

DECISION

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

FILE: B-208343**DATE:** November 10, 1982**MATTER OF:** Anthony E. Brown**DIGEST:**

1. In negotiated procurement there is no requirement that award be made to lowest cost offeror. Rather, procuring agency has discretion to select a higher rated proposal instead of a lower rated, lower cost proposal if doing so is in the best interest of the Government.
2. Determination of relative merits of proposals is within discretion of contracting agency and will not be overruled by this Office without a clear showing of unreasonableness.
3. Bias in the evaluation of proposals will not be attributed to an evaluator on the basis of inference or supposition.

Anthony E. Brown protests the award of a contract under solicitation No. R1-82-28 to Landmark Development IV (Landmark) for leasing office space at Troy, Montana, on behalf of the United States Forest Service. Brown alleges that the contracting officer's decision to award to Landmark was inconsistent with the evaluation factors, especially in light of Brown's lower priced offer. For the reasons stated below, the protest is denied.

The solicitation, as amended, set forth the following award factors, with the relative importance of each factor indicated by percentages:

"In determining which offer will be most advantageous to the Government, the Leasing Contract Officer shall consider the following factors in addition to the conformity of the space offered to the specific requirements. Relative weights for the criteria are assigned:

"a. Price per square foot 50%

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"b. Suitability of the design of the space offered to efficient layout and good utilization	15%
"c. Factors of environment, including the physical characteristics of the building and the surrounding area	10%
"d. Energy Conservation	10%
"e. Accessibility of the building to the public and employees	5%
"f. Occupancy date	5%
"g. Amount and location of available employee parking space whether public or part of the building site	5%"

The Forest Service received the following three offers on an annual square foot basis, adjusted for janitorial services:

Brown	\$ 9.66
Blue Sky	10.53
Landmark	10.96

The evaluation team determined Landmark's offer to be the most advantageous to the Government, all factors considered, with a final evaluated score of 930 points, compared to Blue Sky's 910 points and Brown's 800.

As noted above, Brown protests that he was entitled to the award because of his lowest cost offer and that his offer was the most advantageous to the Government. In a negotiated procurement, there is no requirement that award be made on the basis of the lowest cost. Bell Aerospace Company, 55 Comp. Gen. 244 (1975), 75-2 CPD 168; American Coalition of Citizens with Disabilities, Inc., B-205191, April 6, 1982, 82-1 CPD 318. Rather, the procuring agency

has the discretion to select a higher rated proposal instead of a lower rated, lower cost proposal if doing so is in the best interest of the Government and is consistent with the evaluation scheme set forth in the solicitation. Within the framework established by the solicitation, agency officials necessarily are given a considerable range of discretion, and their judgment will be questioned by our Office only upon a clear showing of unreasonableness. David A. Clary, B-200877, April 28, 1981, 81-1 CPD 326; Nanex Systems Corporation, B-193252, February 14, 1979, 79-1 CPD 105.

Here, while the evaluation team rated Brown's price offer as the least costly to the Government it further determined that Landmark's offer was most advantageous to the Government based on the evaluation scheme set forth in the solicitation. All three offers received the following evaluation scores:

	<u>Blue Sky</u>	<u>Brown</u>	<u>Landmark</u>
a. Price	455	500	430
b. Design Suitability	150	75	150
c. Environment	70	40	100
d. Energy Conservation	100	50	100
e. Accessibility	45	45	50
f. Occupancy Date	45	50	50
g. Parking	<u>45</u>	<u>40</u>	<u>50</u>
Total	910	800	930

Brown's building received very low ratings for design suitability because of problems with handicapped access; a lack of conference space; and electrical wiring problems. Landmark submitted an offer for a new building housing the Forest Service on one floor with no access problems and an

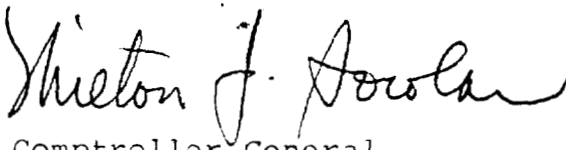
open space design preferred by the evaluation team. Likewise, Brown was downgraded on environmental and conservation factors, such as his building's close proximity to a neighborhood bar and problems associated with it in the past, and heating/air conditioning problems in his log structure with virtually no insulation, cracks in the logs, and gaps allowing heat loss. Landmark, on the other hand, proposed a rural site close to the Forest Service's ranger station with full earth berms and vestibule entryways for energy conservation.

As an agency's determination is entitled to great weight and Brown has not shown that evaluation results were inconsistent with the evaluation criteria, the agency's determination was not unreasonable. See Joseph Legat Architects, B-187160, December 13, 1977, 77-2 CPD 458, and decisions cited therein.

Brown also alleges rejection of his offer was premeditated by the contracting officer, based upon his past dealings with her as the Forest Service's landlord. The protester complains that, therefore, the evaluation was biased in favor of another offeror.

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 standings. Alan-Craig, Inc., B-202432, September 29, 1981, 81-2 CPD 263. Here, upon our review of the record, we find no basis to conclude that one of the evaluation panel members was biased against Brown or in favor of Landmark.

We deny the protest.

for 
Comptroller General
of the United States