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DECISION



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

FILE: B-203642

DATE: February 8, 1982

MATTER OF: Price Waterhouse & Co.

DIGEST:

1. Contention that in evaluating proposals the grantee improperly considered a criterion which was not listed in the request for proposals is not supported by the record.
2. Determination of the relative merits of proposals is within the discretion of the contracting grantee.
3. Ranking proposals without assigning numerical scores is not improper.
4. Award of negotiated contract need not be made to the offeror proposing the lowest cost unless the request for proposals so indicates.

Price Waterhouse & Co. requests that we review the award of a contract to State Research Associates (SRA) under request for proposals (RFP) CO-7821-81-I-302-1208 issued by the Appalachian Regional Commission (ARC) pursuant to a Federal grant. The RFP was to evaluate the effectiveness and potential of the ARC's enterprise development activities, which are intended to help state and local governments to integrate economic development planning and private sector investment; the goal is to help the Appalachian Region produce more jobs and generate a more diversified economy.

Price Waterhouse contends that the ARC's evaluation of proposals was improper because the ARC used an evaluation criterion which was not listed in the RFP, made erroneous assessments of the proposals, and failed to assign numerical scores to proposals. Price Waterhouse also contends that award to SRA at a price substantially higher than Price Waterhouse's price was unjustified. We find these contentions to be without merit.

The ARC is a Federal-state partnership entity created by Federal statute at 40 U.S.C. App. § 101 (1976). It received the grant funds from the President of the United States under 40 U.S.C. App. § 302(a)(3). The ARC advises that in conducting its procurements using these grant funds it seeks to adhere to the "Federal norm." See, e.g., Copeland Systems, Inc., 55 Comp. Gen. 390 (1975), 71-2 CPD 237. We therefore will review ARC's procurement actions against that standard.

Four firms submitted proposals in response to the solicitation. ARC conducted discussions with three of the firms, including SRA and Price Waterhouse. Price Waterhouse proposed to conduct the study for \$45,000, and SRA for \$98,000.

The ARC, after evaluating proposals and oral interviews, found that although each offeror demonstrated expertise in performing effectiveness evaluations, SRA had an advantage over the other offerors in terms of knowledge of the ARC, experience in enterprise development matters and basic approach. The ARC determined that the proposal submitted by Price Waterhouse was excessively rigid and predominantly oriented toward developing a methodology and collecting information. SRA's proposal, on the other hand, reflected experience in conducting enterprise development evaluations and demonstrated an emphasis on the possible uses and policy implications of the study. Consequently, the ARC awarded a contract to SRA notwithstanding the substantially lower price offered by Price Waterhouse.

Price Waterhouse objects to the ARC's reliance on SRA's experience in conducting enterprise development evaluations as a reason for the selection. The complainant contends that enterprise development experience is not specifically enumerated in the RFP as an evaluation criterion. The RFP provides that:

"The criteria established for the evaluation are as follows:

- Demonstration of a clear understanding of the problem involved and a well-developed approach toward specific objectives.
- Understanding of ARC programs and relationships.

- Experience in organization and management analysis.
- Reputation, stability and management level of support of the proposing organization.
- Realistic cost of the proposed effort.
- Ability to work closely with ARC staff on a formal and informal basis."

It is a fundamental principle of Federal procurement law that offerors must be apprised of the criteria which are to be employed in the evaluation of proposals. Copeland Systems, Inc., supra; Health Management Systems, B-200775, April 3, 1981, 81-1 CPD 215. We believe that ARC has met this requirement. Although enterprise development experience and expertise is not listed as an evaluation criterion in the above-quoted RFP provision, the Scope of Work attached to the RFP provides that the "study will be accomplished by a consultant to be chosen on the basis of demonstrated technical, policy and evaluative capability in the field of management analysis and enterprise development." Also, the RFP states that the resumes of key personnel should emphasize "prior experience or unique qualifications within the research area." We believe that these provisions are sufficient to put offerors on notice that enterprise development experience and capabilities would be important to the selection decision. See Architectural Preservation Consultants; Resource Analysts, Inc., B-200872 et al., December 8, 1981, 81-2 CPD 446 at pages 7-8.

Next, Price Waterhouse alleges that ARC's conclusion that SRA's proposal is superior is erroneous and unfair. The complainant points out various ways in which it believes that its proposal was superior to SRA's.

The determination of the relative merits of proposals is the responsibility of the agency that solicited them, and requires weighing competing subjective considerations and exercising sound discretion. WASSKA Technical Systems and Research Company, B-189573, August 10, 1979, 79-2 CPD 110. Our Office therefore will not disturb an agency's determination unless it is shown to be arbitrary or to violate procurement statutes or regulations. Tracor, Inc., 56 Comp. Gen. 62,74 (1976), 76-2 CPD 386; Ads Audio Visual Productions, Inc., B-190760, March 15, 1978, 78-1 CPD 206.

Price Waterhouse has not made such a showing here. Although the record evidences substantial disagreement between the complainant and the ARC concerning the relative merits of proposals, we cannot conclude that the ARC evaluations were unreasonable or otherwise improper. For the most part, the evaluative conclusions to which Price Waterhouse objects are precisely the type of subjective judgments reserved to contracting officials, not our Office.

For example, Price Waterhouse contends that it demonstrated a superior understanding of the ARC's programs and relationships with other state and Federal programs than did SRA. Price Waterhouse asserts that this portion of SRA's proposal was brief and general, while its own proposal detailed the ARC's background, relationship, purpose, and rules. The ARC, however, found that SRA demonstrated an excellent grasp of the ARC mission and relationships, illustrated a superior ability to place issues in proper context, and examined policy considerations and the future role of the ARC. It found that Price Waterhouse's discussion of ARC, although extensive, was largely a repetition of published information. Based upon our examination of the proposals, we cannot conclude that the ARC's conclusions were unreasonable.

Similarly, Price Waterhouse criticizes SRA's interview approach as unsystematic and inconsistent. Price Waterhouse points out that SRA's proposal establishes neither an interview guide nor a specific set of interview questions. Price Waterhouse questions whether this approach will result in useful data. The ARC, on the other hand, believes that SRA's unstructured methodology is more likely to elicit the required data than is Price Waterhouse's more rigid approach, especially in light of the fact that SRA's interviews will be conducted by more experienced staff who know what to look for. Although we recognize that an argument can be made for both the structured and the unstructured approach, we do not believe that Price Waterhouse has presented a basis upon which to question the reasonableness of ARC's evaluation of approaches.

Price Waterhouse has enumerated other respects in which it believes its proposal to be superior to SRA's. We do not believe that it is necessary to state each such point in the course of this decision. We have examined these contentions and conclude that ARC was not unreasonable in evaluating the proposals the way it did.

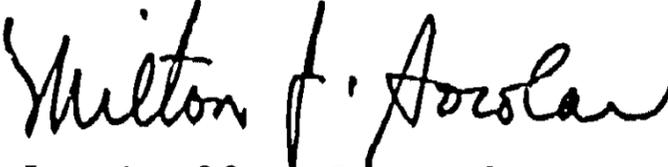
Price Waterhouse also complains that ARC ranked the proposals without first establishing numerical ratings. The RFP did not indicate, however, that proposals would be evaluated on the basis of numerical point scores. Moreover, although a point scoring system may be useful as a guide to intelligent decisionmaking, numerical scores merely reflect the disparate judgments of the evaluators and, as such, do not transform the technical evaluation into a more objective process. Ranking proposals directly may be a more meaningful method if ranking permits the contracting activity to gain a clearer understanding of the relative merits of the proposals. See MAXIMUS, B-195806, April 15, 1981, 81-1 CPD 285. Thus, we find nothing inherently improper with ranking proposals without the aid of numerical scores.

Price Waterhouse contends that award to SRA at a price 118 percent higher than its proposed price is unjustifiable. An award of a negotiated contract, however, need not be made to the offeror proposing the lowest cost unless the RFP indicates otherwise. 50 Comp. Gen. 110 (1970); Pioneer Contract Services, Inc., B-201143, April 9, 1981, 81-1 CPD 273. Here, the RFP listed cost as only one of six factors to be considered. The ARC, after an evaluation under the guidelines set out in the solicitation, concluded that SRA's proposal, for many reasons, would be the most advantageous despite the extra cost. The ARC points out that the complainant's lower price is partially attributable to its relatively short estimated performance time (some evaluators questioned whether the required evaluation could be completed in so short a time), its commitment of relatively less qualified staff to the project, and its intention to conduct some of the interviews by telephone rather than in person.

Price Waterhouse contends, however, that the ARC Cochairmen's Committee which made the final selection was informed by its staff evaluators that Price Waterhouse proposed to conduct the study for \$75,899, whereas the firm's actual cost proposal was \$45,000, a price substantially lower than SRA's (\$98,000). This contention is based upon the fact that the memorandum to the Cochairmen's Committee which recommended award to SRA listed Price Waterhouse's price as \$75,899. Documents submitted by ARC are inconclusive concerning the Committee's awareness of Price Waterhouse's actual price at the time it approved the selection of SRA. The record does indicate, however, that the Committee was made aware of Price Waterhouse's allegation concerning price prior to executing a contract and that it declined to alter its determination to award to SRA.

Under the circumstances we cannot object to the selection of the highest-ranked, although more expensive proposal.

The complaint is denied.

for 
Comptroller General
of the United States