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DECISION

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

FILE: B-214269 **DATE:** June 21, 1985

MATTER OF: City of Nenana

DIGEST:

1. Record does not support protester's contention that agency improperly determined present value of its construction costs by applying discount rate and by failing to apply deflation factor.

2. Where protester's offer was for a lease, not a lease-purchase, agency properly did not credit protester's offer with the residual value of its property.

3. Cost of government self-insurance of facility is too indefinite and speculative to be used in comparing lease and purchase alternatives.

4. Property taxes need not be included in agency's cost projections for construction of its own facility, because neither the agency nor the protester--as government entities--need pay such taxes. In addition, it is not clear that the inclusion of this item would have affected the economic choice among the alternatives under consideration.

The City of Nenana, Alaska, protests the method used by the Federal Aviation Administration (FAA) to evaluate offers submitted in response to solicitation for offers No. DTFA04-83-L-83001. The solicitation called for offers for leasing space for 1 year with the right to renew up to 19 renewal periods of 1 year each for an Automated Flight Service Station (AFSS) for the Northern Alaska flight plan area. The agency solicited offers for leasing agreements in order to compare those offers with the feasibility of constructing its own facility. The protest is denied.

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The solicitation for offers advised offerors of the factors to be considered in proposal evaluation and the relative importance of each. Proposal evaluation factors were divided into three major groups, the first of which was "Life Cycle Cost Factors." This was defined in the solicitation as including "all FAA costs associated with a particular location to include one-time costs, lease costs, maintenance, utility and service costs." Most of Nenana's objections concern this portion of the evaluation. The second group of evaluation factors, identified as "Building Factors," included Special Requirements; General Quality of Building Construction; Services, Utilities, Maintenance; and Safety and Fire Prevention. The final group, "Other Factors," included Telephone Exchange Capacity; Risk of Eviction or Relocation; Quality of the Community (availability of quality employee housing and community services); Number of Employees to be Relocated; Airport Characteristics; and Compatability with other FAA General Aviation Programs.

Four offers were received in response to the readvertisement: two from private concerns for the leasing of facilities in Fairbanks, Alaska, and one each from the cities of Nenana and Nome to lease a facility in their respective cities. Each offer was considered to be within the competitive range. After a FAA evaluation team met with each offeror, inspected the proposed site and toured each prospective community, best and final offers were requested and subsequently received from each offeror.

On June 28, 1983, the FAA advised each offeror by letter that its best and final offer had been received, that negotiations were closed, and that the FAA's:

> ". . . attention now is directed towards evaluating and comparing the overall costs of each offer. Costs such as telecommunication lease line and employee relocations as well as other community amenities and other factors mentioned in the solicitation will be matched with each offer. In addition, we will also be examining the FAA construction alternative, that is, analyzing building our own AFSS versus the leasing of same,"

and that the FAA's decision could be expected in November or December 1983.

The agency then determined the costs associated with leasing--space rental, utilities, taxes, insurance, maintenance, leased telecommunications, and personnel relocations--and the costs for FAA construction of a facility at each site from which a lease offer was received. These cost figures were fed into a computer programmed to compute the 20-year life-cycle costs discounted to present dollars for each lease offer received and for FAA construction at each location. The computer program was one developed by the General Services Administration to implement Office of Management and Budget Circular No. A-104 (Circular A-104), "Comparative Cost Analysis for Decisions to Lease or Purchase General Purpose Real Property," June 14, 1972, and has been selected by the FAA as the national standard to be used in analyzing AFSS lease/construction options. Nenana does not dispute the propriety of the FAA's reliance on Circular A-104.

The computer analysis showed that leasing from Nenana, the low offeror, would result in a life-cycle cost of $23,298,364, while FAA construction of its own facility in Fairbanks would cost $23,188,969. Based on this comparison of the cost to lease space with the cost to construct its own facility, as well as an analysis of the quality of life in each community and of other assessment criteria, the FAA decided not to award a contract to any of the offerors but to construct its own facility in Fairbanks.

Nenana raises four contentions with regard to the FAA's cost evaluation of the alternatives: (1) that the solicitation for offers provided insufficient information about the evaluation factor of Number of Employees to be Relocated and the FAA improperly evaluated this factor; (2) that the FAA improperly determined the present value of its estimate of the costs for constructing its own facility in Fairbanks; (3) that the FAA improperly failed to credit Nenana's offer for the residual value of its facility even though the agency had the option to purchase the facility after the 20-year base period; and (4) that the FAA improperly failed to include any imputed property tax or insurance premiums in its calculations of the cost for the construction of a facility in Fairbanks. Nenana, therefore, has challenged four aspects of the FAA's life-cycle cost evaluation and contends that a proper evaluation of any one of these factors would have made Nenana the low offeror and, consequently, would have favored the selection of Nenana as the site for the flight service station. Nenana also has disputed in general terms the evaluators' conclusion that the quality of life in Fairbanks was superior to that in Nenana.

In reviewing protests against allegedly improper evaluations, we will not substitute our judgment for that of the agency's evaluators, but rather will examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria, and whether there were any violations of procurement statutes and regulations. D-K Associates, Inc., B-213417, Apr. 9, 1984, 84-1 C.P.D. ¶ 396. In the present matter, the burden is upon Nenana to demonstrate that the government's cost analysis in the comparison of evaluated proposals was faulty or misleading to a material degree. Corporate Air Services, Inc., B-215053, Oct. 18, 1984, 84-2 C.P.D. ¶ 417.

In its report to our Office, the FAA has responded to Nenana's protest by describing the method by which it evaluated proposals, including its calculation of the cost to the government of relocating federal employees should the flight service station be located in Fairbanks or in Nenana. This cost was a "one-time" cost included in the life-cycle cost evaluation and, as the FAA points out, was specificially mentioned in the FAA letter of June 28, 1983, to Nenana, quoted above. Since the protester has subsequently stated that the FAA has "satisfactorily responded to" this objection, we see no need to discuss it further.

Nenana also contends that the FAA improperly determined the present value of the cost to the FAA of constructing its own facility in Fairbanks, thereby understating its cost and favoring that alternative over Nenana. Nenana originally contended that the FAA estimated the cost of construction at approximately $100 per square foot, while the actual cost would be approximately $150 per square foot. At the bid protest conference, however, Nenana learned that the FAA's estimate was based on a price exceeding $150 per square foot, which resulted in an estimate of $1,309,623, but that figure had been discounted, resulting in a price of $845,594. Although Nenana now concedes that the government's estimate is comparable to its estimate, the protester asserts that it should not have been discounted.

Nenana maintains that established economic analysis procedures call for using discount rates only when costs have been moved into the future and then need to be discounted back to present value. Nenana contends that the FAA's estimate of construction costs was in terms of current costs and thus already is in present value. Nenana states that, in contrast, the FAA properly discounted Nenana's lease payments because they were calculated in 1986 dollars.

The FAA denies that its estimates of construction costs were in terms of present costs and explains that its estimates were based on construction expenditures of $436,540 occurring in 1986 and $873,083 occurring in 1987, and it therefore discounted (and deflated) its construction costs to determine the present value. It further explains that Nenana's lease costs were also deflated and discounted in order to put both alternatives in terms of present value for purposes of comparison.

Circular A-104, paragraph 4, provides guidelines to determine the present value of cost projections in order to aid the analysis of the government's alternatives to lease or purchase real property for government programs. Among the guidelines listed are the application of a discount rate of 7 percent, which represents "an estimate of the internal rate of return on general purpose real property leased from the private sector exclusive of property taxes and expected inflation."

Nenana's assertion to the contrary, we do not find support in the record for the proposition that the FAA improperly discounted its estimate of construction costs. This aspect of the protest is denied.

Nenana next contends that the FAA improperly determined the present value of the construction costs because the agency incorrectly assumed construction costs would remain at present value with no inflation, despite historical evidence that inflation is inevitable. It states that Circular A-104, attachment "A," indicates that inflation must be considered in determining present value.

The FAA points out, however, that paragraph 4 of Circular A-104 provides for the application of a constant dollar price deflation factor, which is to exclude the effects of inflation, when determining the present value of cost projections, and states that it did so in its cost comparison. We cannot conclude that this aspect of the cost comparison was improper.

Nenana next alleges that the FAA improperly failed to credit Nenana's offer for the residual value of its facility. Nenana points to an addendum to the solicitation for offers which provided offerors with the opportunity to include in their offer one or both of the following options after the expiration of the final renewal period of the lease: (1) to transfer title in the facility to the FAA for one dollar; and/or (2) to give the FAA the right to renew the lease for additional lease periods at no cost or at a nominal rate. Nenana responded to this addendum by offering to transfer title to its facility to the FAA after expiration of the lease. It argues that Circular A-104, paragraph 5c(7), requires the residual value to be included in the life-cycle cost analysis where there is a leased facility to which the government can take title at the end of the lease period. Nenana further asserts that its lease rates reflected the residual value accruing to the FAA and if this option had not been solicited its lease rates would have been lower.

We believe the FAA's evaluation in this regard was correct.

The FAA advises that Nenana's offer was not credited with the residual value of its facility because Nenana is offering a lease, not a lease-purchase. It states that under a lease-purchase agreement the agency would be obligated to lease the facility for the maximum lease period (20 years) and then purchase it, but here, the agency would not be obligated to lease the facility for more than 1 year. It further states that there is no certainty the agency would remain in Nenana more than 20 years, and, in fact, as telecommunications improve and costs decrease, the station would probably close in the near future as part of a consolidation of facilities. Thus, the agency not only would not own the Nenana facility at the outset, but may never take title to the facility. In contrast, the FAA would own the Fairbanks facility from the outset and the facility therefore has residual value even if the agency does not remain there for 20 years.

Nenana also alleges that the FAA improperly failed to include any imputed property taxes or insurance premiums in the agency's calculations of the cost for its construction of a facility in Fairbanks. Nenana states that Circular A-104, paragraph 4a, provides that in analyzing lease or purchase alternatives, imputed property taxes and insurance premiums must be included. It estimates the annual cost of taxes at $8,400 and insurance premiums at $4,100, for a total of $12,500, which corresponds to $132,000 at present value over the 20-year period, for a facility in Fairbanks.

The FAA responds that neither it nor Nenana had to include imputed property taxes in its cost projection because as government entities neither is obligated to pay property taxes. With regard to insurance, the FAA states that it is a self-insurer and its imputed insurance costs would be negligible.

Circular A-104, paragraph 4a, provides that in the analysis of lease or purchase alternatives:

> "The economic costs incurred as a result of Federal acquisition of property must be included whether or not actually paid by the Federal Government. Such costs not generally involving a direct Federal payment includes imputed market values of public property, State and local property taxes, and imputed insurance premiums."

Paragraph 6 of the circular, however, provides that these:

> "costs may be excluded from each of the alternative cost projections if they are estimated to be the same for all alternatives or too small to affect the economic choice among the alternatives under consideration."

We have held that the costs of government self-insurance are too indefinite and speculative to be used in comparing lease and purchase alternatives. Southwestern Bell Telephone Company; Northern Telecom, Inc., B-200523.3, et al., Mar. 5, 1982, 82-1 C.P.D. ¶ 203. Therefore, Nenana's contention that these costs should have been included in the FAA's evaluation of its construction costs is without merit.

We believe the FAA properly excluded from its projection of the cost of building its own facility in Fairbanks a factor for property taxes since they need not be paid by the FAA or Nenana, as government entities. In addition, it is not clear that the inclusion of this item would have affected the economic choice among the alternatives being considered.

The protest is denied.

for Milton J. Socolar
Comptroller General
of the United States