



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Compuware Corporation

File: B-223920

Date: September 10, 1986

DIGEST

1. Procuring agency's failure to accord an evaluation factor the most importance as provided in the solicitation did not prejudice the protester's competitive standing, since its proposal was ranked last for that evaluation factor and any increase in the relative importance of the factor would have increased the difference between the protester's evaluation score and those of the other offerors.

2. Protest that agency improperly evaluated a proposal by giving credit for a college degree to education considered to be reasonably equivalent and by giving credit for experience in the computer industry towards a minimum requirement for technical experience is denied, where the evaluation was consistent with the criteria set forth in the solicitation and information in the proposals.

3. Protest that agency engaged in technical leveling is denied, where the agency did not seek to bring a proposal up to the level of others or otherwise treat offerors unequally during discussions.

4. Protester's claim that procuring agency engaged in improper discussions with an offeror is without merit, since the allegation is speculative and the questioned discussions did not influence the selection decision.

DECISION

Compuware Corporation protests the award of a contract to RGI, Incorporated under request for proposals (RFP) No. RFP-86-0038, issued by the Social Security Administration (SSA). Compuware contends that SSA did not evaluate proposals in accord with the evaluation criteria in the solicitation and improperly favored RGI in the competition.

We deny the protest.

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The RFP requested offers to assist the agency's Test Time Sharing Facility, which provides agency-wide computer software development and testing support. The solicitation provided for SSA to determine which proposal offered the greatest value to the government, and to evaluate proposals with regard to four factors listed in descending order of importance: Resumes, Management Capabilities, Staffing Plan, and Price. Offerors were required to submit resumes for three categories of personnel (four Project Manager/Senior Systems Programmers, ten Senior Systems Programmers, and ten Junior Systems Programmers). The RFP stated that resumes would be given evaluation scores based upon listed education and/or experience requirements for each labor category. Although not stated in the RFP, in scoring proposals the agency allocated 450 points for Resumes, 250 points for Management Capabilities, and 200 points for Staffing Plan.

SSA received five proposals by the November 5, 1985, closing date and determined that four were in the competitive range, including those of Compuware and RGI. On January 14, the agency requested additional information from each offeror, and provided an opportunity for submission of revised proposals. In RGI's case, SSA listed 16 resumes that did not reflect required years of experience in specified skill categories, and stated that one of the individual's proposed by RGI had a very unsatisfactory working relationship with agency staff in the past. SSA asked that the individual's resume be withdrawn and another substituted. For Compuware, the agency pointed out that the firm's resumes did not comply with requirements that they be signed and dated; include local telephone numbers, current employers and work assignments; or show periods of experience in the various skill categories required by the RFP. In addition, SSA listed six deficiencies in Compuware's proposal regarding Management Capabilities and Staffing Plan, including the firm's failure to address its ability to begin work within 30 days after contract award, to respond to changes in personnel, and to respond to urgent requirements.

In April, SSA conducted oral discussions with each offeror and requested best and final offers. The offerors were told that because of a reduction in needed services, only nine resumes would be evaluated in the final offers--the most highly rated Project Manager/Senior Systems Programmer and the four most highly rated resumes from each of the other two labor categories.

In the final technical evaluation, the agency allocated the same points for each resume as it had previously, a maximum

of 20, 19 or 18 points depending upon labor category. As a result, the maximum possible score for this factor was 168 points, while possible scores for Management Capabilities or Staffing Plan remained 250 and 200, respectively. After determining the technical scores, SSA established composite scores by a formula that gave 10 percent of total available points to estimated cost.

The contracting officer considered the estimated cost of the highest rated offeror to be unreasonably high and significantly higher than that of the second-ranked offeror, RGI, whose estimated cost was the lowest. Compuware ranked last in its technical and composite scores, and its estimated cost was second low.

The agency selected RGI and notified Compuware on June 16. Compuware then filed a protest with the General Services Administration Board of Contract Appeals, which was dismissed for lack of jurisdiction on July 31. On August 1, Compuware protested to our Office, and it filed an action in the United States District Court for the District of Columbia on August 4. The court asked that we consider Compuware's protest on an expedited basis, and this decision is issued pursuant to that request.

As a preliminary matter, RGI argues that Compuware is not an interested party to bring this protest since its composite evaluation score was fourth and the firm is not in line for award. We cannot say that Compuware might not be selected if it prevailed on its protest even though it ranked fourth. As discussed above, SSA did not select the offeror with the highest composite score because the scores did not give enough weight to estimated cost. Compuware's estimated cost was second low and its technical score was relatively close to those of the other offerors. In any event, it is our policy to consider protests on the merits when a court expresses an interest in a decision by our Office, and we will do so here. See Craft Machine Works, Inc., B-202257, May 3, 1982, 82-1 CPD ¶ 407 at 9.

Compuware raises four grounds for protest, contending that the agency (1) failed to accord resumes the most importance as stated in the RFP; (2) improperly evaluated RGI resumes; (3) engaged in technical leveling of proposals; and (4) conducted improper discussions with RGI during proposal evaluations.

RELATIVE WEIGHT OF RESUMES

As discussed above, when SSA reduced the number of resumes to be evaluated from 24 to 9, it did not increase the maximum

possible score available for each resume. The total available points for resumes dropped from 450 to 168. The relative importance of the resume factor dropped to third, and, as a result, the basis for source selection became inconsistent with the evaluation scheme established in the RFP. See Bendix Field Engineering Corp., B-219406, Oct. 31, 1985, 85-2 CPD ¶ 496.

We do not, however, find that Compuware suffered competitively from the agency's error. The firm ranked last in its score for resumes. If more points had been allocated to that factor, the differences in technical points between Compuware and all other offerors would have increased. The ratio of Compuware's technical and composite scores to the other offerors would not have changed, and its overall ranking would have remained the same. Since the protester has shown no prejudice, we deny its protest on this basis. See AT&T Communications, B-221463 et al., Mar. 12, 1986, 65 Comp. Gen.____, 86-1 CPD ¶ 247.

EVALUATION OF RGI RESUMES

Compuware questions the agency's evaluation of four RGI resumes. Two concern the substitution of education for general technical experience, and two concern whether general technical experience must be in systems and/or software support or can be met by other kinds of computer experience.

Compuware argues that SSA should not have given one RGI resume the credit available for a 2-year Associate of Arts degree based on receipt of a minor in Computer Science (with a 4-year Bachelor of Sciences degree in an unrelated field). Similarly, the protester questions another resume evaluation in which credit for an Associate of Arts in Computer Science was given to a certificate in data processing. In both cases, we find nothing unreasonable or inconsistent in SSA's determination that education considered to be reasonably equivalent should receive the credit available for an A.A. degree.

Compuware provided several pages from a deposition of a member of the Technical Evaluation Committee purporting to establish that the credit given the two resumes was contrary to either the agency's understanding of the RFP or its practice in evaluating resumes. (Deposition of Barbara Johnson, pages 16-18, 64, 68.) The deposition does not support Compuware's argument. The evaluation committee member stated that the educational credit for an A.A. or B.S. degree was applicable only to certain fields of study, and no credit

would be given for taking "a course in computer science" while obtaining a degree in an unrelated field. She did not state or imply that a resume could not be given credit for education reasonably equivalent to a college degree in Computer Science or a similar field. Based upon the arguments and evidence presented by Compuware, we do not believe that the credit given the two resumes was improper.

The protester contends that two RGI resumes of proposed Senior Systems Programmers did not have the 8 years of technical experience required by the solicitation. SSA evaluators gave one of the resumes some credit for work as a computer operator, applications specialist and teleprocessing operator. Compuware states that only nonapplications system and/or software support may be counted, not other types of technical computer experience.

We find that the solicitation did not require more specialized experience than SSA considered acceptable. In describing the requirements for each of the three labor categories, Attachment M-1 to the RFP first lists a general "Experience (minimum level)" requirement and education substitutes for this "technical experience." The RFP then lists "minimum" years for various "Specific Experience Requirements" for the labor category. It is only under the specific requirements that the RFP states that work experience must be "systems and/or package software support, i.e., non-application software installation, tuning, and maintenance functions." Compuware argues, in effect, that this restriction on specialized experience should be understood as applying to the general requirements for technical experience also. The solicitation does not, however, so state, and it can reasonably be interpreted to permit other types of technical experience with computers to meet the general experience requirements. Consequently, we believe that SSA was consistent with the evaluation criteria in determining that the questioned resume reflected 8 years of "technical experience."

Another of RGI's resumes indicated that the proposed Senior Systems Programmer had only 7 years of technical experience. This resume was only included in the firm's initial proposal, not its best and final offer. Therefore, the individual's experience is relevant only to whether RGI's initial proposal should have been included in the competitive range. A competitive range consists of all offerors that have a reasonable chance for award, see Federal Acquisition Regulation (FAR), 48 C.F.R. § 15.609(a) (1985), and we do not believe that a deficiency in one of RGI's 24 resumes precluded it from a reasonable chance of selection. See Scan-Optics, Inc., B-211048, Apr. 24, 1984, 84-1 CPD ¶ 464. Such a deficiency

might be cured through clarification of the individual's work history or substitution of another proposed staff member, so we believe that SSA reasonably continued RGI in the competition.

TECHNICAL LEVELING

The FAR prohibits agencies from technical leveling, which consists of helping an offer to bring its proposal up to the level of other proposals through successive rounds of discussion, such as by pointing out weaknesses resulting from the offeror's lack of diligence, competence, or inventiveness in preparing proposals. FAR, 48 C.F.R. § 15.610(d)(1). Compuware argues that SSA violated this prohibition by suggesting how RGI could improve its proposal while not doing the same for Compuware.

The record does not support the protester's contention. In its request for additional information from RGI, the agency listed specific experience requirements from the RFP that RGI's proposed staff did not meet. The same approach was not appropriate for Compuware, since Compuware had not provided the basic information necessary for SSA to identify which experience requirements its staff met. SSA pointed out this deficiency to Compuware. As discussed above, SSA went on to point out ways in which Compuware could improve other aspects of its proposal.

The agency did not engage in repeated efforts to improve RGI's proposal, which was considered to be strong in the first place. In our view, SSA sought to meaningfully apprise the two offerors of weaknesses and deficiencies in their proposals, and this did not constitute unequal treatment or technical leveling.

DISCUSSIONS WITH RGI EMPLOYEES

During the proposal evaluation period, two proposed staff members of RGI worked with SSA on another contract. The chairman of the Technical Evaluation Committee stated in a deposition that, rather than confirm resume information with these two employees over the telephone, a member of the evaluation committee discussed the matter with them at the worksite.

The deponent was not present at the discussions, and he did not know how many took place or specifically what was discussed. He stated that the conversations were probably "on their technical ability and certain skill categories." There are apparently no written records of the conversations

and, while Compuware deposed the evaluation committee member who spoke with the two employees, the protester did not provide our Office with her account.

Compuware's concern about the discussions appears to be speculation. Moreover, neither of the two proposed RGI staff members were included in the firm's best and final offer. There is no evidence that the questioned discussions played any role in the evaluation of the RGI's final offer, and we deny this basis of Compuware's protest.

We deny the protest.

for *Seymour Spos*
Harry R. Van Cleve
General Counsel