



Comptroller General
of the United States

105278

Washington, D.C. 20548

Decision

Matter of: Supreme Beef Processors, Inc.

File: B-261463

Date: August 7, 1995

Joel R. Feidelman, Esq., James J. McCullough, Esq., and Deneen J. Melander, Esq., Fried, Frank, Harris, Shriver & Jacobson, for the protester.
Kevin R. Garden, Esq., and Alan I. Saltman, Esq., Saltman & Stevens, for Aksarben Foods, Inc., an interested party.
Karen Rompala, Esq., and Michael Trovarelli, Esq., Department of Defense, for the agency.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Award is unobjectionable where record establishes that technical evaluation of protester's proposal was done in accordance with the solicitation evaluation criteria and agency reasonably concluded that protester's proposal was technically equivalent to awardee's lower-priced proposal.

DECISION

Supreme Beef Processors, Inc. protests the award of a contract to Aksarben Foods, Inc., under request for proposals (RFP) No. SPO300-94-R-M003, issued by the Defense Personnel Support Center, Defense Logistics Agency, for supply of oven and pot roasts. Supreme contends that the agency's evaluation was flawed.

We deny the protest.

The RFP contemplated award of an indefinite delivery/indefinite quantity contract for a base year with 1 option year for delivery of oven and pot roasts to five government installations. Proposals were to be evaluated on the basis of price and three technical factors (in descending order of importance): distribution, corporate experience, and quality. Price was calculated by combining a market-set base price and the offeror's proposed special factor price.

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The RFP defined the base price as the weekly weighted average of prices appearing in the Department of Agriculture National Carlot Meat Report, 1 week preceding the week of delivery required by each delivery order. As provided in the RFP, the report for October 22, 1994, was used in evaluating offers. The special factor, expressed in cents-per-pound, was to reflect any difference between the base price and the proposed delivered price for the specified end product. The special factor could be above or below the base price or could be entered as "zero." Award was to be made to the offeror whose proposal was most advantageous to the government. While technical factors were more important than price, as proposals became more equal in technical merit, price became more important.

Four offerors, including Supreme and Aksarben, submitted initial proposals by the closing date of November 4, 1994. Aksarben's proposal was evaluated as technically acceptable and Supreme's as marginally acceptable. After the conduct of discussions and the submission of best and final offers (BAFO), the agency determined that all proposals were acceptable and essentially equal in technical merit. Since Aksarben proposed the lowest special factor price for all destinations, the agency determined that its proposal represented the best value to the government. Upon learning of the award to Aksarben, Supreme filed this protest.

Supreme first argues that the agency could not reasonably find Aksarben's technical proposal equal to Supreme's because Supreme's distribution plan and quality assurance were "exceptional" and its past experience was "unparalleled." Apart from noting its 27-year history of successfully performing "numerous" government contracts for oven and pot roasts, the protester does not identify what makes its proposal superior.

Where an evaluation is challenged, we will examine the evaluation to ensure that it was reasonable and consistent with the evaluation criteria and applicable statutes and regulations, since the relative merit of competing proposals is primarily a matter of administrative discretion. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203. Mere disagreement with the agency's evaluation does not itself render the evaluation unreasonable. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

The agency found Supreme's initial proposal to be only marginally acceptable on the delivery and quality evaluation factors. These assessments were based on the protester's proposal of modifications to the delivery and warranty specifications in the RFP. The agency determined that Aksarben's proposal was acceptable as submitted. After discussions, the protester agreed to follow all specified conditions and its BAFO was evaluated as acceptable. The evaluators found nothing in Supreme's proposal to warrant a higher rating and determined that its proposal was essentially equivalent to Aksarben's proposal. Notwithstanding its general claim of the superiority of its proposal, Supreme has not identified anything erroneous or improper in the agency's evaluation of its or Aksarben's proposal. Accordingly, we have no basis to find the evaluation unreasonable, inasmuch as the only objections posed reflect mere disagreement with the agency's evaluation. Litton Sys., Inc., supra.

Supreme also contends that the agency's price evaluation was flawed because Aksarben's prices are unreasonably low and the RFP had advised that unreasonably low prices would be considered as indicative of a lack of understanding. However, the agency did not evaluate Aksarben's prices as unreasonably low. On the contrary, in reviewing the offerors' prices, the agency compared them to recent prices for the same items and found that all, including Aksarben's, were reasonable. In discussions, the agency ensured that Aksarben understood the special factor pricing, and Aksarben verified that understanding in its best and final offer.

To arrive at prices for comparative evaluation purposes, the agency took recent daily purchase prices paid by the agency for the roasts for delivery to the various destinations and compared them with the carlot report prices which would have been applicable under the terms of the contract. The difference between the price paid and the carlot report price provided an estimated special factor which could be used to evaluate the offerors' proposed factors.

While certain of Aksarben's prices were lower than some recent purchase prices, the agency concluded that the difference was reasonable and attributable to the offeror's ability to spread its costs over an entire year. Further, based on the competition among the offerors, the agency concluded that Aksarben's prices were fair and reasonable.

See Federal Acquisition Regulation §§ 15.804-3, 15.805-2. Apart from repeatedly asserting that the prices are unreasonably low, Supreme again provides no basis to object to the agency's determination.¹

The protest is denied.

Ronald Berger
h Robert P. Murphy
General Counsel

¹In a related argument, Supreme contends that Aksarben cannot meet the quality specifications at the prices it proposed. Supreme's speculation is insufficient to form the basis of a protest. Independent Metal Strap Co., Inc., B-231756, Sept. 21, 1988, 88-2 CPD ¶ 275. In any event, whether Aksarben performs the contract in accordance with the specifications is a matter of contract administration which our Office does not review. 4 C.F.R. § 21.3(m) (1) (1995).