



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Hoffman Management, Inc.

File: B-238752

Date: July 6, 1990

Paul Shnitzer, Esq., Crowell & Moring, for the protester.
Gary Davis, Esq., General Services Administration, for the agency.
Sabina K. Cooper, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's evaluation approach, which for many evaluation subfactors results in scores of 0, 5, or 10 points depending largely upon extent to which offers exceeded minimum requirements, is not objectionable where scores reflect agency's judgment of relative value of competing proposals and not the use of unstated evaluation factors.

DECISION

Hoffman Management, Inc. protests its exclusion from the competitive range on the basis of undisclosed evaluation criteria under solicitation for offers (SFO) No. 89-048, issued by the General Services Administration (GSA) for leased office space for the consolidation of offices of the National Science Foundation (NSF). Hoffman does not question GSA's right to establish criteria under which offers are to be evaluated, but argues that it is entitled to the costs of preparing its proposal and pursuing the protest in the circumstances here.

We deny the protest.

The SFO, issued March 22, 1989, sought offers for the lease of office space containing from 344,200 to 372,600 net usable square feet, with a term of 20 years. The RFP listed five evaluation factors in descending order of importance: building efficiency; quality and security of neighborhood; proximity to transportation systems; offeror qualifications; and building design. The first factor, efficiency, had four subfactors: floor size, column

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spacing, core efficiency, and contiguous space. The second factor, neighborhood, had three subfactors: quality of surroundings; access to location amenities; and access to relevant government and scientific offices and facilities. The third factor, transportation access, had three subfactors: access to Metrorail; access to parking; and access to airport and academic library. The SFO stated that the lease would be awarded to the offeror whose offer represented the greatest overall value to the government, price and other award factors specified in the solicitation considered. The SFO informed offerors that price was less important than the first four technical evaluation factors and was of equal importance to the last technical evaluation factor.

GSA received a number of offers by the June 26, 1989, closing date for receipt of initial offers. These offers were evaluated with both point scores and narratives, following which a competitive range determination was made on February 20, 1990. Hoffman was not included in the competitive range, as its total score placed its proposal tenth behind the lowest ranked proposal in the competitive range, and sixteenth out of all proposals. Hoffman protested the exclusion to our Office on February 28, arguing that GSA's decision to exclude its proposal from the competitive range was based upon criteria which differed significantly from those set forth in the solicitation.

The record shows that proposals were scored in accordance with a source selection plan. This plan specified the points that were to be given proposals under each subfactor. For example, under the building efficiency factor, proposals were to be given 10 points for floor size if in excess of 35,000 square feet was proposed, while proposals offering between 30,000 and 35,000 square feet were to receive 5 points and those offering less than 30,000 square feet were to receive 0 points. Similarly, under the neighborhood factor, the plan provided for assigning 10 points for buildings within 500 walkable linear feet of certain amenities such as quality eating facilities, hotel accommodations, and service facilities (banks, dry cleaners, day care, etc.), 5 points for buildings within 1,000 linear feet, and 0 points for buildings within 2,000 linear feet. This scoring approach, resulting in 0, 5, or 10 points per subfactor, was also set forth for the access to government and scientific facilities subfactor and the three transportation subfactors.

Hoffman received 0 points under several subfactors and less than the maximum possible points under other subfactors. Hoffman's position is that the source selection plan

criteria for the award of points reflected GSA's actual evaluation criteria, that these criteria were not apparent from the SFO, and that had it been on notice of the actual criteria it would have not submitted an offer or structured its offer differently.

Under the building efficiency evaluation factor, Hoffman received no points for floor size and did not get full points for column spacing. With respect to the first subfactor, the solicitation did not set forth a minimum floor size. Hoffman proposed a 23,952-net usable square foot floor size. Hoffman maintains that its site is too small for the 30,000-per square foot per floor building specified in the source selection plan as necessary to receive any points under this subfactor and, accordingly, it would not have submitted an offer had GSA informed offerors of the actual evaluation subfactor used.

Under the column spacing subfactor, the solicitation stated a preference for "larger column spacing (25' to 30')." Hoffman designed its building for 28 foot by 27 foot column spacing. However, Hoffman received less than the maximum number of available points since GSA's source selection plan indicated that an offeror needed 30 foot by 30 foot spacing to receive full credit. Hoffman maintains that it could have designed its column spacing to meet the spacing needed to secure the maximum points for this subfactor had GSA indicated what its actual needs were in the SFO.

Under the quality and security of neighborhood factor, Hoffman received no points, and challenges GSA's scoring on two of the three subfactors: access to location amenities and access to government and scientific offices.

With respect to the location amenities subfactor, the solicitation stated:

"Adequate eating facilities serving both breakfast and lunch are to be located within 2000 walkable linear feet, and other employee services such as an auditorium, day care, retail shops, cleaners, banks, etc. must be located within 2000 walkable linear feet."

Amendment No. 2 to the SFO replaced the words "2000 walkable linear feet" with "reasonable walking distance."

Hoffman received 0 points for amenities because its site was not within 1,000 linear feet of a full-service bank. Hoffman argues that the change to "reasonable walking distance" from "2000 walkable linear feet" would be

interpreted by any reasonable offeror as a relaxation of the original requirement, and that its proposal should have received some points because its site is located in the neighborhood of restaurants, hotels, two credit unions and other amenities, with more facilities planned. Moreover, Hoffman asserts that GSA's decision not to award Hoffman any points because its site was not within 1,000 walkable linear feet of a full-service bank represents an imposition of an all-or-none approach to subfactor evaluation that was not announced in the solicitation.

With respect to the access to government and scientific offices subfactor, the solicitation stated: "Access to relevant Government and scientific offices and facilities (e.g., White House, Congress, CMB, National Academy of Sciences, etc.)." Hoffman argues that the standard applied by GSA, allocating an offeror no points if the proposed site is more than 20 minutes from the White House, was nowhere articulated in the SFO beyond the use of that landmark as an example.

Under the third evaluation factor, proximity to transportation systems, Hoffman again received no points on two of the three subfactors: access to Metrorail and access to airport and academic library. With respect to the access to Metrorail subfactor, the SFO stated that "[t]he building must be within 2000 walkable linear feet of an existing operational Metrorail station" Amendment No. 2 did not change that language. Hoffman asserts that its site is within approximately 1,000 feet of an existing Metrorail stop, and that GSA's decision not to award Hoffman any points for this subfactor because its site is not within 500 feet of a Metrorail stop represents a change in GSA's minimum evaluation criteria that was not evident from the SFO, which provided for a 2,000-foot standard.

With respect to the access to airport and academic library subfactor, the original solicitation provided that "[t]he building must be accessible to a major airport and be within a 30 minute drive during non-rush hour." Amendment No. 2 eliminated the specific driving time so that the subfactor read, "The building must be accessible to a major airport." The second component of the subfactor--access to academic library--was not specifically addressed except as part of the subfactor heading. Hoffman asserts that since its site is 15 minutes from National Airport, it should have received some credit under this subfactor inasmuch as the solicitation made no mention of minimum driving times to either site, and did not announce that offerors had to satisfy both the airport and library criteria in order to get any points.

Contracting agencies are required by statute to include in solicitations all significant evaluation factors and their relative importance. 41 U.S.C. § 253a(b)(1) (1988). Federal Acquisition Regulation § 15.605(e) also requires that solicitations disclose "any significant subfactors" to be considered in the award decision, and inform offerors of the "minimum requirements that apply to particular evaluation factors and significant subfactors." A contracting agency need not specifically identify the subfactors comprising the evaluation criteria if the subfactors are reasonably related to the stated criteria, Washington Occupational Health Assocs., Inc., B-222466, June 19, 1986, 86-1 CPD ¶ 567, and the correlation is sufficient to put offerors on notice of the additional criteria to be applied. Kaiser Elecs., 68 Comp. Gen. 48 (1988), 88-2 CPD ¶ 448. We think offerors were sufficiently on notice of the subfactors used here.

First, we think it important to point out that in this case the assignment of 0 points under a particular subfactor did not mean that the proposal was unacceptable or did not meet minimum requirements. Under the source selection plan, 0 was used where proposals met minimum requirements, while scores of 5 or 10 were used where proposals exceeded minimum requirements. (Proposals that did not meet minimum SFO requirements were rejected early in the evaluation process.) Thus, the fact that a proposal received 0 points in a given area did not indicate that the proposal could not be accepted--it indicated only that, on a comparative basis, the proposal was not offering as much value to the government as were proposals with scores of 5 or 10 in those areas.

Second, we think the scoring scheme established by the source selection plan is consistent with the evaluation factors and subfactors set forth in the SFO and does not represent the imposition of new or unannounced criteria. For example, although the SFO did not set forth minimum square footage per floor requirements, GSA obviously believes that there is a direct correlation between floor size and operational efficiency. The protester has not disputed GSA's position in this regard, and it was clear from the SFO that floor size was to be evaluated in terms of efficiency. We therefore see no reason why GSA, under the building efficiency factor, could not evaluate proposals as it did or why its scoring approach should be viewed as creating a new subfactor. As indicated above, the 0 points assigned to Hoffman's offer for this subfactor did not mean that the offer was unacceptable; it meant only that in terms of overall value the offer was worth less than others that offered floor space in excess of 30,000 square feet.

With regard to the column spacing, the 30 foot by 30 foot spacing is not GSA's minimum need. Rather, it represents GSA's idea of how to achieve more efficient use of space, and again we think GSA could evaluate proposed column spacing on a comparative basis to reflect the approaches it viewed as most efficient. The fact that the SFO stated a preference for 25 to 30 foot spacing in no way precluded offerors from proposing larger or smaller spacing or GSA from evaluating that spacing in terms of building efficiency.

We reach similar conclusions with respect to the other areas challenged by Hoffman. We think it was clear that proximity to amenities, to government and scientific offices, and to a Metrorail station was to be evaluated on a comparative basis, and that any reasonable offeror should have known that the closer the amenities, offices and Metrorail station to the proposed building, the higher the evaluation scores would be. Thus, even if we agree with Hoffman that the amenities subfactor was relaxed by amendment No. 2, the comparative scoring reflecting the different distances to the amenities is not inconsistent with the SFO factors; Hoffman's receiving 0 scores because the distance to a full-service bank was greater than 1,000 feet, the travel time to the White House exceeded 20 minutes, and the distance to a Metrorail station was greater than 500 feet again simply represented relative value judgments of Hoffman's proposal vis-a-vis other offers--it did not indicate that Hoffman's offer was unacceptable or that it did not meet minimum requirements in these areas.

With regard to the airport and academic library subfactor, the SFO clearly linked the two facilities under this one subfactor, and the source selection plan required the proposed building to be within 20 minutes of both facilities for more than 0 points to be assigned. Thus, while Hoffman's proposed building was close enough to an airport to warrant 10 points, the evaluators found that it was more than 20 minutes from an academic library and therefore entitled to 0 points. Although it is not clear why it would not have been appropriate to score this subfactor differently so that an offeror in Hoffman's situation would have received some points, we fail to see why the evaluation approach is inconsistent with the stated subfactor. In any event, the impact of this aspect of the evaluation on Hoffman obviously was minimal and by itself had no effect on the outcome.

In short, we find that the evaluation approach used here was consistent with the evaluation factors and subfactors set forth in the SFO, and reflected not a deviation from those factors and subfactors, but simply a measurement of the particular value a proposal offered with respect to each evaluation factor and subfactor. Accordingly, we find no merit to the protest.

The protest is denied.

Ronald Berger

James F. Hinchman
General Counsel