



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: NCAT Development Company

File: B-253313.2

Date: September 24, 1993

James F. Nagle, Esq., Oles, Morrison & Rinker, for the protester.
J. Patrick McMahon, Esq., for NCI Information Systems, Inc.; and Pamela J. Mazza, Esq., and Andrew P. Hallowell, Esq., Piliero, Mazza & Pargament, for Steven Winter Associates, interested parties.
Ronald E. Cone, Department of Energy, for the agency.
David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in preparation of the decision.

DIGEST

Protest that contracting agency failed to properly evaluate price "weighted against the [proposed] technical effort (and the depth of that effort)," as provided for in the solicitation, is denied; agency reasonably found that protester's 10 percent greater manhours did not warrant award where protester's price was 22 percent higher than awardee's, more than 59 percent of disparity in total hours was due to protester's proposal of more administrative/clerical hours, awardee proposed 6.4 percent more hours in critical senior-level labor categories, and awardee's price calculated on an hourly basis was 8.4 percent lower than protester's.

DECISION

NCAT Development Company protests the award of a contract for technical support services to NCI Information Systems, Inc. under request for proposals (RFP) No. RR-2-12297, issued by the National Renewable Energy Laboratory Division of Midwest Research Institute (NREL), the management and operations contractor for the Department of Energy's (DOE) National Renewable Energy Laboratory. NCAT maintains that the agency improperly deviated from the RFP's evaluation scheme in evaluating proposals.

We deny the protest.

The solicitation contemplated award of a 5-year--including a base period of 1 year and 4 option years--fixed-price contract to implement an information dissemination and technical assistance services program to provide information to the public about renewable energy and energy efficient technologies. The statement of work (SOW) encompassed both the dissemination of general information on renewable energy and energy efficient technologies, a function performed by NCI under its incumbent contract with NREL, and the furnishing of specific, tailored information and technical assistance, a function performed by NCAT under its incumbent contract with NREL. The solicitation included an estimate of the yearly staffing requirements for specified labor categories and a total yearly staffing estimate (60,450 hours). Proposals were to be evaluated on the basis of two factors of equal importance:

"(1) Technical excellence of the proposed effort and the management capabilities of the offeror. . . .

"(2) Price (including all options) of the proposed work, based on evaluation of the Business and Cost Proposal, weighted against the technical effort (and the depth of that effort) to be performed."

Under the technical/management factor, the solicitation listed five criteria (not relevant here). The solicitation further provided that "[b]etween acceptable proposals with a sufficiently significant difference in technical weighing, a determination will be made as to whether the difference in technical merit reflected by a proposal from other than the low acceptable offeror warrants payment by NREL of a premium in price."

NREL received eight proposals, five of which (including NCI's and NCAT's) were evaluated as "very good" and scored "very high" for technical excellence. Specifically, NCAT's technical proposal received the highest technical score-- 24.64 of 25 available points--during the initial evaluation, while NCI's initial proposal received a somewhat lower technical score (22.61 points). NREL established a competitive range comprised of the five highly-rated offers, conducted discussions, and then requested best and final offers (BAFO).

NREL reports that, after receipt of BAFOs, its source evaluation board (SEB) initially deadlocked over whether to recommend NCAT (with a final technical score of 24.64 points) or NCI (22.62 points) for award. As documented in the initial evaluation report, the evaluators considered NCI's proposed team to be well qualified; they

viewed its staff as already possessing considerable experience in the area of renewable energy and energy efficiency, its management team as having the advantage of having previously managed an information service for DOE, and its subcontractor as highly qualified to provide business-related renewable energy information and assistance services. In addition, NREL favorably evaluated as "forward-thinking" such aspects of NCI's offer as a proposed electronic bulletin board.

After further consideration, however, the SEB concluded that notwithstanding NCI's substantially lower BAFO price (\$7,968,455 versus \$9,729,337 for NCAT), the superior technical aspects of the NCAT proposal outweighed NCI's lower price. Specifically, the SEB determined that NCAT possessed superior experience, noting that NCAT was already proficient at handling information and technical assistance requests from the public. The SEB also noted that NCAT would be able to begin operations immediately due to its in-place facilities and trained staff and that this would reduce start-up time and costs. The SEB also concluded that NCAT had proposed a more "proactive" approach to providing the required information services than NCI, including the offering of access to Spanish-speaking and visually or hearing-impaired users, and enhanced fax services. Finally, the SEB found NCAT's higher price (and estimated staffing) to be more realistic than NCI's given the SEB's expectation of an increased future workload.

The above conclusions notwithstanding, the SEB ultimately was unable, in its presentation to the SSO, to justify the \$1,760,882 premium associated with making award to NCAT. In this regard, it became apparent to the source selection official (SSO) that the SEB's primary concern in evaluating NCI's and NCAT's proposals was its belief that NCAT's higher price was more realistic. The SSO found (and the SEB chairman agreed) that this pure cost realism consideration had been accorded too much weight in light of the fact that a fixed-price (rather than a cost-reimbursement) contract was to be awarded; this would leave the contractor, not the government, at risk for any increased costs. In a similar vein, the SSO noted that the fact that NCI's price was approximately \$2 million lower than an internal estimate did not furnish a basis for minimizing or disregarding NCI's price advantage; NCI had been found to be financially capable of performing at the proposed price, and had submitted a technically highly rated proposal which demonstrated its understanding of the required work and its capability of performing it. The SEB chairman and SSO finally determined that the only technical advantages offered by NCAT relative to NCI were NCAT's greater experience and its more proactive approach to meeting the requirements. They ultimately concluded that these advantages did not warrant paying the

\$1,760,882 premium associated with NCAT's proposal. NREL therefore made award to NCI.

NCAT principally contends that NREL's evaluation of price improperly failed to take into consideration the solicitation language providing for the evaluation of price "weighted against the technical effort (and the depth of that effort) to be performed"; according to the protester, NREL instead assigned 50 percent of the evaluation weight "to the raw, unweighted price proposals," without consideration of the proposed level of effort.

In reviewing a protest against the propriety of an evaluation, it is not our function to independently evaluate proposals and substitute our judgment for that of the agency. See General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44. Rather, we will review an evaluation only to assure that it was reasonable and consistent with the evaluation criteria in the RFP. Id.

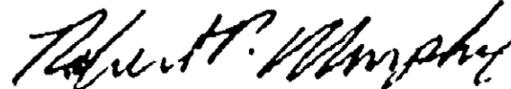
The evaluation here was proper. Consideration of the proposed prices relative to the level and quality of the proposed staffing does not support the conclusion that NCAT received insufficient credit in this area during the evaluation. Four of the five competitive range offerors, including NCAT, proposed fewer than the NREL estimated hours (302,250 over 5 years) included in the solicitation. Although NCAT's proposed staffing level (241,839 hours) was approximately 10 percent higher than NCI's (219,700 hours), more than 59 percent of the difference in staffing was attributable to NCAT's proposal of more hours in the administrative assistant and secretarial categories; outside of these categories, the staffing difference between the two offerors was less than 4 percent. NCI actually proposed a higher level of effort in four of the five senior-level labor categories set forth in the solicitation and viewed by NREL as "critical" to the successful performance of the SOW; NCI's overall level of effort in the five senior-level categories was 6.4 percent higher than NCAT's in the base year (and still higher in subsequent years). NCAT's proposed senior-level labor hours not only were lower than NCI's, but also were 15 percent lower than the level included in the estimate.

As for price, approximately \$1.47 million of the \$1.76 million difference in the proposals was attributable to NCAT's higher profit and general and administrative expenses, rather than to direct labor charges. As a result, NCAT's higher overall staffing level did not fully account for NCAT's higher price; when the total proposed prices are calculated on an hourly basis, NCAT's price per hour of proposed effort (\$40.23) exceeded both the government estimate (\$33.09) and NCI's price (\$36.27).

We conclude that the agency complied with the evaluation requirement that price be considered in light of the technical effort proposed. Given the higher level-of-effort by senior personnel proposed by NCI, the fact that the disparity in proposed staffing resulted in large measure from NCAT's proposal of more administrative/secretarial hours, and the additional fact that NCI's price calculated on an hourly basis (even with NCAT's higher total staffing) was lower than NCAT's, NREL reasonably determined that NCAT's higher overall level of effort did not negate NCI's price advantage in the evaluation process.

NCAT also alleges that, rather than making a price/technical tradeoff as provided for in the solicitation, NREL made award on the basis of the low, technically acceptable offer. It is clear, however, that NREL in fact made a price/technical tradeoff. As discussed above, in ultimately selecting NCI's proposal over NCAT's, the SSO and SEB chairman specifically considered whether the technical advantages offered by NCAT's proposal justified the 22-percent price premium. They concluded that it did not.¹ Given that NCI's proposal also was highly rated and that technical and price considerations were equally weighted under the RFP's evaluation scheme, this price/technical tradeoff was consistent with the stated evaluation criteria and therefore proper. See Burnside-Ott Aviation Training Center, Inc.; Reflectone Training Sys., Inc., B-233113; B-233113.2, Feb. 15, 1989, 89-1 CPD ¶ 158.

The protest is denied.



James F. Hinchman
General Counsel

¹In explaining the price/technical tradeoff, NREL notes that while NCAT possessed better experience, NCI: (1) proposed a "well-qualified" team possessing considerable experience in the area of renewable energy and energy efficiency, and including a subcontractor "highly qualified" to provide business-related advice; and (2) had already performed part of the SOW with apparent success. As for the three desirable features added by NCAT's BAFO--a Spanish-speaking capability, hearing impaired access and, enhanced fax services--NREL states that the related personnel and equipment costs could not have had more than a minimal impact on price (amounting to approximately \$10,000). In any case, NREL notes that evaluators also commented on "many of the forward-thinking aspects of the NCI proposal, most notably its electronic bulletin board."