

DECISION

25994
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-206138**DATE:** January 11, 1983**MATTER OF:** Holmes and Narver, Inc.**DIGEST:**

1. Request for proposals which states evaluation factors in order of importance as technical, business, and cost, establishes rigorous evaluation method for technical factors but not other factors, and indicates that other factors will not be evaluated if technical proposal is unacceptable and will be determinative only if proposals are otherwise equal, clearly means that technical factors are substantially more important than other factors.
2. Evaluation was reasonable and consistent with evaluation criteria where there is a definite correlation between technical scores and strengths and weaknesses of each proposal. Where technical factors are substantially more important than other evaluation criteria, lack of depth in directly related experience, which was a technical factor, is not a minor deficiency. Furthermore, proposal of weak second line managers--each having significant responsibility for part of a large project--may reasonably be considered an important off-setting weakness to strong top management.
3. Award to higher cost offeror having higher ranked technical proposal is not improper where record reflects reasonable basis for resolution of cost/technical trade-off question based on finding of significant differences between two highest ranked technical proposals. These differences reasonably outweighed added cost of award to higher ranked offeror.

Holmes and Narver, Inc. (Holmes), protests the Department of the Energy's (DOE) selection of Jacobs Engineering, Inc. (Jacobs), as the technical assistance contractor for the Uranium Mill Tailings Remedial Action (UMTRA) Project. DOE has previously considered and denied Holmes' protest. We agree with DOE and find no merit in the protest.

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The Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95-604, 92 Stat. 3021, authorized DOE to undertake a program of assessment and remedial action to eliminate or mitigate the radiological hazards attributable to tailings at 24 designated uranium mill sites. ("Tailings" are the residue of the milling process.) In implementation of the act, DOE issued request for proposals (RFP) No. DE-RP04-81AL14086 seeking a technical assistance contractor to provide broad technical, analytical, operational and management support to DOE during the planning, design, environmental evaluation, construction, licensing and operational phases of the UMTRA project. The contract was to be for an initial 3 years with two options for additional 2-year periods, for a total of 7 years, on a cost-plus-fixed-fee, level-of-effort, task-order basis. The RFP stated that the contract would be awarded to the offeror whose proposal conformed to the requirements of the RFP and which DOE evaluated to be the most advantageous to the Government.

Part "I," section "D," of the RFP, entitled "Basis for Award," states in part that the contractor will be selected on the basis of an "integrated evaluation" of each proposal "judged in terms of the offeror's potential for completing any anticipated requirements within reasonable cost." This section of the RFP also states that the evaluation would be based, in order of importance (and sequence of evaluation), on the technical evaluation criteria, the business/management criteria, and states further that:

"While the Business/Management and Cost criteria are less important than the Technical Evaluation Criteria with respect to the evaluation of proposals for final source selection, either business/management or cost evaluation may be a determining factor assuming that proposals in the competitive range are relatively equal. * * * Proposals may be determined to be outside the competitive range on the basis of the Technical Evaluation Criteria without consideration of the other categories of evaluation criteria."

The RFP also stated that the technical factors were to be point scored on the basis of a numerical weighing scheme which was not disclosed in the RFP, and identified the

relative importance of the technical subcriteria. Further, the RFP provided that the business/management factors were to be rated using descriptive adjectives with equally weighted subcriteria; the cost criteria were to be neither scored nor rated.

The DOE's source evaluation board (SEB) ranked the four finalists as follows (scores are omitted; numbers represent relative ranking in each category; cost figures have been rounded to the nearest million):

Offeror/Rank	Technical	Bus./Mgt.	Cost
Jacobs	1	2	\$49MM
Holmes	2	1	40MM
Company A	3	3	66MM
Company B	4	4	61MM

Both Holmes' and Jacobs' evaluated probable costs were substantially below DOE's cost estimate.

The SEB recommended to the source selection official (SSO) that the contract be awarded to Jacobs on the basis of Jacobs' higher technical ranking. The SSO declined, however, to make a selection between Jacobs and Holmes without further clarification of the importance of their relative technical rankings and whether the difference was of enough significance to outweigh the difference in evaluated probable costs. In response to this question, the SEB prepared an addendum to its report in which the SEB concluded that the technical differences between Jacobs and Holmes were very significant and that the most probable difference in costs between Holmes and Jacobs was in the range of 8 to 12 percent, substantially less than the 22 percent initially indicated. On the basis of this report, the SSO selected Jacobs for the award of the contract.

Holmes objects to the selection of Jacobs on several bases which may be distilled into two broadly related contentions: (1) Holmes asserts that DOE's evaluation did not conform to the evaluation criteria since DOE allegedly unduly stressed the importance of secondary personnel; and (2) Holmes argues that DOE did not give proper consideration to cost in the selection decision and that the difference in technical merit between Jacobs' and Holmes' proposals was

not sufficient to justify the added costs of award to Jacobs. In substance, Holmes contests the evaluation of proposals and challenges the SSO's resolution of the cost/technical trade-off question. We will address these contentions in this order.

EVALUATION OF PROPOSALS

As an initial matter, we note that it is neither our function nor practice to determine independently the acceptability or relative technical merit of proposals. Our review of an agency's evaluation of proposals is limited to examining whether the evaluation was fair and reasonable and consistent with the evaluation criteria. We will question contracting officials' assessments of the technical merits of proposals only upon a clear showing of unreasonableness, abuse of discretion or violation of procurements statutes or regulations. Marine Research, Inc., B-206271, October 29, 1982, 82-2 CPD 380.

DOE's evaluation, like most, involved two considerations--the identification of strengths and deficiencies and the measure of their significance. Despite a debriefing in which Holmes was apprised of the problems in its proposal, Holmes has not directly challenged DOE's identification of these problems--but has objected to the significance which DOE accorded them. Since Holmes apparently concedes that there were in fact shortcomings in its proposal, we are left only to consider whether DOE measured their significance in accordance with the evaluation criteria.

We think it clear that the RFP established the primacy of the technical factors as evaluation criteria. The criteria were listed in order of importance--and in sequence of evaluation--as technical factors, business/management factors, and cost criteria, with clear advice that the other factors would not even be evaluated if an unacceptable technical proposal were submitted. In our view, these provisions--read together--clearly establish the technical factors as substantially more important than either of the other criteria, with business/management criteria only slightly more important than cost.

In order of importance, the RFP listed the following subcriteria, with their constituent subelements, within the technical evaluation criteria:

- A. Technical Experience and Capabilities
 - 1. Geotechnical Projects
 - 2. Health, Safety and the Environment
 - 3. Site Characterization
- B. Key Personnel Experience and Capabilities
- C. Management Experience and Capabilities
(Subelements omitted.)

Within the first subcriterion, experience in geotechnical projects and health, safety and environmental considerations were weighted equally; site characterization was considered slightly less important than either of the other subelements. DOE's scoring weights were consistent with the RFP's narrative explanation.

Holmes contends that DOE's scoring was inconsistent with the relative importance of the criteria. Holmes suggests that because DOE found only minor deficiencies with regard to Holmes' technical experience and capabilities, and because DOE considered Holmes' proposed project director to be the strongest offered, that Holmes' technical ranking should have been higher--notwithstanding DOE's criticism of Holmes' proposed second line managers. Holmes argues that DOE inflated the importance of these secondary positions beyond their significance under the evaluation criteria.

In response to Holmes' allegations, we have reviewed DOE's scoring of the four finalists and compared it to the narrative statements of strengths and weaknesses in each of the four best and final proposals. Despite Holmes' suggestions to the contrary, we find a definite correlation between the relative strengths and weaknesses of each proposal and its technical score which reflects a fair and consistent evaluation in accordance with the evaluation criteria.

In this respect, we note that the purported "minor deficiencies" in Holmes' proposal in technical experience--the most important technical subcriterion--were considered significant by DOE because of the proposal's lack of depth in experience in the areas of geotechnical projects, health, safety and the environment, and site characterization. We think that DOE's judgment on this question was reasonable--particularly given the importance of this subcriterion.

Furthermore, we do not agree with Holmes' assertion that DOE overvalued the importance of Holmes' proposed second line managers. Holmes' proposed organizational structure contemplated essentially four functional areas reporting to top project management. DOE considered Holmes' top project management to be particularly strong but found offsetting weaknesses in the managers proposed for each of the four functional areas. Given the major scope of this project and the substantial responsibilities of each of these proposed personnel, we think DOE was correct in considering these weaknesses to be important. Moreover, we find that DOE's cost evaluation was consistent with the RFP insofar as DOE determined that Holmes (and, in fact, all four finalists) could perform at a reasonable cost. In these circumstances, we find no merit in Holmes' challenge to DOE's evaluation of proposals.

COST/TECHNICAL TRADE-OFF

Holmes' objection to the SSO's selection of Jacobs is premised in large degree on a remark purportedly made by DOE personnel during Holmes' debriefing to the effect that "Holmes was a very strong competitor" and that "cost was not a factor in the evaluation process and SEB recommendation unless there was a tie." Holmes argues that if DOE had performed the integrated evaluation required by the RFP that Holmes would have been selected and contends that the difference in technical merit between the two top-ranked contenders was not significant enough to justify the added cost of award to Jacobs.

The addendum to the SEB's report, on which the SSO relied in making the selection decision, specifically addresses the cost/technical trade-offs between Holmes and Jacobs. In this addendum, the SEB reviewed its technical evaluation with emphasis on whether the differences between the Jacobs and Holmes proposals, with respect to each criterion and subcriterion, were very significant, significant, or insignificant, in terms of their likely effect on performance. The SEB also analyzed the evaluated probable costs of both Holmes and Jacobs to determine the probable difference in costs. The addendum concludes that there were either very significant or significant differences favoring Jacobs in each of the most important technical criteria (A.1, A.2, A.3, and B in the breakdown above) and no significant difference in any other criteria. We have

reviewed the conclusions, as discussed above, expressed in the addendum and find them to be both reasonable and consistent with the evaluation criteria.

In analyzing the differences in evaluated probable costs between Holmes and Jacobs, the SEB did a line-by-line analysis of the major elements of proposed costs and identified those areas in which the difference might be normalized over the life of the contract. The SEB considered, for instance, that the difference in proposed travel costs would be less than initially indicated since both firms would have similar travel requirements imposed by task orders. The SEB also determined that certain other costs, such as the expense of maintaining an operations office (required by the RFP) in Albuquerque, New Mexico, would be relatively equal for both firms since they would have similar facility, equipment, communications and supply requirements. Other costs were normalized, as well. Based on this analysis, the SEB concluded that the most probable cost difference between Holmes and Jacobs was in the range of 8 to 12 percent.

The SSO's statement justifying the selection of Jacobs reflects the considerations which the SSO weighed in making the selection decision. Summarizing briefly, these were: (1) the complexities of the UMTRA project made it of paramount importance that the offeror with the highest technical and management experience and capabilities be selected; (2) the Jacobs technical proposal is "clearly superior" to that of Holmes, primarily due to Jacobs' excellent technical experience and high quality managers at both the first and second levels; and (3) the Holmes and Jacobs business/management proposals are relatively equal. Based on these considerations, the SSO concluded that Jacobs' greater probable cost did not outweigh the need to select the offeror proposing the superior technical and management competence.

It is neither our function nor practice to second-guess an agency's source selection by making an independent determination of which proposal is most advantageous to the Government, but rather to decide whether the procuring agency's selection has been shown to be legally objectionable. The Jonathan Corporation, B-199407.2, September 23, 1982, 82-2 CPD 260. In reviewing protests of the nature presented here, we have recognized that selection officials, faced

with the results of a proper evaluation, have the discretion to make trade-offs among the evaluation factors so long as the trade-offs are reasonable and consistent with the evaluation criteria. Management Services, Inc., B-206364, August 23, 1982, 82-2 CPD 164. We have consistently viewed the question in such protests to be whether, in the context of the particular procurement and consistent with the evaluation criteria, the agency's source selection reflects a reasonable judgment that the greater technical merit of the selected proposal outweighed its higher costs, or, in other instances, that the successful offeror's lower costs adequately compensated for the selection of a technically lower ranked proposal. See Gray Advertising, Inc., 55 Comp. Gen. 1118 (1976), 76-1 CPD 325. Measured by this standard, we find DOE's selection of Jacobs to be legally unobjectionable.

In this respect, we note particularly that the most significant differences between the Jacobs and Holmes proposals are in the most important criteria. Furthermore, while Holmes may have been a "close competitor," the difference in the raw technical scores between Holmes and Jacobs was still on the order of 6 percent which--given the substantially greater importance of the technical factors--is, in our opinion, enough to offset the likely 8 to 12 percent difference in probable costs. In these circumstances, we find the SSO's selection decision to have been reasonable.

Holmes also contends that Jacobs may have been given an "informal amendment" to the RFP which was not provided to other offerors. Holmes has provided no evidence to support this allegation. We, therefore, consider it to be mere speculation and will not consider it further.

The protest is denied.

Milton J. Borstel
for Comptroller General
of the United States