



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: A & W Maintenance Services, Inc.
File: B-255711
Date: March 25, 1994

Michael A. Worku for the protester.
Royce L. Howard, for A-Bear's Janitorial Service, Inc., an interested party.
John C. Catlin, Esq., and Milton D. Watkins, Esq., Department of the Air Force, for the agency.
Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's decision to award to a higher-priced, higher-rated offeror is reasonable and consistent with the stated evaluation criteria where the proposal of the awardee, whose price was only negligibly higher than the protester's price, was rated superior to the protester's on the most important evaluation criterion while the protester's proposal had similar superiority under the second most important criterion.

DECISION

A & W Maintenance Services, Inc. (A & W) protests an award to A-Bear's Janitorial Service, Inc. (A-Bear) under request for proposals (RFP) No. F34650-93-R-0111 issued by the Department of the Air Force for administrative custodial services at Tinker Air Force Base, Oklahoma. A & W alleges that the source selection decision was unreasonable.

We deny the protest.

The Air Force issued the RFP on June 4, 1993, contemplating the award of a firm, fixed-price contract for a base period with 4 option years. This procurement was conducted under the agency's streamlined source selection procedures, i.e., Air Force Regulation 70-30. The RFP stated that the evaluation and selection of proposals would be on the basis of best value to the government and listed the following evaluation criteria in descending order of importance by area, with the items in each area also listed in descending order of importance:

"Area 1 - Management

- Item 1.1 - Corporate Experience/Organization
- Item 1.2 - Labor Relations History
- Item 1.3 - Supply Management/Subcontracting
- Item 1.4 - Safety Program/Plan

"Area 2 - Production

- Item 2.1 - Organization/On-Site Experience
- Item 2.2 - Manloading
- Item 2.3 - Production Plan

"Area 3 - Quality

- Item 3.1 - Procedures
- Item 3.2 - Organization

"Area 4 - Cost/Price"

The RFP also stated:

"Subjective judgment on the part of the Government is implicit in the Source Selection procedures. The technical proposal will consist of Area 1 thru Area 3 and is of primary consideration. Cost/Price, Area 4, will be a secondary consideration; however, the Government reserves the right to make an award to other than the offeror with the lowest proposal price."

The RFP finally provided that the technical evaluation criteria would be rated in three ways: by a color/adjectival rating, a proposal risk rating, and a performance risk rating. Under the color/adjectival rating scheme, a green rating was "acceptable" and a blue rating was "exceptional."

Five offerors submitted initial proposals by the due date of July 14. The Air Force determined that all of the proposals were in the competitive range and conducted discussions. The agency requested best and final offers (BAFO) and received BAFOs from all five offerors by the September 24 due date. After evaluation, the Source Selection Evaluation Team (SSET) determined that the technical proposals of A & W and A-Bear were far superior to the other proposals. Both proposals received low risk ratings and the only evaluated

difference was reflected in the color/adjectival ratings, which were as follows:

<u>Item</u>	<u>A & W</u>	<u>A-Bear</u>
1.1	Blue	Blue
1.2	Green	Blue
1.3	Green	Blue
1.4	Blue	Blue
2.1	Blue	Green
2.2	Green	Green
2.3	Blue	Green
3.1	Green	Green
3.2	Green	Green

A & W offered the lowest price of \$10,484,122. A-Bear offered the second lowest price of \$10,494,186. As a result of the two technically superior proposals also having the lowest estimated prices, the SSET compared the proposals of A & W and A-Bear, and recommended A-Bear for award to the Source Selection Authority (SSA) with the following explanation:

". . . both [A & W and A-Bear] projected a comprehensive knowledge of this administrative custodial services requirement. The proposal submitted by [A & W] was thorough and only required minor discussions for complete evaluation. [A & W] met the requirements in the Management and Quality areas, and exceeded the requirements in the Production area. The proposal submitted by [A-Bear], the incumbent, was thorough and only required minor discussions for a complete evaluation. [A-Bear] met the requirements in the Production and Quality areas, and exceeded the requirements in the most important area-- Management. In addition, [A-Bear] is providing approximately nine more full-time manpower equivalents than [A & W] for basically the same price--this is due to [A-Bear] proposing much lower management expenses, supply expenses, and other direct costs than [A & W]."

On October 5, the SSA selected A-Bear's proposal for award as the proposal offering "the best overall value to the government." The SSA stated in his source selection decision that he based the selection upon:

"[the] criteria [stated in the RFP], [the SSA's] integrated assessment of the proposals submitted in response to the RFP, the terms and conditions

agreed upon during discussions, the [SSET's] 'Proposal Analysis Report,' and the capability of A-Bear's Janitorial Service to fulfill the subject requirement."

The SSA included in his decision the following justification for selecting A-Bear:

"When measured against the [evaluation criteria stated in the RFP], [A-Bear] met or exceeded the standards in all three primary areas. In the most important area, Management, A-Bear exceeded the standards in all four items. A-Bear had significant Management strengths in exceptionally qualified and experienced management personnel, extremely detailed strike contingency/work stoppage procedures, outstanding and detailed procedures for obtaining needed supplies on a competitive basis from a wide range of firms, and an extensive Safety Plan. A-Bear's proposal was also very solid in the Production and Quality areas."

The Air Force awarded the contract to A-Bear on October 29, and this protest followed.

A & W alleges that the evaluation/source selection decision is unreasonable because it was not consistent with the stated evaluation/selection plan and because the SSA did not perform a cost/technical tradeoff in selecting the higher-priced, higher-rated proposal.

In a negotiated procurement, there is no requirement that award be made on the basis of lowest price/cost; a cost/technical tradeoff may be made, and the extent to which one may be sacrificed for the other is governed by the test of rationality and consistency with the established evaluation factors. Central Texas College, 71 Comp. Gen. 164 (1992), 92-1 CPD ¶ 121. We will uphold awards to offerors with higher technical ratings and higher costs so long as the results are consistent with the evaluation criteria and the contracting agency reasonably determines that the cost premium involved is justified considering the technical superiority of the selected offeror's proposal. Id. Even where a source selection official does not specifically discuss the technical/price tradeoff in the selection decision document, we will not object to the tradeoff if otherwise supported by the record. Maytag Aircraft Corp., B-237068.3, Apr. 26, 1990, 90-1 CPD ¶ 430.

Here, the RFP stated that technical proposals were of primary importance and that cost was of secondary importance. More specifically, under Management, the most

important evaluation area, the agency rated A-Bear "excellent" on all four items and rated A & W "excellent" on only two of these items, one of which was the item of least importance in the Management area. Thus, A-Bear's proposal was rated higher than A & W's proposal for the most important evaluation criterion. On the second most important criterion, Production, A & W's proposal was rated similarly superior to A-Bear's proposal, while both proposals received the same rating on the remaining technical criterion. Since A-Bear's proposal was found superior to A & W's proposal in the most important area, it logically follows that A-Bear's proposal could reasonably be viewed as superior overall to A & W's proposal under the stated evaluation criteria.

The SSET considered the difference in technical ratings of the two proposals and specifically discussed the negligible difference in price (\$10,000 over the possible 5-year contract term, which is about 0.1 percent of the total contract price). In considering the difference in price, the SSET examined the different staffing levels proposed by the two firms and concluded that the nine more full-time manpower equivalents that A-Bear would provide for the negligible price difference was an advantage. The SSET recommended award to A-Bear.

The SSA's selection decision states that the SSA based the decision in part upon the findings of the SSET as well as the SSA's own assessment of the proposals on the basis of the stated evaluation criteria, and concludes that A-Bear's proposal offered the best value to the government. Although the source selection decision does not specifically mention price/cost, it specifically documents A-Bear's technical superiority and incorporates the cost/technical tradeoff made by the SSET. Under the circumstances, we find that the SSA did make a cost/technical tradeoff; his failure to describe the specific basis of the tradeoff in the written decision provides no basis for disturbing the award. See Maytag Aircraft Corp., supra.

A & W alleges that its proposal and A-Bear's proposal are actually substantially similar, such that A & W's lower price should control the source selection. However, the protester has not supported this contention and merely offers its own opinions disagreeing with the agency's conclusions. Based on our review of the proposals and the agency's evaluation thereof, we find that the agency reasonably identified meaningful differences in the

proposals which support the higher rating of A-Bear's proposal on the most important evaluation criterion.

For example, on Item 1.2, Labor Relations History, the agency found no labor relations problems in A-Bear's history, but did find that A & W failed to maintain a consistent work force and supervisory personnel on-site under a prior, albeit small, contract. In addition, the SSA noted, and our review confirms, that A-Bear's proposal included extremely detailed strike/work stoppage procedures. Although A & W's proposal also presented detailed procedures, A-Bear's procedures are considerably more detailed and we think could reasonably lead the SSA to have more confidence in A-Bear's ability to respond to work stoppages more rapidly and more comprehensively than would A & W.

Where A & W challenges specific findings of the agency, it offers only its own opposing opinion rather than a basis for finding the agency's position unreasonable. For example, the SSA stated that one factor he relied upon in deciding that A-Bear's proposal offered the best value was that the proposal had outstanding and detailed procedures for obtaining needed supplies on a competitive basis from a wide range of firms. A & W alleges that it would be better to have fewer suppliers to establish reliable sources. A & W's differing position on this matter does not make the agency's position unreasonable and therefore provides no basis for our objecting to the evaluation. Truesdail Laboratories, Inc., B-250253.2, Feb. 25, 1993, 93-1 CPD ¶ 177.

A & W also challenges the agency's use of A-Bear's higher manloading level as a factor supporting the award decision. A & W argues that since both A & W's and A-Bear's proposals received "acceptable" ratings on Item 2.2, Manloading, the two proposals were equal on this factor, such that no distinction can be drawn. However, the agency's determination that the competing proposals are "acceptable" on manloading is not the equivalent of determining the proposals "equal" on this criterion. See Hattal & Assocs., 70 Comp. Gen. 632 (1991), 91-2 CPD ¶ 90. While competing proposals may receive the same overall rating under an evaluation area, one proposal may nevertheless offer an advantage in that area that an agency properly may take into account in determining which proposal offers the best value to the government.

¹The protester was not represented by counsel and did not have access to proprietary or source selection information, which we considered in deciding this protest.

A & W also alleges that A-Bear's prices are materially unbalanced. The RFP price schedule solicited fixed prices for the required basic services over the term of the contract and solicited unit prices for certain services over and above the basic services which the agency could order performed on an as needed basis at the offered unit prices. For these over-and-above services, the RFP provided estimated quantities for calculating the estimated total dollar value of these services. A & W alleges that A-Bear offered unreasonably low prices for the basic services and unreasonably high prices on the over-and-above services, whereby A-Bear would allegedly profit from a higher than estimated level of over-and-above services.

Although A & W alleges that A-Bear's basic price is unreasonably low in comparison with its own price, the following comparison of the two offerors' prices refutes this allegation:

	<u>A-Bear</u>	<u>A & W</u>
Basic Services	\$10,214,611	\$10,296,981
Over & Above Services	<u>279,575</u>	<u>187,141</u>
Total	\$10,494,186	\$10,484,122

Since the difference between the two prices is only 0.8 percent, there is no support for A & W's allegation that A-Bear's Price for basic services is unreasonably low.

The protest is denied.

fn *Robert P. Murphy*
 Robert P. Murphy
 Acting General Counsel