



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: N W Ayer Incorporated

File: B-248654

Date: September 3, 1992

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DIGEST

The General Accounting Office will not disturb award to lower cost offeror where the record shows that difference in point totals between competing proposals was insignificant and that the technical proposals were reasonably considered to be essentially equal in technical merit by the agency's technical evaluators.

DECISION

N W Ayer Incorporated protests the award of a contract to Young & Rubicam, LP by the Department of the Army, Defense Supply Service--Washington, under request for proposals (RFP) No. MDA903-92-R-0099. The protester challenges the propriety of the award determination by the Source Selection Authority (SSA), alleging that the selection was unreasonable and inconsistent with the RFP's evaluation factors for award.

We deny the protest.

The RFP, issued on July 18, 1991, contemplated the award of a firm, fixed-price requirements contract for advertising supplies and services for personnel acquisition and retention for the following Army requiring activities: Headquarters, United States Army Recruiting Command, Fort Sheridan, Illinois; Headquarters, United States ROTC Cadet Command, Fort Monroe, Virginia; and Office of the Chief, Army Reserve, The Pentagon, Washington, D.C.

Offerors were informed that award would be made to the offeror whose proposal, conforming to the solicitation, was determined to be the "best overall response, price or cost and other factors considered." The RFP defined "best overall response" as the response that was evaluated as the most superior technically with a realistic cost. The RFP provided the evaluation criteria (worth a total of 1,000 points) for the offerors' written technical proposals and oral presentations. The written technical proposals were to be given more weight than the oral presentations.

The written technical proposals were to be evaluated under the following factors (each of which included numerous subfactors), listed in descending order of importance: (1) client service potential; (2) demonstrated contribution to other clients' advertising problems; (3) Army communications program recommendation; and (4) general evaluation of overall written proposal. The oral presentations were to be evaluated under the following factors (each of which included numerous subfactors); listed in descending order of importance (except for factors 4 and 5, which were equally weighted): (1) potential for servicing the Army account; (2) experience on behalf of other clients relevant to the Army program; (3) Army communications program recommendation; (4) creative approach to Army requirements; and (5) overall effectiveness of presentation.

Four offers were received by the September 20 closing date. The three offerors whose proposals were included in the competitive range (including Ayer and Young & Rubicam) were invited to make oral presentations and submit best and final offers (BAFO). The Source Selection Evaluation Board (SSEB) (which evaluated each proposal individually) and the Source Selection Advisory Council (SSAC) (which performed a comparative analysis of the proposals) found that all three offerors demonstrated the level of expertise, staffing, research capability and commitment to fully service this account. The proposals submitted by Ayer and Young & Rubicam were found to be superior to the proposal of the third offeror included in the competitive range. Both the protester's and the awardee's proposals were considered to be excellent; strengths and weaknesses were noted by the evaluators for each proposal.

At the conclusion of the SSEB and SSAC evaluations, Young & Rubicam's written proposal received a score which was 12 points higher than that received by Ayer's written technical proposal; Ayer's oral presentation score was 32 points higher than Young & Rubicam's, resulting in a 20-point overall difference (out of the 1,000 points available) between the two offerors' total technical

evaluation scores. Ayer's price proposal (at \$60,803,809) offered a slightly higher price than that offered by Young & Rubicam (\$60,331,171).

The SSEB and SSAC provided their evaluation findings to the SSA;¹ award recommendations were not requested or provided by these evaluators. The SSA concluded that the SSEB and SSAC reports showed that both firms' proposals were excellent and essentially equal in terms of technical merit; the SSA concluded that the 20-point difference in score was inconsequential. Based upon his review of the SSEB and SSAC reports, both offerors' written technical proposals and his attendance at the oral presentations, the SSA concluded that the SSEB and SSAC failed to assign sufficient points to Young & Rubicam's oral presentation under the evaluation criteria concerning the offeror's Army communications program recommendation and the overall effectiveness of the presentation. Finding further that Young & Rubicam's proposal provided "greater evidence of a versatile, long-term, innovative strategic communications orientation," the SSA determined Young & Rubicam's proposal to be technically superior to the protester's proposal. Award was made to Young & Rubicam on February 20, 1992.

While not questioning the SSA's formal authority to make the selection determination, the protester argues that the SSA abused his discretion in making an unreasonable selection which is inconsistent with the terms of the RFP. Ayer essentially contends that given the SSA's limited advertising credentials, the SSA unreasonably failed to give substantial weight to the fact that the technical evaluators (who the protester concedes have superior advertising expertise) assigned 20 additional points to Ayer's overall technical evaluation score compared to Young & Rubicam's score. In short, the protester contends that the point totals which gave a 20-point edge to the protester should have been determinative of the outcome of the source selection.

The Federal Acquisition Regulation (FAR) § 15.612(d) provides that the SSA shall use the factors established in the solicitation to make the source selection decision. The SSA shall also consider any ranking and ratings, and, if requested, any recommendations prepared by evaluation and advisory groups. FAR § 15.612(d)(1). In reviewing an agency's selection decision, we will therefore examine the

¹The SSA for this procurement was the Assistant Secretary of the Army for Manpower and Reserve Affairs responsible for the overall supervision of manpower and reserve component affairs of the Army, including recruiting and recruitment advertising.

underlying evaluation to ensure that it is reasonable and consistent with the stated evaluation criteria. See Cygna Project Management, B-236839, Jan. 5, 1990, 90-1 CPD ¶ 21; Litton Sys., Inc.; Varian Assocs., Inc., B-229921 et al., May 10, 1988, 88-1 CPD 448. The selection official is not bound by the recommendation of lower-level evaluators, such as the SSEB or SSAC. See Wyle Laboratories, Inc.; Latecoere Int'l, Inc., 69 Comp. Gen. 648 (1990), 90-2 CPD ¶ 107; Oklahoma Aerotronics, Inc.--Recon., B-237705.2, Mar. 28, 1990, 90-1 CPD ¶ 337.

On the record before us, we have no legal basis upon which to question the SSA's determination. Contrary to the protester's contentions, we cannot conclude that the 20-point difference in overall technical scores assigned the two proposals represents a finding by the SSEB and SSAC of Ayer's technical superiority, nor do we find that the SSA was required to give substantial weight to the nominal score difference. While technical point scores and descriptive ratings must be considered by a source selection official in making the source selection, he or she is not bound thereby. Arthur D. Little, Inc., B-243450, July 31, 1991, 91-2 CPD ¶ 106. The significance of a given point spread depends upon all the facts and circumstances surrounding a procurement; the point scores themselves are not controlling, reflecting as they do the disparate subjective judgments of evaluators, but are useful as guides to intelligent decisionmaking. Earle Palmer Brown Cos., Inc., B-243544; B-243544.2, Aug. 7, 1991, 91-2 CPD ¶ 134.

Here, the evaluators' narratives show that both proposals, despite their distinct approaches to meeting the Army's advertising requirements, were considered to be excellent overall and were clearly set apart from any other proposal; each presented many strengths, and despite some individual weaknesses, were, in our view, reasonably considered as essentially equal by the SSEB and SSAC. For example, Ayer's proposal was commended for its exhaustive situational analysis, showing a solid understanding of the military market. Although some of Ayer's research was found to be out-dated, the firm's research ability was considered strong, Ayer's marketing analysis was found to be comprehensive, the case studies presented were considered relevant to the Army account and the SSEB and SSAC looked favorably upon Ayer's commitment of top management. Ayer's creative recommendations were consistently "on-strategy," continuing the theme of current Army advertising campaigns.

Young & Rubicam's proposal also received a favorable evaluation; the firm's research capabilities and top management-level involvement were found to be "abundantly detailed" and major strengths were found in the firm's media planning proposals and collateral program initiatives. As

the incumbent, Young & Rubicam's knowledge of the market and ability to bring direct, current experience to the contract was considered an advantage. Although the evaluators generally questioned the adequacy of Young & Rubicam's research to support its highly creative approach, presenting a new Army advertising strategy (discussed below), the firm's long-term strategy was considered fully developed. The evaluators also found that Young & Rubicam's two examples of relevant advertising accounts presented bold, innovative strategies derived logically from the firm's marketing analysis.

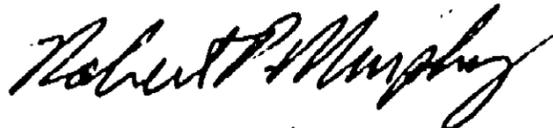
The only significant difference between the evaluators' findings regarding Ayer's and Young & Rubicam's proposals concerned each offeror's distinct approach under the RFP's Army communications program recommendation criterion. This technical evaluation factor included a subfactor (representing one of nine equally weighted subfactors for the written proposal's communications program criterion and one of five equally weighted subfactors under the oral presentation's communication program criterion) concerning the offeror's "[a]bility to differentiate Army brands [i.e., the different activities to be serviced under the contract, including the Active Army, Army Reserves and ROTC], while taking advantage of opportunities to exploit synergistic relationships [i.e., among the different brands]."

Ayer's approach for its proposed communications program concentrated on strong brand differentiation, as the Army's advertising has historically been conducted, and, as a secondary approach, recognized the value of certain synergistic relationships with regard to general advertising. In contrast, in response to concerns about the Army's decreasing size and budget, Young & Rubicam's approach primarily recommended a synergistic "core image" advertising program (concerning the Army as a whole), followed by a secondary brand-oriented campaign. Both proposals' communications programs, despite their different approaches, were rated as "good" by the SSEB and received the same technical point score for this factor under the written technical proposal evaluations. The SSAC, in comparatively evaluating the offerors' communication program recommendations in both the written and oral portions of the proposals, found that strong research supported Ayer's proposed continued use of more traditional brand differentiation within the "Be All You Can Be" campaign, but that Ayer's long-term strategies were not fully developed and supported. Although Young & Rubicam's innovative, "bold 'core' image proposal" was found to present some risk to the brand campaigns, the SSAC found that Young & Rubicam's approach offered "more versatility in an environment of fiscal uncertainty."

The protester's oral presentation received a score of only 24 points higher than Young & Rubicam's oral presentation under the Army communications program criterion. Ayer's oral presentation under this factor was rated as "excellent" by the SSEB which stated that "[w]hether in agreement with their Army [c]ommunications [p]rogram recommendations or not, what they presented showed adept research and was conceptually purposeful and strategically justified." The SSEB scored Young & Rubicam's oral presentation as "good" under this criterion and noted that Young & Rubicam's advertising account examples demonstrated the firm's "remarkable ability" to produce great image-oriented (versus brand specific) creative for other clients. The 20-point difference in the offerors' scores represented a differential of only 2 percent. Contrary to the protester's assertions, strict equality in terms of point scores is not required. Proposals have properly been viewed as essentially equal from a technical standpoint with technical differentials between proposals of more than 15 percent. See Ogilvy, Adams & Rinehart, B-246172.2, Apr. 1, 1992, 92-1 CPD ¶ 332.

Our review of the record, including the evaluators' narratives and point scores shows that the two proposals (each offering a distinct approach contemplated by the RFP) were reasonably considered essentially equal in technical merit. The SSA's selection, made in his official capacity representing the interests of the Army to satisfy its current overall advertising requirements, ultimately represents his choice between two proposals found to be essentially equal by the evaluators. Even assuming, as the protester argues, that the SSA erroneously viewed Young & Rubicam's proposal as technically superior, the fact remains that the two proposals were clearly at least essentially equal and therefore the agency's source selection here is independently supported by the record in light of the awardee's lower price. Where proposals are reasonably evaluated as being essentially equal technically, cost may properly become the determinative factor in making an award, notwithstanding that the evaluation criteria assigned cost less important than technical considerations. Id.; Associations for the Educ. of the Deaf, Inc., B-220868, Mar. 5, 1986, 86-1 CPD ¶ 220.

The protest is denied.


for James F. Hinchman
General Counsel