



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Cavalier Corporation

File: B-265746

Date: November 22, 1995

Warren J. Riddle for the protester.

Elizabeth L. Kruger, Esq., General Services Administration, for the agency.

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DIGEST

Award to lower-rated, lower-priced offeror was proper where solicitation's evaluation criteria gave predominant weight to technical factors, and source selection officials reasonably determined that protester's higher-rated, higher-priced proposal offered no significant technical advantages worth the cost premium.

DECISION

Cavalier Corporation protests the award of a contract to Advanced Radiation Technologies, Inc. by the General Services Administration (GSA) under request for proposals (RFP) 10PM3-95-21, for the design and installation of a radon mitigation system at the United States Courthouse, Spokane, Washington.

We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract to the offeror submitting the greatest value proposal for the design and installation of a radon mitigation system for lowering elevated levels of radon gas in the sub-basement of the Courthouse. The RFP informed prospective offerors that previous attempts at radon mitigation, such as sealing the sub-basement floor and the constant operation of the sub-basement's ventilation system, failed to reduce radon to acceptable levels. GSA "anticipated that the only remaining solution for mitigating the elevated radon levels is to install a sub-slab ventilation system in the sub-basement in conjunction with positive pressurization of the sub-basement."

The Courthouse is a nine-story building with underground levels including the sub-basement, which is the lowest level in the building. Sub-slab ventilation involves drilling holes at various locations through the floor of the sub-basement's concrete slab and connecting pipes to the holes. These pipes in turn are connecting to another pipe or duct which exits the building. An exhaust fan is connected at the exterior outlet of the piping, which operates to de-pressurize the sub-slab

ventilation system, producing a suction that draws the radon through the pipes and out of the building. Sub-slab ventilation is effective if the pressure under the slab can be maintained below that of the space being mitigated so as to draw the radon into the collection system and prevent it from seeping into the space above.¹

The RFP notified offerors that design of the system shall be subject of review and approval by GSA before the system is installed, and all necessary changes and/or corrections to the design resulting from GSA review comments shall be made at no additional cost to the agency. As amended, the RFP also stated that

"[d]ue to the inherent difficulties and associated costs of a roof discharge for the ventilation system alternatives to a roof discharge will be considered, provided they meet applicable building codes." (Emphasis in original.)

Three firms submitted timely offers, including the protester and the awardee. Cavalier proposed a sub-slab ventilation system--that would discharge the radon through the roof of the building--for \$61,333.² Advanced's proposal offered a sub-slab ventilation system--that would discharge the radon through a pre-existing radon mitigation system at the adjoining Post Office building--for \$37,615.

The RFP stated that technical quality was more important than cost or price, but that as proposals become more equal in their technical merit, the evaluated cost or price would become more important. A two-member source selection evaluation board (SSEB) evaluated proposals based on the following technical evaluation factors (and relative weights): experience in performing similar work (35 percent), technical approach (30 percent), understanding of the work required (20 percent), and qualifications of key personnel (15 percent). The SSEB evaluated offerors' technical proposals based on a 10-point scale for each evaluation category and for an overall consensus score.³

¹A potential problem with this method of mitigation in a high-rise building is the "stack effect" of the building, namely, that the de-pressurizing "pull" of the building, such as the "chimney effect" of rising heat in the winter, will overcome the pressure differentials between the sub-basement and the ventilation system.

²The government estimate for a system discharging radon through the Courthouse roof was \$47,124.

³For example, under GSA's scoring plan, a score of 5 to 7 points indicated that the proposal met the required standard; a score of 8 to 9 points indicated that the proposal was superior in several ways and generally exceeded the required standard.

Cavalier's initial proposal received the highest overall score of 8.15 points, while Advanced's initial proposal received the second highest overall score of 5.55 points. The SSEB then sent written discussion questions to each offeror; in light of the responses, the proposals were reevaluated by the SSEB. The SSEB increased Advanced's overall technical score to 7.00 points based on this reevaluation, but did not change Cavalier's score. Only two of the three offerors—Cavalier and Advanced—submitted best and final offers (BAFO). Cavalier's price remained \$61,333 but Advanced lowered its price to \$36,220.

The SSEB concluded that Advanced's proposal clearly met or exceeded the RFP's requirements; that although Advanced's proposal was not technically the highest rated overall, the difference in Advanced's and Cavalier's technical scores was not significant; and that the advantages offered by Cavalier's proposal were not worth its significantly higher price. As a result, the SSEB recommended award to Advanced on the basis that its proposal represented the best value to the government. Based upon the SSEB's recommendation, the SSA awarded the contract to Advanced.

The crux of Cavalier's protest is that GSA gave undue weight to Advanced's low price, without regard for Cavalier's technical superiority, despite the fact that technical factors were to be more significant than price.

In a negotiated procurement, an agency may make award to a lower-priced, lower technically rated offeror if it determines that the price premium involved in awarding to a higher technically rated, higher-priced offeror is not justified given the acceptable level of technical competence obtainable at the lower price. Best Temporaries, Inc., B-255677.3, May 13, 1994, 94-1 CPD ¶ 308. Source selection officials have the discretion to make cost/technical tradeoffs and the extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Power Conversion, Inc., B-239301, Aug. 20, 1990, 90-2 CPD ¶ 145. Even if price or cost is the least important factor, an agency properly may award to a lower-priced, lower-rated offer. The determining element is not the difference in technical merit, per se, but the reasonableness of the source selection official's judgment concerning the significance of that difference and the consistency of this judgment with the RFP evaluation scheme. Best Temporaries, Inc., supra.

The record shows that GSA performed a reasonable cost/technical tradeoff between Advanced's lower-rated, lower-priced proposal and Cavalier's higher-rated, higher-priced proposal. While Cavalier complains that the SSEB did not sufficiently recognize Cavalier's superiority under the experience and qualifications categories, the record shows otherwise. The SSEB rated Cavalier's proposal 9 points for experience and a perfect 10 points for qualifications while rating Advanced's proposal 6 points for both categories. The SSEB rated Advanced's proposal slightly

higher (8 points) than Cavalier's proposal (7 points) for both the technical approach and understanding of the work categories, which also were worth 50 percent of the total score. GSA ultimately determined, however, that Cavalier's higher overall rating, based on its superior experience and qualifications, did not mean that Cavalier would necessarily provide a more effective radon mitigation system than Advanced, which received a higher score for technical approach and understanding of the work required. In light of this fact, the SSA determined that Cavalier's proposal overall technical superiority simply was not worth its approximately 40 percent higher price. This determination was in no way outside the bounds of the RFP's evaluation scheme.

Cavalier also suggests that Advanced's technical approach may not be feasible or acceptable. This argument is without merit. The major differences between Cavalier's and Advanced's proposals are where the radon will be discharged and how the necessary de-pressurization of the sub-slab ventilation system will be maintained. Cavalier planned to install a sub-slab ventilation system that would generate sufficient de-pressurization so as to obviate the need to pressurize the sub-basement area above the slab; because this approach would necessitate installing piping from the sub-basement ventilation system through a mechanical chase running the entire height of the nine-story building, this was by far the most expensive method. As invited by the RFP, Advanced proposed a less expensive alternate method of connecting the sub-slab ventilation system constructed in the Courthouse to the radon mitigation system it previously designed in the adjoining Post Office building, which, according to Advanced, has adequate capacity to handle the gas discharged from the Courthouse.⁴

The record shows that the agency carefully considered and evaluated Advanced's approach. Although the SSEB initially expressed concern with Advanced's proposed method of discharging the radon through the Post Office, these concerns were answered to the satisfaction of the SSEB by Advanced's responses to the discussion questions, and the SSEB considered Advanced's proposed method a viable approach.⁵ For example, in conjunction with its sub-slab ventilation system, Advanced proposed to utilize an existing component of the Courthouse's heating, ventilation, and air conditioning system--namely, the mechanical room exhaust fan--

⁴Advanced's proposal discussed the possibility of venting through the Courthouse roof, as was proposed by Cavalier, but stated that "because of cost alone" it could not recommend this means of disposing of the radon.

⁵While Cavalier contends that Advanced's proposed method of discharging the radon through the Post Office presents possible electrical and fire code problems, compliance with applicable building codes is required by the RFP and there is no indication in Advanced's proposal that it will not comply.

to pressurize the sub-basement to help draw the radon into the sub-slab ventilation system.⁶ There is nothing in the record which supports Cavalier's speculation as to the feasibility of Advanced's approach, and since it is clear that the agency evaluated it in accordance with the evaluation scheme, this speculation is not a basis for taking exception to the award.

The protest is denied.

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⁶Contrary to Cavalier's speculation, Advanced does not propose to add more ventilation air or more air for pressurization. Advanced's proposal is consistent with the RFP which states "that the only remaining solution for mitigating the elevated radon levels is to install a sub-slab ventilation system in the sub-basement in conjunction with positive pressurization of the sub-basement."