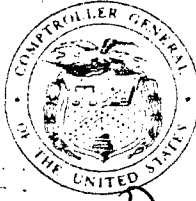


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DECISION



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

Protest of Department of Commerce Award

FILE: B-200636

DATE: February 18, 1981

MATTER OF: Human Sciences Research, Inc. DLG00123

DIGEST:

1. Agency's determination not to rescore protester's proposal after best and final offers was reasonable, since record provides no indication that protester informed agency that sub-contractors were no longer required (one low scored area of proposal) or that any other change was to be made in its technical proposal.
2. Protester argues that revised Government estimate used in cost evaluation formula was unrealistically low and was used by agency to justify selection of awardee. In view of awardee's explanation of its cost estimate (which resulted in firm-fixed-price contract), and protester's lack of support for its serious allegation of impropriety by agency officials, GAO concludes that this aspect of protest is without merit.
3. Contention that awardee did not submit technical proposal for portion of contract is without merit because awardee communicated its intent (in discussions and its best and final offer) to have its proposal apply to all portions of contract and agency's action in permitting awardee to so modify its initial technical proposal was not improper under terms of RFP.

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DLG 06/24

Human Sciences Research, Inc. (HSR), protests the award of a contract to Kathryn Chandler Associates, Inc. (KCA), under request for proposal (RFP) No. NASO-80-00152 issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for a statistical survey concerning recreational fishing. HSR objects to (1) the scoring of its technical proposal relative to KCA's, (2) the evaluation of estimated costs and the associated cost scoring of proposals, and (3) the acceptability of KCA's technical proposal regarding Region III. In our view, the protest is without merit because NOAA's report and KCA's comments adequately explain the reasonableness of NOAA's award determination.

First, HSR objects to the scoring of technical proposals because, in HSR's view, its superior experience and work for NOAA under prior contracts should have resulted in a much higher relative technical score than KCA received since KCA was only a company for 2 years and two former employees of HSR founded KCA.

In response, NOAA explains that (1) the evaluation of initial technical proposals was conducted in accord with the factors set forth in the RFP, and (2) five experienced evaluators who were thoroughly familiar with RFP requirements carefully reviewed each technical proposal submitted, without any knowledge of proposed costs. NOAA reports that KCA initially submitted a combined proposal for the work in Regions I and II and that HSR submitted a combined proposal for Regions II and III and a separate proposal for Region I. On the basis of a 500-point maximum score for technical, KCA received 439 points and HSR received 448 and 404 points, respectively.

After initial evaluation, NOAA revised the work required in Region III, making it substantially identical to the requirements for Regions I and II, which also had been reduced. The record indicates--based on NOAA's discussions with KCA and KCA's best and final offer, proposing to perform the work required in all three regions for the firm-fixed price of \$382,761--that NOAA considered KCA's technical proposal to be a consolidated one covering all three regions.

Since KCA did not further alter the substance of its proposal, even though it was advised of the reduced work in Regions I and II, NOAA did not rescore it on the basis of the best and final offer but assigned it the overall score of 439 out of 500 points. Similarly, NOAA did not rescore HSR's proposal.

In reply, HSR states that while it is not pursuing its objection to the validity of the technical scoring, the scores used by NOAA to select the awardee were based on initial proposals, since best and finals were not rescored. HSR explains that rescoring would have raised its score since it received demerits where subcontractors were proposed but the reduced work permitted the elimination of those subcontractors.

At the outset, we point out that it is the responsibility of each offeror in its best and final offer to inform the procuring agency of any changes that are to be made in its initial acceptable technical proposal. Cf. Informatics, Inc., J.B-194926, July 2, 1980, 80-2 CPD 8. There is no indication that HSR fulfilled its responsibility in that regard. Consequently, NOAA acted reasonably in using the scoring of HSR's initial technical proposal in the selection of the successful offeror.

Second, HSR objects to the scoring of cost estimates (which later became firm-fixed prices) because the initial NOAA estimate of about \$165,000 used in the RFP's cost-scoring formula was unrealistically low. It appears that NOAA agreed that the initial estimate was too low so in evaluating best and final offers NOAA used \$380,000 as the Government estimate, which resulted in a 60-point advantage to KCA. NOAA concluded that KCA's advantage of 60 points in the price evaluation formula overcame HSR's 9-point (at the most) advantage in the technical evaluation.

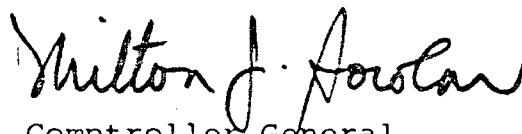
HSR contends that the revised estimate of \$380,000 is unrealistic and was used by NOAA to justify the award. Further, HSR questions whether KCA intends to fully perform. KCA explains that innovative techniques, economies, and internal-cost savings resulted in its

firm-fixed price of \$382,716. NOAA reports that KCA took no exceptions to the RFP's performance requirements. After carefully considering HSR's unsupported allegation that NOAA officials arbitrarily selected the revised cost figure to justify the award to KCA, KCA's explanation of why its price is reasonable, and HSR's question concerning KCA's intent to fully perform, we conclude that these speculative aspects of HSR's protest are without merit. Further, whether KCA will fully perform what it has proposed to do under the contract is primarily a question of contract administration which is not for consideration under our Bid Protest Procedures.

Third, HSR objects to the acceptability of KCA's technical proposal regarding Region III because it believes that KCA submitted a technical proposal for Regions I and II only. KCA explains that the RFP permitted consolidated proposals for Regions I, II, and III; initially, KCA was interested in only Regions I and II but, after the work in Region III was changed to substantially that required in Regions I and II, KCA communicated its intent, in discussions and in its best and final offer, that its technical proposal covered Regions I, II, and III. In our view, KCA's method of proposing and NOAA's acceptance of KCA's proposal was not improper since the RFP permitted such consolidated technical proposals. Thus, we find no merit in this aspect of HSR's protest.

In sum, we conclude that NOAA permitted KCA and HSR to compete on an equal basis; both were advised of the change in work for Regions I and II; both were permitted to submit revised proposals as best and final offers; technically, NOAA considered and scored both firms about equal and KCA offered the most advantageous fixed-price proposal (\$382,761 versus \$549,928 for HSR); KCA's proposal had the highest evaluated total score and NOAA properly awarded the contract to KCA.

Protest denied.



Acting Comptroller General
of the United States