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DECISION



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

FILE: B-191331

DATE: June 2, 1978

MATTER OF: Umpqua Research Company

DIGEST:

1. Contention that evaluation factors in small purchase favored certain firm because low priced quotation would not necessarily receive award is untimely because not raised before quotations were received under either initial solicitation or resolicitation of requirement. In any event, agency may make award where price alone is not controlling but is one of several factors evaluated.
2. Record does not indicate that agency determination to award more points under evaluation factors for academic background and facilities to firm other than protester was improper.

Umpqua Research Company (Umpqua) protests the issuance of a purchase order to Brigham Young University (BYU) under Request for Quotations (RFQ) RQ-150-78-113-B issued on February 28, 1978, by the Bureau of Reclamation, Central Utah Projects Office (Bureau). The procurement was conducted pursuant to the small purchase procedures set forth at Subpart 1-3.6 of the Federal Procurement Regulations (Amendment 153, September 1975). The RFQ solicited quotations for providing analysis of water samples containing macroinvertebrates.

Initially, Umpqua protested the issuance of a purchase order in the amount of \$6,384 to BYU for the sampling services. Umpqua, along with 14 other firms, responded to RFQ RQ-150-78-113 which provided that quotations would be evaluated in accordance with the following factors listed in order of significance:

1. Cost
2. Sample of previous analysis of a similar nature
3. Experience in similar analysis
4. Academic background
5. Facilities

Umpqua's quotation, which was the lowest received at \$3,524, was not evaluated because it was considered unreasonably low. BYU received the award at \$6,384. Umpqua protested the Bureau's failure to evaluate its quotation both to the Bureau and to our Office. As a result of the protest the Bureau terminated the purchase order issued to BYU, issued RFQ RQ-150-78-113-B to reprocur the test services and developed a system for evaluating price which would reward an offeror for submitting a low price. In addition, the second RFQ set forth the previously used evaluated factors with the following specific weights:

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| 1. Cost | 30% |
| 2. Sample of previous analysis of a similar nature | 20% |
| 3. Experience in similar analysis | 20% |
| 4. Academic background | 15% |
| 5. Facilities | 15% |

This time, responses were received from eight firms, including Umpqua and BYU. A new technical evaluation board was formed and a separate price evaluation conducted. As a result of the technical evaluation, Umpqua was ranked seventh with a score of 60.00 and BYU first with 68.67. However, when the prices were evaluated

Umpqua rose to second with a total score of 88.93 while BYU remained first with a total of 90.57. The Bureau proposes to make award to BYU at \$4,620, as offering the most favorable quotation considering price and technical factors. Umpqua's price is \$3,214.

Umpqua objects to any award to BYU. Umpqua argues that it would have been awarded a purchase order under the initial procurement but for the Bureau's improper actions and that the evaluation factors in both procurements were designed to protect BYU by not awarding the purchase order to the firm offering the lowest quotation. Further, Umpqua complains that BYU was unjustifiably awarded extra points under the factors of "Facilities" and "Academic Background" because of unnecessarily elaborate facilities and use of overqualified personnel.

Regarding Umpqua's contention that it would have won the initial procurement, we believe that the Bureau acted properly in terminating BYU's purchase order under the initial RFQ and resoliciting the procurement when the error in evaluating the prices was discovered. Whether Umpqua would have prevailed under the initial solicitation is speculative.

It appears that Umpqua's complaint that the evaluation factors were slanted towards BYU is untimely. Umpqua did not complain of the factors in its initial protest to our Office under the first RFQ nor did it object to the evaluation factors used in the second RFQ (which are essentially the same as those used in the initial RFQ) until after it found that the Bureau proposed to make the second award to BYU. Our Bid Protest Procedures provide that protests against alleged improprieties in a solicitation must be filed prior to the receipt of initial proposals. 4 C.F.R. § 20.2(b)(1) (1977). In any event we see nothing improper in the Bureau's evaluating technical factors along with price in determining the award.

Regarding the higher score received by BYU, under the evaluation factors for "Facilities" and "Academic Background" we see no reason to question the Bureau's judgment that BYU's facilities and the academic background of its personnel justified a higher score than those of Umpqua. Although Umpqua argues that anything offered by BYU above that offered by Umpqua in the

areas of facilities and academic background is not needed to perform the testing, it is clear that the Bureau viewed BYU as more qualified in these two areas to perform the testing. Since the agency is responsible for determining the quotation which best meets its needs, we see no reason to interfere with the Bureau's conclusion in this regard. W. S. Gookin & Associates, B-188474, August 25, 1977. 77-2 CPD 146.

The protest is denied.

R. S. Gookin
Deputy Comptroller General
of the United States