DECISION

THE COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-185871 DATE: July 26, 1976

MATTER OF: Group Operations, Incorporated

DIGEST:

1. There has been no showing that agency determination that awardee should receive award lacked reasonable basis, notwithstanding awardee's brief response to RFP informational provision requiring detailing of amount of time contract team members would be devoted to contract, in view of agency determination based on awardee's technical and cost proposals and discussions with awardee that there was sufficient commitment of team members to satisfy agency requirements.

2. Use of formula, which gave negligible weight to cost as evaluation factor, to evaluate cost proposals was improper because it was inconsistent with RFP statement that cost be given 20 percent of total evaluation weight. However, since protester was found in competitive range only because of clerical error in technical evaluation scoring and was improperly assigned maximum points for cost even though its cost proposal was determined to be unrealistic, and since RFP clearly indicated technical excellence was far more important (four times) than low cost, there was no prejudice justifying disturbing award.

3. Agency improperly assigned maximum points for cost in evaluating offerors' cost proposals where costs were not considered to be realistic without making independent cost projection of offerors' estimated costs.

4. Agency's failure to give opportunity to offerors, who had been informed during discussions that cost proposals were not realistic, to revise proposals to respond to this criticism was improper and in violation of FPR § 1-3.805-1(b). Under such circumstances, discussions cannot be regarded as meaningful under applicable regulations.

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Request for proposals (RFP) 2 CCR, issued by the United States Commission on Civil Rights (USCCR), solicited proposals for a cost-plus-fixed-fee contract to provide data processing services for a national survey of opinions on desegregation. The RFP called for separate technical and cost proposals and indicated that the evaluation of technical proposals represented 80 percent and cost proposals represented 20 percent of the total evaluation points.

Twelve proposals were received by the closing date for receipt of proposals. Five offerors were eliminated because of insufficient technical responsiveness. The remaining seven offerors' technical and cost proposals were separately evaluated and rated as follows:

Offeror	Technical Score	Proposed Estimated Cost	Cost Score	Total Initial Score
Applied Management Sciences (AMS)	67.5	$18,262	20	87.5
Dudley W. Gill (Gill)	67.5	10,810	20	87.5
Teknekron, Inc. (Teknekron)	66	17,018	20	86
Bureau of Social Science Research, Inc. (BSSR)	65	22,790	18	83
Delta Research Corp. (Delta)	64	23,216	18	82
Fein-Marquart (Fein)	53	22,372	19	72
Group Operations, Incorporated (GOI)	50	12,735	20	70

The cost scores were based on the following formula:

$$\frac{\text{Average cost of all technically acceptable proposals}}{\text{Offeror's proposed cost}} \times 20 = \text{Cost Score}$$

Since no offeror could be assigned more than 20 points for cost, all offerors proposing costs below the average cost received 20 points. Those offerors proposing costs higher than the average cost received slightly lower scores based on the formula. The proposed costs of Gill and GOI were not used in determining the average cost figure because USCCR determined that their costs were not realistic. Instead, these two offerors were assigned the maximum 20 points for their low proposed costs. The costs proposed by the other five offerors, which were found realistic, were used in the application of the formula.

There were a number of computational and clerical errors in the initial scores assigned to some of the technical proposals, which were only discovered after award was made. The actual intended initial technical scores of BSSR and GOI were 62.5 and 51.5, respectively.

There were five members of the panel evaluating the technical proposals. The panelists did not individually rate each proposal. Rather, each proposal was rated by only two or three of the panelists. Since some of the panelists rated consistently lower than other panelists, it was decided that the seven initially acceptable technical proposals would be read and evaluated by additional panelists.

The offerors were rated as follows after the additional panelists' evaluation:

	Technical Score	Cost Score	Total Score
BSSR	67.33	18	85.3
AMS	64.75	20	84.75
GOI	62.0	20	82.0
Gill	60.0	20	80.0
Teknekron	59.6	20	79.6
Delta	58.3	18	76.3
Fein	56.3	19	75.3

As a result of the second reading and further discussions by the panel, the three lowest-rated proposals of Delta, Fein and Teknekron were eliminated from further consideration.

Computational and clerical errors, which were only discovered after award, also occurred in determining the technical proposal scores after the second reading. The intended technical score of Gill was 62 for a total score of 82 points. The intended technical score of GOI was 54.8 for a total score of 74.8 points.

In view of the limited time allowed for the submission of proposals, it was felt possible that the four remaining acceptable offerors may have had a lack of understanding of the scope of work and USCCR's needs. Therefore, USCCR made on-site visits to and conducted discussions with the four remaining offerors. Based on these discussions, the firms visited were ranked as follows:

BSSR	First
AMS	Second
GOI	Third
Gill	Fourth

None of the offerors was invited to revise proposals as a result of the discussions.

Based on the foregoing evaluation, BSSR was selected for award.

GOI has protested that the award selection lacked a rational basis. Specifically, GOI refers to USCCR's determination that BSSR's technical proposal was satisfactory, even though BSSR did not itemize in its proposal the time which each of its proposed project team members assigned to the contract was to devote to the contract. GOI states that this information was required in order to have an acceptable proposal by section B.2.C.2 of Article VI of the RFP.

In addition, GOI protests that the formula used to evaluate the cost proposals distorted the differences between the proposals so as to give all offerors essentially the same score for cost. GOI claims that this had the effect of giving substantially less weight to cost than the 20 percent stated in the RFP. GOI states that had the weight indicated in the RFP been actually used in rating the proposals, GOI would have been rated higher than BSSR.

With regard to GOI's first contention, it is not the function of this Office to evaluate proposals, and we will not substitute our judgment for that of contracting officials by making an independent determination as to which offeror in a negotiated procurement should be rated first and thereby receive an award. Therefore, determinations by contracting officials regarding the technical merits of proposals will be questioned by our Office only upon a clear showing of unreasonableness, abuse of discretion or a violation of the procurement statutes and regulations. Applied Systems Corporation, B-181696, October 8, 1974, 74-2 CPD 195; Shapell Government Housing, Inc., B-183830, March 9, 1976, 55 Comp. Gen. 839, 76-1 CPD 161.

From our review of the record, including the evaluation panel's scoring sheets and the BSSR and GOI proposals, there has been no showing that USCCR's determination that BSSR's proposal was deserving of award lacked a reasonable basis. In this regard, we note that two of the three panel members, who read and evaluated the BSSR technical proposal, scored BSSR's proposal higher than any other proposal they had read. In addition, after the on-site discussions, the majority of the panelists believed BSSR's proposal was the best received.

BSSR only briefly responded to the aforementioned RFP informational requirement that technical proposals include details regarding the amount of time the offeror was proposing to commit each of its listed team members to this contract. BSSR's response was:

> "Personnel are available for time specified during contract period."

However, BSSR listed in its technical proposal the contract team members and the tasks they would perform. Also, the BSSR technical proposal included a graphic schedule of the contract tasks indicating by weeks the timeframe during which the tasks would be performed. Also, BSSR's cost proposal, which was evaluated prior to the award selection, indicated by number of estimated hours the time proposed to be devoted to the various contract tasks. Moreover, the on-site discussions with BSSR satisfied USCCR that there was a sufficient commitment of the designated team members to fulfill USCCR's requirements. In view of the foregoing, we do not believe BSSR's brief response to the RFP informational requirement negates the reasonableness of USCCR's award selection.

With regard to the formula used to evaluate cost, we agree with the protester that its application in this case had the effect of giving cost much less weight than indicated in the RFP. The majority of the initially acceptable offerors received the maximum 20 possible points. Moreover, there was no meaningful difference between the scores assigned the offerors, even though the proposed costs ranged from $10,810 (20 points) to $23,216 (18 points).

We have consistently recognized that offerors should be advised of the evaluation factors to be used in evaluating the proposals and the relative weight of those factors, since "[c]ompetition is not served if offerors are not given any idea of the relative value of technical excellence and price." Signatron, Inc., 54 Comp. Gen. 530 (1974), 74-2 CPD 386; PRC Computer Center, Inc., 55 Comp. Gen. 60 (1975), 75-2 CPD 35, and cases cited therein. Moreover, once offerors are informed of the criteria against which their proposals are to be evaluated, it is incumbent on the procuring agency to adhere to that criteria or inform all offerors of the changes made in the evaluation scheme. EPSCO, Incorporated, B-183816, November 21, 1975, 75-2 CPD 338; Willamette-Western Corporation, 54 Comp. Gen. 375 (1974), 74-2 CPD 259.

By assigning essentially equal scores to all cost proposals, regardless of proposed costs, cost was given negligible weight as an evaluation factor. This was inconsistent with the RFP statement that the cost proposal would be given 20 percent of the total evaluation weight. Consequently, the cost evaluation was improperly conducted since it gave cost significantly less weight than indicated in the RFP. See Design Concepts, Inc., B-184658, January 23, 1976, 76-1 CPD 39. Cf. 50 Comp. Gen. 16 (1970); 53 id. 253 (1973).

However, GOI was only found to be within a competitive range after the second reading and consequently eligible for further consideration because of a clerical error. USCCR states that the 62 score tallied for GOI's technical proposal was actually intended for Gill, and GOI should have received a 54.8 for its technical proposal. We have completely reviewed the individual evaluators' score sheets and have determined the technical score which should have been assigned to GOI under the USCCR evaluation scheme after the second reading was 54.8 for a total score of 74.8 points. This was last among the seven proposals which were initially found acceptable and is outside the range of offerors with whom it was decided that discussions should be held.

Moreover, GOI was given the maximum 20 points for cost, even though its proposed costs were not considered realistic. Our Office has consistently recognized that a low cost estimate proposed by an offeror should not be accepted at face value, and that under Federal Procurement Regulations (FPR) § 1-3.807-2 (1964 ed. amend. 103), an agency should make an independent cost projection of the estimated costs reflected in the cost proposal. See PRC Computer Center, Inc., 55 Comp. Gen. supra, at 78, and cases cited therein. Although USCCR had a cost estimate of $25,000 to $30,000, which it apparently used in determining that the cost proposals of GOI and Gill were not realistic, the agency made no attempt to independently project GOI's or Gill's estimated costs. While we recognize the scope of a cost analysis "is dependent on the facts surrounding the procurement and pricing situation" and on "the amount of the proposed contract and the cost and time needed to accumulate the necessary data for analysis," see FPR § 1-3.807-2 and PRC Computer Center, Inc., supra, it is not a sufficient cost analysis merely to ignore unrealistic estimated cost proposals by assigning those proposals the maximum possible points for cost. It is probable that GOI's proposed costs, if they had been independently projected, would have been evaluated to be significantly higher. Indeed, after the protest was filed, USCCR made an independent projection of GOI's cost proposal which indicated that its costs, as evaluated, were almost equal to BSSR's estimated costs.

Finally, and of particular significance, the RFP clearly indicated that technical excellence was far more important (four times) than low cost. Therefore, although the cost evaluation was improper, we do not believe it was so prejudicial to GOI as to justify disturbing the award.

During our review, we found that although discussions were conducted with the offerors determined to be within a competitive range, those offerors were not given an opportunity to revise their proposals. In order for discussions to be regarded as meaningful as contemplated by FPR § 1-3.805-1 (1964 ed. amend. 153), offerors should be advised of the reasons their proposals have been judged deficient, so that they may have the opportunity to satisfy the Government's requirements, and thereby the Government may obtain the full benefits of competition. See Operations Research, Incorporated, 53 Comp. Gen. 593 (1974), 74-1 CPD 70, as modified in 53 Comp. Gen. 860, 74-1 CPD 252, and cases cited therein; Gulton Industries, Incorporated, B-180734, May 31, 1974, 74-1 CPD 293. Although USCCR states that it indicated to Gill and GOI during the on-site discussions that their cost proposals were not considered realistic, neither offeror was given an opportunity to revise its proposal to respond to this criticism. In this regard, FPR § 1-3.805-1(b) (1964 ed. amend. 153) specifically requires that offerors be given such an opportunity to submit a "best and final offer" after discussions are conducted. See Gulton Industries, Incorporated, supra. However, since GOI still insists that its cost proposal was realistic, GOI was only included in the competitive range because of a clerical error, and BSSR's proposal was adjudged to be clearly superior, we do not believe the award should be disturbed because of USCCR's failure to call for "best and final offers." See Operations Research, Incorporated, supra.

In any case, USCCR reports that after BSSR substantially completed the contract in a satisfactory manner, the contract was terminated for the convenience of the Government. USCCR is now performing the remainder of the contract work in-house.

We are, however, bringing the procurement deficiencies we have found to the attention of the Chairman of USCCR.

R.F. Keller

Deputy Comptroller General
of the United States