

117306

20568

**DECISION**



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

FILE: B-204866

DATE: January 19, 1982

MATTER OF: Earth Environmental Consultants, Inc.

**DIGEST:**

1. Bias in evaluation of proposals will not be attributed to an evaluation panel on the basis of inference or supposition.
2. Where a request for proposals specifically identifies the offeror's proposed approach as an evaluation criterion and requests detailed information outlining the approach, the offeror is responsible for providing adequate information for the evaluation of its offer under the criterion, and may not rely upon its qualifications or prior experience, considered under separate evaluation criteria, to satisfy that responsibility.

Earth Environmental Consultants, Inc. (EECI) protests the Bureau of Indian Affairs' award of a contract under request for proposals (RFP) No. A00-0132 to Shive's Rangeland Consulting (SRC). The contract is for a range survey on the Crow Creek and Lower Brule Sioux Indian Reservations. EECI contends that the technical evaluators were biased in favor of SRC, and that the technical proposals were not evaluated fairly. We deny the protest.

The RFP advised offerors that technical merit would be weighted 90 points and price only 10 points.<sup>1</sup> The RFP

---

<sup>1</sup> The protester originally argued its offer should have been accepted because it was lower in price than SRC's was. EECI did not pursue the matter after it received the agency's report which explained that in accordance with the stated evaluation plan price received a weight of only 10 points out of 100, with EECI receiving the full 10 points as the lowest priced offeror. We therefore conclude EECI was satisfied with this explanation.

further explained that a technical evaluation panel would evaluate technical proposals (without consideration of price) according to the following evaluation criteria and their relative weights:

<u>Criteria</u>	<u>Weight</u>
"a. Key personnel's education, appropriate experience, and professional ratings;	25 points
"b. The firm's prior satisfactory experience in biological analysis of rangeland projects;	15
"c. Understanding of the scope of work and soundness of proposed plan of operation."	50

The BIA formed a three-member evaluation panel with a non-evaluating chairman who instructed the members not to speak to each other during the evaluation process. Once all proposals were evaluated by each member, the scores were combined and averaged. The awardee, SRC, received an average score of 78, whereas EECI received 65 points. The difference between the two firms' scores principally resulted from the evaluators' giving SRC an average of 12 more points for "Understanding the scope of work and soundness of proposed plan of operation," the third evaluation criterion.

The protester alleges that one member of the evaluation panel, a BIA area range conservationist, is a personal friend of SRC's president, and that the other two members may have been "acquainted" with SRC's president. The protester complains that the evaluation therefore may have been biased in favor of SRC.

We have repeatedly held that bias will not be attributed to procurement officials based on inference or supposition, and even where bias is shown, we will deny a protest if there is no indication that the bias adversely affected the protester's competitive standing. Alan-Craig, Inc., B-202432, September 29, 1981, 81-2 CPD 263.

Here, we have no basis to conclude that the evaluator who allegedly was a personal friend of SRC's president gave preferential treatment to SRC or influenced the other evaluators to do so, or that these evaluators did so simply because they might have known SRC's president. In fact, the range conservationist was the only member of the evaluation panel that did not score SRC considerably higher than EECI (scoring SRC 80 points and EECI 75). Thus, when the scoring by this evaluator is excluded, the gulf between SRC's score and EECI's actually broadens. Moreover, the protester has not submitted any evidence that this evaluator improperly attempted to influence the other evaluators, and it is not at all clear how that might have occurred since the evaluators were specifically instructed not to speak to each other during the evaluation process.

We recognize that where the subjective motivation of an agency's procurement personnel is being challenged, it may be difficult for the protester to establish on the written record -- which must form the basis for our decision -- the existence of bias. Nonetheless, the protester necessarily has the burden to prove its case. See Sperry Rand Corporation, 56 Comp. Gen. 312, 319 (1977), 77-1 CPD 77. Since EECI's allegation of bias is based on speculation only, the firm has not met its burden of proof here.

The protester also disputes the evaluation of its proposal. While EECI raises several objections to the evaluation, we will confine our comments to the agency's evaluation under the third and most important criterion, since even if EECI were to receive perfect scores for the other criteria, SRC's total score (including cost) still would be higher than EECI's because of the difference in their scores under the third criterion.

It is the evaluators' function, not this Office's, to determine the relative merits of technical proposals, and they have considerable discretion in making that determination. Therefore, we will not question an agency's technical evaluation unless the protester shows the agency's judgment lacked a reasonable basis, was an abuse of discretion, or otherwise was in violation of procurement statutes or regulations. Alan-Craig, Inc., supra.

We have reviewed the EECI and SRC proposals and the records of the evaluation process, and find the agency's evaluation was reasonable and consistent with the evaluation criteria. We found that EECI described its proposed plan of work in broad terms with little attention given to the means of accomplishing the desired goals, whereas SRC gave a detailed description of its methodology. In this regard, the RFP specifically advised offerors that a proposal should include "A plan of operation describing the Contractor's proposed approach giving details as to anticipated effort devoted to various aspects of required work," and that the proposals should "outline the proposed work as specifically as possible."

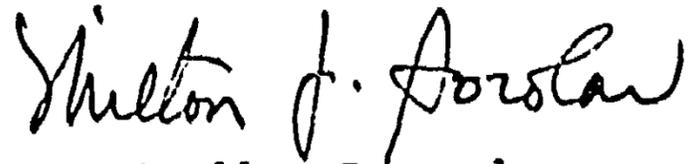
Indeed, it appears from the record that EECI is aware of its shortcomings in demonstrating its approach to the range survey. The solicitation as issued included a requirement for a soil and range survey at the Standing Rock Indian Reservation in addition to the Crow Creek and Lower Brule range survey. The Standing Rock Indian Reservation requirement, however, was canceled after proposal submission and before award. EECI acknowledges in a protest submission that its technical proposal focuses primarily on its approach to that requirement.

EECI nonetheless suggests that in view of the extensive discussion in its proposal to demonstrate the firm's prior experience and expertise, the contracting agency should have inferred that EECI in fact understood the scope of work and would take a sound approach toward accomplishing it.

EECI's prior experience and expertise were appropriate for evaluation, however, only in conjunction with the first two evaluation criteria, which specifically pertained to such matters. See Mutual of Omaha Insurance Company, B-201710, January 4, 1982, 82-1 CPD \_\_\_\_\_, at p. 9; Alan-Craig, Inc., supra. As stated above, the instant solicitation expressly required detailed information for proposal evaluation under the criterion in issue, and an offeror thus had the clear responsibility to provide adequate information for that evaluation. See Universal Design Systems, Inc., B-196682, April 23, 1980, 80-1 CPD 290. It is up to the offeror to establish that its proposal will meet the Government's needs

so that the offer can be evaluated according to the scheme set out in the solicitation. See HSA/Multichem, B-202421, August 11, 1981, 81-2 CPD 118. In light of EECI's failure to supply the detail required by the third evaluation criterion, we cannot conclude that the agency unreasonably evaluated the firm's proposal in that respect.

The protest is denied.



Acting Comptroller General  
of the United States