



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Eagle Technology, Inc.

File: B-232307.2

Date: March 7, 1989

---

## DIGEST

1. Procuring officials enjoy a reasonable degree of discretion in evaluating proposals, and the General Accounting Office will not disturb an evaluation where the record supports the conclusions reached and the evaluation is consistent with the criteria set forth in the solicitation.

2. Protester's argument that its offer was substantially equal to the awardee's and thus its lower costs entitled it to award is rejected where record shows that awardee's proposal was reasonably regarded as technically superior to the protester's and protester's lower labor rates were considered unrealistic.

---

## DECISION

Eagle Technology, Inc., protests the award of a contract to System Planning Corporation (SPC) under request for proposals (RFP) No. MDA903-88-R-0031, issued by the Defense Supply Service-Washington for technical support services and analytical studies to assist the Department of the Army in its cost and economic analysis of major weapons programs and related procurement policies and procedures. Eagle argues that the agency improperly evaluated the proposals.

We deny the protest.

The RFP, which was issued on March 7, 1988, contemplated the award of cost-plus-fixed-fee requirements type contracts. It contained eight work categories: Missile Systems, Aircraft Systems, Wheel and Track Systems, Communication/Electronic Systems, Information Management Systems, Armament

044855/138164

Systems, Force Units, and Operating and Support Management Information Services. Offerors were allowed to submit offers on any one or more of the tasks. This protest concerns only the Communication/Electronic Systems category.

The RFP provided that award would be made to the proposal evaluated as the most superior technically with a realistic estimated cost. It listed five major evaluation areas, all of which were point scored. Cost was not pointed scored and was subordinate to technical factors. The evaluation areas and the total points possible for each were as follows:

Personnel Qualifications	300
Technical Effectiveness	250
Corporate Preparedness	200
Management Plan	150
Facilities Capability	100

On April 11, the closing date for receipt of initial proposals, the Army received nine proposals for Communication/Electronic Systems. As the result of the evaluation of initial proposals, five offers were determined to be in the competitive range, including those of Eagle and SPC. SPC received an initial score of 959 and Eagle received 939. Responses to written requests for clarifications sent to each offeror were evaluated. SPC and Eagle both improved their scores by four points for respective revised scores of 963 and 943. The scores did not change as a result of the best and final offers (BAFOs) submitted on September 2. SPC, which had the highest rated proposal of the five, was selected for award by the agency at an estimated cost of \$3,153,784. Eagle had the second highest rated proposal and offered a cost estimate of \$2,593,194.

Eagle believes that it should have been selected for award since its proposal was substantially equal to the awardee's and it proposed far lower costs. Eagle disputes the agency's evaluation of its proposed program manager, claiming that the agency used an undisclosed evaluation criterion. The protester also disputes the agency's determination that its plan to have the work performed at three locations was a weakness. Eagle believes that the difference of more than \$560,000 between SPC's proposed costs and Eagle's coupled with the small difference in technical scores between the two offerors indicates that cost was not taken into account in making award and shows that the selection of SPC was unreasonable.

In reviewing protests against the propriety of an agency evaluation of proposals, it is not the function of our Office to independently evaluate those proposals. Ira T. Finley Investments, B-222432, July 25, 1986, 86-2 CPD ¶ 112. Rather, the determination of the relative desirability and technical adequacy of the proposals is primarily a function of the procuring agency which enjoys a reasonable range of discretion. AT&T Technology Systems, B-220052, Jan. 17, 1986, 86-2 CPD ¶ 57. Consequently, we will question an agency's technical evaluation only where the record clearly shows that the evaluation does not have a reasonable basis or is inconsistent with the evaluation criteria listed in the RFP. See American Educational Complex System, B-228584, Jan. 13, 1988, 88-1 CPD ¶ 30. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. After examining the record, we find the Army's evaluation was reasonable and consistent with the solicitation's evaluation criteria.

As the agency reports, Eagle reduced its price by more than \$679,000 when it submitted its BAFO. The agency was particularly concerned about the significant decrease in the direct labor rates Eagle proposed which it found made the rates unrealistic. The record shows that Eagle did in fact propose far lower rates than the other offerors and did not explain why it was suddenly able to offer such low rates. Under the circumstances, we do not find unreasonable the agency's concern that Eagle would not be able to employ or retain qualified personnel.

In addition, Eagle's proposal was technically inferior to SPC's in two major areas. The record indicates that the evaluation panel was primarily concerned about the experience of Eagle's program manager and the firm's ability to effectively manage work at the three separate locations it proposed.

With respect to the first weakness, Eagle challenges the agency's conclusion that its program manager's experience was not as valuable as that of the program manager proposed by the awardee. Eagle states that the RFP did not explain that contractor-based management experience was considered more favorably than project related experience as a government employee. Eagle maintains that consequently, the Army used an undisclosed evaluation criterion when it rated the contractor experience of the awardee's program manager as better than the government experience of Eagle's manager.

We think the evaluators' conclusion was reasonable and consistent with the evaluation scheme. Eagle received 137 out of 150 possible points in program manager qualification while SPC received 148. The record indicates that Eagle was downgraded for its program manager's lack of contractor based management experience, failure to have the quality of work experience expected and lack of demonstrated training expertise. A review of the proposed managers' resumes indicates that the awardee's program manager has managed a variety of similar tasks requiring cost and economic analysis support under a number of Army and Department of Defense contracts and was responsible for providing all associated planning, staffing, training and technical guidance. On the other hand, the resume of Eagle's program manager showed technical experience but did not indicate either the project management experience or training experience of the awardee's proposed manager.

We believe the record supports the agency's conclusion that while Eagle's program manager was experienced, the experience of the awardee's manager was better. The RFP specifically provided that the program manager should be able to provide in-service training to government personnel and the resume of Eagle's program manager did not show that experience. Further, while it is true that the RFP did not specify that contractor based experience was more desirable, it did provide that the program manager should have prior experience which evidences the skills and understanding necessary to effectively manage the task. We believe this fairly includes the concept that experience as a manager of projects providing the same type of services to the government would be more highly rated than project related experience in the position of government engineer/analyst. See Transco Contracting Co., B-228347.2, July 12, 1988, 88-2 CPD ¶ 34. We therefore reject the protester's argument that the offers were rated on the basis of an undisclosed evaluation factor.

The second major concern that the evaluators had was the feasibility of the use of three separate locations to perform the work. The evaluators questioned Eagle's ability to effectively manage the work at the three locations it proposed, Eatontown, New Jersey, Huntsville, Alabama, and Arlington, Virginia. In objecting to this conclusion, Eagle contends that it received 100 percent of the possible points under the "geographically dispersed capability" subfactor and states that nothing in the RFP indicated that all of its offices needed to be in one place. The protester also maintains that it was never questioned on this subject during negotiations.

While Eagle did receive all points possible for the cited subfactor, the panel's concern about the separate work locations was reflected under the subfactor of organization control and direction where Eagle received 45 out of 50 possible points. Although the RFP did not require the use of only one central location, we do not think it is unreasonable for the agency to be concerned about the management problems inherent in the use of three separate locations as proposed by the protester. Consequently, we again have no reason to object to the agency's determination.

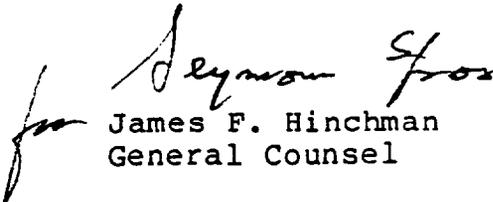
Further, as part of the agency's clarification request, the agency asked Eagle how the workload would be handled among its New Jersey, Alabama and Virginia locations. We think this constitutes sufficient notice to the protester that the agency was concerned about workload control and distribution among the firm's three separate locations. While agencies generally must conduct meaningful written or oral discussions with all offerors in the competitive range, advising them of deficiencies in their proposals and offering the opportunity to submit revised proposals, this does not mean that offerors are entitled to all-encompassing discussions; agencies are only required to lead offerors into areas of their proposals considered deficient. Varian Associates, Inc., B-228545, Feb. 16, 1988, 88-1 CPD ¶ 153. The agency did that here.

Finally, the protester argues that its proposal was substantially equal to the awardee's and that the difference in the technical proposals was not so significant as to justify award to SPC at a substantially higher cost. Eagle contends that award was not made to the offeror with the "best overall response" as that term is defined by the RFP.

In a negotiated procurement the contracting agency has broad discretion in making cost/technical tradeoffs, the extent of which is governed only by the tests of rationality and consistency with the established evaluation criteria. Tracor Marine, Inc., B-226995, July 27, 1987, 87-2 CPD ¶ 92. We have upheld awards to higher rated offerors with significantly higher proposed costs where the agency reasonably determined that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. University of Dayton Research Institute, B-227115, Aug. 19, 1987, 87-2 CPD ¶ 178. The determining element is not the difference in technical merit, per se, but the reasonableness of the contracting agency's judgment concerning the significance of that difference. TEK, J.V. Morrison-Knudsen Harnischfeger, B-221320 et al., Apr. 15, 1986, 86-1 CPD ¶ 365.

The RFP defined best overall response as the most technically superior offer with a realistic estimated cost. It also provided that in the event two or more competing proposals are assessed as substantially equal, the lower or lowest estimated cost considered realistic shall be determinative. "Substantially equal" proposals were defined as proposals that did not demonstrate, in the government's judgment, any clear and convincing evidence of technical superiority relative to each other. The Army determined SPC's proposal to be technically superior, by 20 points, to Eagle's and we have not found that determination to be unreasonable. The RFP specifically stated that cost was subordinate to technical considerations and that the agency was looking for the most technically superior proposal with a realistic estimated cost. Therefore, there is no basis in the record for our Office to question the agency's decision to award to SPC.

The protest is denied.

for  
James F. Hinchman  
General Counsel