acceptance of higher scored proposal in view of higher cost associated therewith.
2. Neither possibility of a buy-in nor allegation of excessively low bid provides basis to challenge award.
3. Procuring activity is not required to withhold award based only on knowledge that protest might be filed.
4. Agency delay in submitting report to GAO does not justify disregarding substantive information contained in report.

Wheeler Industries, Inc. (Wheeler) protests award of an indefinite quantities (time and materials) contract to Advanced Marine Enterprises, Inc. (AME) for engineering and technical support services which may be ordered by the David W. Taylor Naval Ship Research and Development Center (Taylor) to support the advanced Hydrofoil Program. The RFP was issued by the Naval Regional Procurement Office, Washington Navy Yard (Navy) as request for proposals (RFP) No. N00600-77-R-1004.

Wheeler complains that the Navy did not evaluate proposals as required by the RFP evaluation criteria, and instead, substituted price as the principal award criterion.) The solicitation stated that award was to be

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based on technical qualification and price, with price being assigned approximately one quarter the weight given all technical factors. Wheeler's proposal was 70.9 percent more expensive than was AME's.

As Wheeler points out, Taylor technical personnel initially recommended that Wheeler receive the award. This recommendation was rejected by Navy contracting personnel, even though Taylor's initial technical evaluation assigned Wheeler a 15 percent better technical score than AME. Taking price into consideration, Wheeler only marginally outscored AME, by a weighted score of 0.8588 to 0.8226.

In view of the relatively small difference in weighted scores and the significant difference in prices, contracting personnel closely reviewed the technical evaluation. They found little actual difference between the two firm's technical qualifications, but concluded that Wheeler's higher score reflected its experience as the incumbent. In the most heavily weighted category of personnel qualifications, Wheeler only slightly outscored AME and both offerors received the same score in the management plan area. The only areas in which Wheeler outscored AME by more than 4 percent were corporate experience and management experience. Wheeler attained near perfect scores in these areas. However, Taylor's technical evaluation shows that AME's corporate experience and its management experience were also acceptable. Because AME would gain equivalent experience within the first six months, and since AME's proposal reflected an acceptable level of experience, the contracting officer discounted the additional points attributable to Wheeler's incumbency and made award to AME.

Although technical point ratings are useful as guides for intelligent decision-making in the procurement process, too much reliance should not be placed on them. Whether a given point spread between two competing proposals indicates a significant superiority of one proposal over another depends upon the facts and circumstances of each procurement. 52 Comp. Gen. 686, 690 (1973); Computer Data Systems, Inc., B-187892, June 2, 1977, 77-1 CPD 384; see also Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976),

76-1 CPD 325 and cases cited therein. Even when point scores and technical evaluation ratings are indicative of the technical superiority of one proposal over another selection officials are not bound by recommendations made by a technical evaluation panel. Grey Advertising, Inc., supra; Bell Aerospace Company, 55 Comp. Gen. 244 (1975), 75-2 CPD 168; Tracor Jitco, Inc., 54 Comp. Gen. 896 (1975), 75-1 CPD 253.

Recognizing this, we have previously upheld source selection officials' determinations that technical proposals were essentially equal despite an evaluation point score differential of as much as 15.8 percent and despite an evaluation panel's recommendation that award be made to the offeror with the highest technical rating. Grey Advertising, Inc., supra; B-173137(1), October 8, 1971. Moreover, in determining which proposal should be accepted for award, an agency may attach weight to the fact that the incumbent's technical score reflects advantages inherent in its incumbency, rather than technical merit. Bunker Ramo Corporation, 56 Comp. Gen. 712 (1977), 77-1 CPD 427. Award should not be based on the difference in technical merit score per se, but should reflect the procuring agency's considered judgment of the significance of that difference. 52 Comp. Gen. 358, 365 (1972). In other words, the selection official must determine what a difference in evaluation point scores might mean in terms of performance and what it would cost the Government to take advantage of it. Grey Advertising, Inc., supra. This does not mean that the weighted evaluation criteria are changed or ignored, since the importance of price is always accentuated when application of other factors do not, in the good faith judgments of source selection officials, clearly identify one proposal as most advantageous to the Government. See, e.g. Grey Advertising, supra, at 1124 and cases cited therein.

Thus, we find the award was not inconsistent with the RFP evaluation criteria.

Wheeler also believes that AME is attempting to "buy-in" by offering exceedingly low prices. However, the possibility of a buy-in does not provide a basis upon which award may be challenged. North American Signal Co.--Reconsideration, B-190972, August 4, 1978, 78-2 CPD 87;

Consolidated Elevator Company, B-190929, March 3, 1978,  
78-1 CPD 166.

Although Wheeler also questions the propriety of the award, because the Navy was aware that a protest might be filed, no protest was pending at the time award was made and there is no requirement to withhold award in such circumstances. Cf. Defense Acquisition Regulation (DAR) § 2-407.8(b) (1976 ed.).

Finally, Wheeler complains that the Navy unnecessarily delayed before submitting its report to our Office. Our Bid Protest Procedures, 4 C.F.R. 20.3(c), indicate that we will request that an agency report on a bid protest be submitted as expeditiously as possible. The rule reflects our view that a 25 working day period is usually sufficient. We note that approximately two and one-half months elapsed between our January 16, 1978 request and the Navy's report of April 3, 1978, and we are aware of no justifiable reason for this delay. However, we see no basis for disregarding a report which has been received, or to sustain a protest on an inadequate record. American Appraisal Associates, Inc., B-191421, September 13, 1978, 78-2 CPD 197. In any event, in view of our conclusions in this matter the protester was not prejudiced by the delay or the award action.

The protest is denied.

  
Deputy Comptroller General  
of the United States