



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Cubic Applications, Inc.

File: B-274768; B-274768.2; B-274768.3

Date: January 2, 1997

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Michael A. Gordon, Esq., and Fran Baskin, Esq., Holmes, Schwartz & Gordon, for Logicon RDA, an intervenor.

Nicholas P. Retson, Esq., Thomas J. Duffy, Esq., and Dana B. Current, Esq., Department of the Army, for the agency.

Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Contracting agency properly awarded a contract for simulation support services to the offeror of the higher technically rated, higher evaluated cost proposal where: (1) the request for proposals stated that technical, management, and past performance factors were significantly more important than cost; (2) the agency reasonably evaluated proposals, resulting in the awardee's proposal being rated as equal to or better than the protester's proposal on each and every evaluation factor; and (3) the source selection authority determined that the overall technical superiority of the awardee's proposal justified the additional probable costs over the life of the contract.

DECISION

Cubic Applications, Inc. protests the award of a contract for battle simulation support services to Logicon RDA by the Department of the Army pursuant to request for proposals (RFP) No. DAJA22-95-R-0083. Cubic alleges that the evaluation of proposals and award decision were improper.¹ We deny the protest.

¹In its several submissions to this Office, Cubic raised a host of arguments and myriad examples to support its allegation that the evaluation and award decision were unreasonable and unfair; the Army responded to each argument, justifying its
(continued...)

Issued on October 24, 1995, by the Army's Wiesbaden Regional Contracting Center (WRCC), the RFP requested proposals for technical support services for computer-driven battle simulation exercises to be conducted at various battle simulation centers in the United States Army Europe (USAREUR) and at other locations as directed by the contracting officer. The RFP described the services that would be required as including, among other things, system configuration management, site system administration, and operation and assistance in computer-driven simulation exercises conducted to determine potential outcomes for various warfighting scenarios. The RFP contemplated award of a 1-year requirements contract with options for 3 additional years; required services would be performed upon issuance of delivery orders and payment would be made on a cost-plus-award-fee basis.

The RFP stated that the contract would be awarded to the offeror whose proposal represented the greatest value to the government after evaluation of proposals on three non-cost factors--technical, management, and past performance--and cost. The RFP stated that the technical factor was more important than the management factor and that the management factor was more important than the past performance factor. The RFP stated that technical, management, and past performance factors combined would be considered significantly more important than cost (defined in the RFP as at least two times the value of cost). The RFP indicated that cost would be evaluated for realism and reasonableness and that the agency would adjust costs to determine the most probable cost of each offer.

Only Logicon and Cubic, the incumbent contractor, submitted proposals.² After initial proposals were evaluated and written and oral discussions were held with each offeror, best and final offers (BAFO) were requested. The source selection evaluation board (SSEB) evaluated BAFOs on technical and management factors, and the contracting officer evaluated proposals on past performance. Logicon's proposal received a total score of [deleted] out of a possible 1,000 points on the non cost factors while Cubic's received a total of [deleted] points. Logicon's proposed total cost of approximately [deleted] was adjusted upward to [deleted], and Cubic's proposed total cost of approximately [deleted] was adjusted upward to

¹(...continued)

actions during each phase of the procurement; the awardee responded as well. We have reviewed the entire record, including all evaluation and award decision documents and find no basis for sustaining the protest. However, we will discuss only the most significant arguments in this decision.

² Logicon was USAREUR's original simulation support contractor, having performed the services from 1988 to 1992. Since then, Cubic has been performing the support services for the Army.

approximately [deleted].³ Based upon the technical superiority of the Logicon proposal, the source selection advisory council (SSAC) recommended that the contract be awarded to Logicon even though its evaluated cost was higher than Cubic's. The source selection authority (SSA) agreed and the contract was awarded to Logicon on September 16. After a debriefing conference, Cubic filed its initial protest in our Office.⁴

Basically, Cubic contends that the agency's evaluation of proposals and decision to award the contract to Logicon were erroneous and unsupported by the record and, therefore, the award decision should be overturned.

Our Office will only question an agency's evaluation of proposals if it lacks a reasonable basis or is inconsistent with the stated evaluation criteria for award. DAE Corp., Ltd., B-257185, Sept. 6, 1994, 94-2 CPD ¶ 95. A protester's mere disagreement with the agency over its technical evaluation does not establish that the evaluation was unreasonable. Id. Here, based on our review of the evaluation record (including each evaluator's handwritten notes, consensus reports, and the source selection document), we conclude that the evaluation and the award decision which relied upon the evaluators' recommendation, were reasonable and consistent with the RFP's criteria.

The protester's broadest challenge to the evaluation concerns the fact that the agency made "massive" upward adjustments, amounting to more than a [deleted] increase, to Logicon's proposed costs as part of the cost realism analysis. Cubic points out that, in spite of its drastically underestimated costs, Logicon's proposal received a total of [deleted] out of a possible 800 points on the technical and management factors. Cubic contends that it is impossible to reconcile Logicon's extremely high technical/management scores with the radical cost adjustments that were made to proposed costs, and that the Army should have downgraded Logicon's proposal for the risk inherent in such an unrealistically low-cost proposal.

The agency reports that the SSEB evaluated only the technical and management proposals and was not provided with any cost-related information. Thus, as the SSEB was unaware of the magnitude of the adjustments made to Logicon's proposed costs, the SSEB evaluated any risks associated with Logicon's approach

³The contracting officer and the WRCC financial services branch, with assistance from the Defense Contract Audit Agency, conducted a cost realism analysis of each offer and made upward adjustments to proposed costs to compute most probable costs. All figures in this decision have been rounded off.

⁴Cubic subsequently filed two additional protests; all three protests are resolved in this decision.

solely on the information contained in the technical and management proposals. However, the contracting officer contends that the vast majority of the cost adjustments were not related to Logicon's technical or management approach and, therefore, had little or no impact on any risk associated with Logicon's performing the work.

Our review of the record in light of Cubic's contention reveals nothing that would indicate that the evaluation of Logicon's proposal was unreasonable. Even though the Army added more than [deleted] to Logicon's proposed costs in the cost analysis, the record does not support Cubic's contention that Logicon's outstanding ratings were not warranted or that the agency should have downgraded the proposal because it represented unusually high risk.

The bulk of the adjustments [deleted] made to Logicon's cost proposal represent logistics support costs that might be incurred by any contractor simply because the work will be performed in Europe. Basically, logistics costs are the costs of supporting employees living overseas, including, among other things: home leave, living quarters allowance, cost of living allowance, and dependent schooling.⁵ The Army believed that Cubic's logistics costs estimate, which was much greater than Logicon's, was the more realistic estimate. Because logistics support costs will be incurred regardless of whether Logicon or Cubic performs the work, the Army normalized logistics costs by increasing Logicon's costs up to [deleted]. Similarly, the Army assumed that, as the incumbent contractor, Cubic's cost estimates were more accurate than Logicon's for several other items that would be incurred regardless of which firm performed the work. The Army normalized these cost items by increasing Logicon's estimates up to Cubic's as follows: communications

⁵The amount of logistics support a contractor must provide will be significantly influenced by the number of a contractors' employees that are granted technical expert (TE) status by the German Government. TE status allows an employee to use United States Government facilities, such as commissaries and post exchanges, and entitles the employee to an exemption from German income taxes. In the past, the German Government routinely granted TE status to contractor employees. Recently, however, the agency reports that there are indications that the German Government will be more stringent in examining TE certifications and that TE status will no longer be routinely granted. Thus, at this time, it is difficult to predict what portion of the workforce will be granted TE status and the amount of logistics costs that will be incurred. The Army's cost adjustments assume a worst case scenario in which no employees are granted TE status and, therefore, the logistics costs are at their maximum.

and supplies [deleted], travel [deleted], and demobilization [deleted]. Thus, more than [deleted] of the upward cost adjustments made to Logicon's cost proposal were for normalization of expenses that would be incurred regardless of which firm was awarded the contract.

In our opinion, the Army reasonably did not downgrade Logicon's outstanding technical/management ratings because of the cost adjustments. None of the adjustments was made because the Army believed that Logicon's technical/management approaches were deficient or because the Army believed that there was greater risk that Logicon would not perform well. Logicon had proposed a number of cost-saving measures and pared its staff well below the government's estimate to make a leaner, more efficient organization; the SSEB had evaluated Logicon's cost-saving measures and its staffing and was more than satisfied that Logicon's proposal represented a superior approach in all areas of the evaluation. Nonetheless, the cost evaluators made the above cost adjustments (and an additional increase of slightly more than [deleted] to increase Logicon's staffing to Cubic's level)⁶ in order to normalize the costs of both offerors to represent the highest costs that would be incurred under a worst case scenario.

The protester alleges the agency rated Logicon's proposal too high in the technical evaluation of the simulation knowledge and experience subfactor. Cubic alleges that Logicon's proposal should not have received a [deleted] percent (i.e., [deleted]) rating on this subfactor because Logicon has little familiarity and experience with some of the simulation programs (e.g., Joint Tactical Simulation (JTS)) that will be used under the contract.

We believe that this aspect of the evaluation was reasonable. The RFP stated that proposals would be evaluated on the "offeror's experience in simulation training and for knowledge and understanding of the simulation models as reflected in the response to the Sample Task Orders." The RFP did not specify that an offeror had to have experience with the exact software programs that would be used for simulation exercises under the contract. The record shows that Logicon has extensive simulation experience with simulation models that are related and configured similarly to the models that will be used under the contract. For example, the Army reports that Logicon has extensive experience with the JANUS model, which the RFP specifically stated is configured the same as the JTS model, and that Logicon also has extensive experience with the Joint Conflict Model, the predecessor to JTS. The SSEB was fully satisfied with Logicon's responses to the RFP's sample task orders, stating that Logicon's responses indicated "an extensive and up-to-date knowledge of the simulation models uses in Theater." Thus, since

⁶The record shows that the SSEB specifically considered but rejected the notion of normalizing both offerors' staffing.

Logicon has extensive simulation experience with programs that are similar to those that will be used in performing the contract and its responses to the RFP's sample task orders amply demonstrated that experience to the SSEB, we see no reason to question the agency's evaluation under this subfactor.

The protester complains that the contracting officer's evaluation of past performance was unreasonable because the contracting officer ignored information contained in a contractor performance report criticizing Logicon's performance under a battle simulation support services contract with Fort Lewis. The protester also contends that the contracting officer could not justify giving Cubic and Logicon identical ratings (both firms received [deleted] out of 200 possible points) in view of the fact that Cubic is the incumbent contractor and received no negative comments in the contractor performance reports used by the contracting officer to evaluate past performance.

We think this aspect of the evaluation was also reasonable. The Army is very familiar with the quality of each firm's work and simulation support capabilities because Cubic is the incumbent contractor and Logicon had done the same work for the Army for the 4 preceding years. Additionally, the contracting officer obtained and reviewed a number of contractor performance reports regarding each firm's work under prior contracts with the government. Even though the contractor performance reports included some negative comments about each offeror, for the most part, the reports were overwhelmingly positive regarding each firm's past performance. Regarding Logicon's performance on the Fort Lewis contract, the Fort Lewis contracting officer specifically crossed out the negative comments he had originally made (apparently, Logicon had rebutted the negative information) and the remainder of that contracting officer's remarks were generally positive. For example, the Fort Lewis contracting officer stated that while customer satisfaction varied, it generally ranged from good to excellent; he also stated that the timeliness of Logicon's reports was excellent overall. After considering all of the information in the reports, the contracting officer reasonably concluded that both offerors were excellent, but that neither deserved a perfect score, and that there was no qualitative distinction between the offerors on this factor.

The protester also contends that the SSEB unreasonably downgraded Cubic's proposal when evaluating under the qualifications and training of proposed personnel subfactor because the SSEB expressed concern that Cubic's proposed contract security officer (CSO) might perform duties as a [deleted] in addition to his CSO duties. Cubic asserts that there is nothing in its proposal that can be reasonably interpreted as suggesting that its CSO is anything other than a dedicated, full-time CSO. Cubic also alleges that the evaluation was unfair because Logicon's proposal was not downgraded on this same subfactor even though its proposal specifically indicated that its CSO [deleted].

After evaluating initial proposals, the SSEB expressed concern that Cubic's CSO was not fully qualified for that position and that she would be called upon to perform other duties as well. Both issues were the subject of discussions. The latter concern was raised with Cubic during written discussions when the Army stated: "While the CSO may have other, non-security duties, any other duty assigned the CSO may not degrade his performance as CSO."

In its BAFO, instead of responding to the Army's expressed concern about Cubic's CSO performing non-security functions in addition to CSO duties, Cubic simply substituted another person that it believed was better qualified. While this may have resolved the qualifications matter, the substitution did not resolve the concern that the proposed CSO would perform both security and non-security functions that could degrade his performance as CSO. In fact, the resume of the new proposed CSO showed that he currently is the [deleted]. Since this new CSO had the [deleted] SSEB was concerned that Cubic would use him for additional help [deleted]. Because Cubic was clearly advised of the SSEB's concern that its proposed CSO might be called upon to do non-security duties to the detriment of the CSO function, and because Cubic's BAFO and its substitution of a new CSO did not address the SSEB's concern, the SSEB reasonably downgraded Cubic's proposal on this subfactor.

The SSEB had similar concerns about Logicon's proposed CSO; the evaluators thought that Logicon's proposal was vague as to where the CSO would be located and that the proposal showed that the CSO would be assigned additional duties as [deleted]. After discussions, Logicon's BAFO addressed the SSEB's concerns by showing that its CSO would be located in Germany, by specifically delineating the security duties for which the CSO would be responsible, and by indicating that the [deleted]. In addition, the Army reports that the [deleted] functions to be performed by Logicon's CSO are compatible with the CSO functions because they do not take much time to perform and do not have the urgency of exercise-related duties; thus, the [deleted] functions can be put on the "back burner" until it is convenient for the CSO to perform them. In view of the fact that both offerors were put on notice of the evaluators' concerns about their respective CSOs, and because Logicon carefully addressed the SSEB's concerns regarding security duties and coverage while Cubic did not, we cannot see that the evaluation was unreasonable or unfair.

The protester next argues that the decision to award the contract to Logicon was flawed because the SSAC ignored the SSEB's determination that Logicon's proposal contained a substantial disadvantage in that Logicon proposed to support the Army's tactical simulation (TACSIM) exercises with [deleted]. Cubic contends that the SSAC essentially rewrote Logicon's proposal so that TACSIM exercises would be performed with staff [deleted].

Again, we believe that the evaluation of this aspect of Logicon's proposal was reasonable. The record shows that the SSEB did, in fact, downgrade Logicon's proposal in its evaluation of the staffing subfactor. The SSEB stated that it did not believe that a [deleted] workforce was the most timely or cost-effective option for TACSIM exercise support and downgraded its rating of Logicon's proposal to [deleted] percent because of the perceived disadvantage.⁷

Even though there is no mention of this issue in the SSAC report, the chairman of the SSAC submitted a declaration to our Office in which he stated that the SSAC was fully aware of Logicon's approach to TACSIM support and the SSEB's view that it represented a substantial disadvantage. He further stated that the SSAC considered Logicon's [deleted] approach and discussed it among themselves at some length. Ultimately, the SSAC concluded that this aspect of Logicon's proposal was not a substantial disadvantage because Logicon could decide to [deleted] or USAREUR could insist on Logicon's using [deleted] if Logicon's [deleted] approach did not work well. The record also shows that the Army also increased Logicon's evaluated costs to include the cost of using [deleted] for this function and that Logicon's technical rating was downgraded even though Logicon's [deleted] approach fully satisfied the TACSIM support requirement. Thus, as the record shows, the [deleted] approach was considered a disadvantage, but one that could easily be corrected during contract performance, if necessary. We have no basis to conclude that this view was unreasonable.

The protester contends that its proposal was unreasonably downgraded under the staffing subfactor primarily because the SSEB erroneously concluded that Cubic's proposal did not include sufficient staff hours to allow 24-hour a day coverage for the Corps Battle Simulation (CBS) sample task order. Cubic asserts that its proposal was unfairly criticized because it proposed to use two 12-hour shifts, rather than two 13-hour shifts, as purportedly was needed to ensure overlap during the change over between shifts. Cubic states that its proposed 12-hour shifts do not include time off for employees to eat lunch or take other breaks during the workday, and asserts that the actual length of a 12-hour shift is longer than 12 hours when lunch and other breaks are included. Therefore, Cubic argues that the two 12-hour shifts will, in fact, overlap and the agency's criticism of its proposal was unfair.

It is an offeror's obligation to prepare an adequately written proposal which can be evaluated in accord with the RFP's evaluation scheme. Miltope Corp.; Aydin Corp., B-258554.4 et al., June 6, 1995, 95-1 CPD ¶ 285. Cubic's proposal did not explain

⁷Under the agency's source selection plan, a rating of [deleted] percent indicates that the offer fully satisfies the requirement but with one or more substantial disadvantages.

what was included in its 12-hour shift or how Cubic intended to handle the transition period between shifts so as to provide continuous coverage. In the absence of any explanation in the proposal regarding how Cubic proposed to handle shift changes, we think the SSEB reasonably concluded that there would be no overlap between shifts.

Furthermore, regardless of whether Cubic could provide adequate coverage of the CBS sample task order using 12-hour shifts, we think the evaluators reasonably downgraded the proposal on the staffing subfactor for several other more important reasons. For example, in its BAFO, Cubic reduced [deleted]. In this connection, Cubic's BAFO reduced the [deleted]. While these cuts no doubt were made in response to the agency's statement (during discussions) that [deleted] the fact is that Cubic's BAFO did not explain how Cubic would achieve the reductions without impacting its contract obligations. Also, Cubic's BAFO projected [deleted]. The SSEB believed that a more realistic workload would be 1,840 hours per year (allowing time for federal holidays, vacation, etc.). The protester asserts that it is not at all unusual for its managers, exercise planners, and technical support to work [deleted]; in fact, Cubic asserts that more than one of these employees worked [deleted]. The Army responds that having essential personnel projected to work so many hours reduces Cubic's ability to react to unforeseen and additional work requirements that might arise during the contract period. Under these circumstances, we see no reason why the Army could not reasonably downgrade Cubic's proposal under the staffing subfactor. Cubic's mere disagreement with the Army on this point does not establish that the evaluation was unreasonable. DAE Corp., Ltd, supra.

In view of the fact that the RFP stated that award was to be made on the basis of "greatest value" and that technical/management/past performance factors were at least twice as important as cost, the SSA's decision to award the contract to Logicon was both reasonable and proper. On the technical and management evaluation factors alone, Logicon received a total of [deleted] out of a possible 800 points for a [deleted] rating, while Cubic received a total of [deleted]. In fact, Logicon's proposal was rated better than Cubic's proposal on every evaluation factor/subfactor, except for the contract experience subfactor of the management factor where the offers were rated as equal. On the past performance factor, the firms were rated equal ([deleted] out of 200 possible points). The SSA determined that Logicon's proposal was the best value to the government, stating:

"The overall technical superiority justifies the additional probable costs of approximately [deleted] over the 4-year life of the contract. These costs may not be incurred due to Logicon's significant technical and management efficiencies."

Given Logicon's consistently superior evaluation scores, which resulted in a [deleted] rating versus a [deleted] rating for Cubic on the technical and management factors, the SSA could reasonably decide that Logicon's slightly higher evaluated cost proposal represented the greatest value to the government.

The protest is denied.

Comptroller General
of the United States