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DECISION



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

FILE: B-209370

DATE: August 10, 1983

MATTER OF: Martin-Miser Associates

DIGEST:

1. Bias of technical evaluation committee member in favor of awardee is not shown where identical allegation was denied in prior decision where no bias was found even though alleged favored firm received much higher scores vis-a-vis protester, as opposed to the narrow range of scores here.
2. GAO will not question an agency's technical evaluation because the protester has not shown that agency's judgment lacked a reasonable basis.

Martin-Miser Associates (Martin-Miser) protests the award of contracts to MSM Security Services, Inc. (MSM), and to Griggs and Associates, Inc. (Griggs), under requests for proposals (RFP) Nos. 01G-82-R-5 and 01G-82-R-8, issued by the Department of Agriculture for the investigation of complaints of discrimination in Federal employment. Martin-Miser contends that one of the three members of the technical evaluation committee was prejudiced in favor of MSM and that Martin-Miser is technically superior to the awardees.

We deny the protest.

The following factual background applies to both RFP's. A technical evaluation committee was to evaluate technical proposals based upon four evaluation factors: relevant technical experience; understanding of the problem; qualifications of assigned personnel; and project management. Proposals were received from several firms. Martin-Miser, MSM and Griggs were placed in the competitive range following initial evaluations of proposals. Martin-Miser and Griggs each had an initial technical score of 82 and MSM had a score of 90. Subsequently, each company was invited to submit its final proposal. Technical scores on final proposals were the same for the three companies. On RFP No. 01G-82-R-5, Martin-Miser's final price was \$57,733.72 and MSM's and Griggs' were \$67,245 and \$53,366.50, respectively. On RFP No. 01G-82-R-8, Martin-Miser's final

026380

price was \$58,588.72 and MSM's and Griggs' were \$67,245 and \$48,479. The committee weighted the technical score at 75 percent and the price score at 25 percent. As a result, on RFP No. 01G-82-R-5, MSM's proposal had the highest total score of 94.9, followed by Griggs' and Martin-Miser's proposals with scores of 93.3 and 91.4 and on RFP No. 01G-82-R-8, Griggs' proposal had the highest total score of 93.3 and MSM and Martin-Miser had scores of 93 and 89, respectively.

Martin-Miser argues that Wallace Welsh, a member of the technical evaluation committee, was prejudiced in favor of MSM and that Martin-Miser's technical qualifications are superior to those of MSM and Griggs. Specifically, Martin-Miser points out that Mr. Welsh is the technical contact for the Department of Commerce in a current contract with MSM. Mr. Welsh rated MSM over Martin-Miser 93 to 81, while the other two evaluators rated MSM over Martin-Miser 88 to 87 points and MSM and Martin-Miser as the same. Additionally, Martin-Miser questions the process by which its technical score was computed. Martin-Miser alleges that the summary technical scores assigned to the other firms were computed by a mathematical averaging of those firms' individual evaluation factor scores, whereas its own score was not computed in this manner to its prejudice.

The Department of Agriculture refutes these contentions. First, Agriculture states that the inclusion of Mr. Welsh on the technical evaluation committee was proper. Agriculture reports that before making his evaluations, Mr. Welsh signed a certificate stating that no conflict of interest existed regarding his evaluation of any of the offerors. Also, Agriculture explains that all three of the technical evaluation committee members had experience with a number of the offerors and that in a field as small and specialized as Equal Employment Opportunity (EEO) investigative work, EEO investigative personnel often know each other.

Second, with regard to the computing of technical evaluation scores, Agriculture explains:

"* * * the technical scores assigned were a consensus reached by three panel members, rather than a mere mathematical average. It is

important to bear this in mind. Each factor for each offeror was discussed by the group and a consensus score was assigned, which might or might not consist of a mathematical average of the individual scores. In reaching a consensus evaluation of the offerors the panel was not overly influenced by the ratings of any one member. All three panel members discussed each offeror and noted strengths and weaknesses which were considered important in accordance with the rating criteria. These criteria were consistently applied with respect to all offerors, and were based on the total information presented in the proposals."

Additionally, Agriculture states that "a numerical average of the total technical scores was never even considered" and that the consensus scores were assigned to "balance out differences in the approach of individual raters and [lead] to a fair uniform approach to rating proposals."

With regard to Martin-Miser's contention that Mr. Welsh was biased in favor of MSM and that Martin-Miser is technically superior to that firm, we considered these same issues in Martin-Miser Associates, B-208147, April 8, 1983, 83-1 CPD 373 (Martin-Miser I), involving an RFP containing similar work requirements and evaluation factors and similar evaluation methods. In that case, we discussed each technical evaluation factor at length to determine the extent to which Mr. Welsh's ratings affected the selection decision and the extent to which the selection decision might have been otherwise unreasonable. Just as in the present case, Mr. Welsh there assigned the highest scores to MSM. In fact, one of those scores assigned by Mr. Welsh appeared to be questionable. Nevertheless, based upon our thorough review of that record, we were unable to conclude that Mr. Welsh was biased or that Agriculture's selection of MSM was unreasonable. In this case, the individual ratings given by Mr. Welsh to all three firms are within a narrow range, as opposed to the prior case where his ratings for MSM vis-a-vis the protester were far more disparate. Thus, in light of our determination in Martin-Miser I, we are unable to conclude here that Mr. Welsh was biased in favor of MSM or that Agriculture's selection decision lacked a reasonable basis.

Martin-Miser also argues that it is more technically qualified than Griggs. However, we have reviewed the record and are unable to find support for this contention. For instance, Martin-Miser challenges Griggs' ability to deal with complex discrimination complaints. Technical evaluation factor number 2, worth 30 points out of 100, concerns understanding the problem and required offerors to submit:

"* * * a statement of concept which will in specific terms demonstrate an understanding of the technical requirements and shall outline the actual work proposed as detailed technical discussion and description of the offeror's methodology to be used in accomplishing the effort and the rationale for the approach proposed."

In response to evaluation factor number 2, Martin-Miser essentially states that it understands the purpose of the investigations as well as investigative techniques and that it would conduct investigations in the necessary depth. Griggs' proposal also includes such statements, but in addition discusses several items not noted in the other proposals in regard to understanding of the problem.

Agriculture states that under evaluation factor number 2, the evaluators examined each proposal in terms of uses of the product, competing requirements of other programs, EEO laws and regulations and an explanation of investigative techniques. Additionally, Agriculture explains that the evaluation panel awarded extra points for some evidence of specific understanding of these aspects, such as guides or samples. Accordingly, Griggs received 27 points, while Martin-Miser was given a score of 26 points. Thus, while the protester challenges Griggs' technical qualifications, we find no basis in the record upon which to question Agriculture's technical evaluation.

Finally, we see nothing improper with the consensus scores assigned by the technical evaluation committee under the RFP's. Martin-Miser's contention that these scores are computed by a mathematical averaging process is factually incorrect.

Protest denied.

for *Milton J. Fowler*
Comptroller General
of the United States