



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: MiTech, Inc.

File: B-275078

Date: January 23, 1997

Maria F. Glinsmann, Esq., and Matthew R. Glinsmann, Esq., Glinsmann & Glinsmann, for the protester.

Richard J. Conway, Esq., and William M. Rosen, Esq., Dickstein, Shapiro, Morin & Oshinsky, for Signal Corporation, an intervenor.

Beverly M. Russell, Esq., U.S. Department of Transportation, Federal Highway Administration, for the agency.

Glenn G. Wolcott, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where record provides ample support for the agency's conclusion that awardee's technical proposal was substantially superior to that of the protester, agency reasonably concluded that award should be made on the basis of the technically superior proposal notwithstanding the associated cost premium.

DECISION

MiTech, Inc. protests the award of a contract by the U.S. Department of Transportation, Federal Highway Administration (FHWA), to Signal Corporation under request for proposals No. DTFH61-96-R-00046 for information technology services supporting the FHWA's Office of Information and Management Services. MiTech asserts that the agency failed to properly evaluate various portions of its proposal and performed an unreasonable cost/technical tradeoff.

We deny the protest.

BACKGROUND

On April 26, 1996, the FHWA issued RFP No. DTFH61-96-R-00046 as a competitive section 8(a) set-aside, seeking proposals to provide information technology services supporting the FHWA's Office of Information and Management Services. The RFP required offerors to propose the necessary personnel to perform various services including data communications support, computer applications development and

maintenance, and systems integration and contemplated award of a cost-plus-award-fee for a base period with four 1-year option periods.

Regarding the basis for award, the RFP stated

"The Government will accept the offer that is considered the best value to the Government. The three evaluation factors, Technical, Past Performance, and Cost are considered equal in importance. As competing Offerors approach being essentially equivalent in any of the three areas, the remaining areas will become more important in the selection decision."

Regarding the technical evaluation factor, the RFP established the following subfactors:

"a. Experience. The Government will evaluate each Offeror's experience on the basis of the relevance of that experience to the work to be performed under the prospective contract and on its depth and breadth.

"b. Qualifications of key personnel. The Government will evaluate the qualifications of the Offeror's key personnel on the basis of their formal education; the relevance and relative depth and breadth of their experience; and, on their reputation for honesty, competence, cooperativeness, and effectiveness.

"c. Approach/Management. The Government will evaluate the Offeror's proposed approach and management capability to perform the prospective contract, to include contract and Task Order management, staffing (depth and breadth), and staying abreast of current applicable technology (hardware and software).

"d. Understanding of the Government's requirements and of the nature of the work to be performed. The Government will evaluate the Offeror's understanding of the Government's requirements including transition between contracts, and its relative understanding of the nature of the work to be performed under the prospective contract on the basis of its oral presentation of its responses during the question and answer session."

On or before the June 10 closing date, 10 offerors, including MiTech and Signal, submitted initial proposals. The agency evaluated the proposals, determined that five, including MiTech's and Signal's, were in the competitive range and, subsequently, conducted both written and oral discussions with each competitive

range offeror. In the written discussion questions sent to MiTech, the agency requested that MiTech:

- "1. Elaborate on [deleted].
- "2. Elaborate on [deleted].
- "3. Elaborate on [deleted]
- "4. Elaborate on [deleted]"

Subsequently, best and final offers (BAFOs) were requested and submitted. MiTech's BAFO stated that it was not making any changes to its technical proposal. The agency's evaluation of BAFOs resulted in the following ratings and evaluated prices.

| | <u>Past Performance</u> | <u>Technical Score (80 pts poss)</u> | <u>Price</u> |
|--------|-------------------------|--------------------------------------|--------------|
| MiTech | Excellent | 60.20 | \${deleted} |
| Signal | Excellent | 72.80 | 32,225,360 |

On September 26, the source selection official (SSO) determined that Signal's proposal offered the best value to the government on the basis that its technical superiority, reflected in a score that was roughly 20 percent higher than that of Mitech's proposal, outweighed the associated [deleted] percent price premium. MiTech was notified of the source selection on October 4. This protest followed.

DISCUSSION

MiTech protests that the agency failed to properly evaluate its proposal and, therefore, that the agency did not have a reasonable basis for concluding that Signal's proposal offered the best value to the government. MiTech first challenges the agency's evaluation of its proposal regarding each of the technical subfactors.

For the first subfactor, experience, MiTech's proposal received a score of 15 out of a possible 20 points.¹ The technical evaluation panel identified the following weaknesses: "[deleted]."

MiTech does not dispute the agency's conclusion that it has [deleted]. Similarly, regarding its wide area network experience, MiTech acknowledged that [deleted]. Nonetheless, MiTech protests that it should have received more than 15 of the 20 points possible under this subfactor due to the experience of [deleted], one of its proposed subcontractors. Specifically, MiTech maintains that its proposal "was not given credit for [deleted] experience," and argues that the agency should not have considered MiTech's own limited experience as a basis for downgrading its proposal.

MiTech's assertion that its proposal "was not given credit for [deleted] experience" is directly contrary to the agency's documented basis for scoring MiTech's proposal, quoted above, in which [deleted] experience was expressly recognized and credited. Clearly, it was the agency's favorable consideration of [deleted] experience which formed the basis for awarding MiTech's proposal 15 of a possible 20 points under this subfactor. Further, the agency explains that, in its view, MiTech's own limited experience would negatively affect MiTech's ability to manage its subcontractors, thereby negatively affecting contract performance. We find no basis to question that assessment.

For the second technical subfactor, qualifications of key personnel, the agency again awarded MiTech's proposal 15 out of a possible 20 points. In evaluating this aspect of the proposal, the technical evaluation panel identified the following weaknesses:

"[deleted]."

MiTech's challenge to the agency's evaluation under this subfactor essentially expresses disagreement with the agency's judgment regarding the qualifications of its key personnel, specifically, the [deleted].

In responding to this issue, the agency explains that the [deleted] appeared to be at a senior management level rather than "at a more involved 'hands-on' level." Despite the agency's specific written request during discussions that MiTech "elaborate on [deleted]," MiTech provided virtually no additional information regarding the [deleted].

¹In the technical evaluation report, the scores of each offeror were rounded to the nearest whole point. Due to this rounding, the sum of the scores for each subfactor is slightly different from the total technical score reported by the technical evaluation panel, listed above.

The agency also explains that MiTech's proposal was downgraded under the [deleted]. During oral discussions, MiTech stated, "[u]nfortunately, we don't have any [deleted]." Accordingly, the agency evaluation in this regard is supported by the record, and in its comments responding to the agency report, MiTech does not dispute the agency's conclusion regarding its [deleted].

Under the third technical subfactor, technical approach and management, the agency awarded MiTech's proposal a score of 16 out of a possible 20 points, identifying the following weaknesses: [deleted].

In responding to this protest, the agency referenced the specific portion of the RFP requiring that personnel with these skills be proposed and explained that MiTech's proposal failed to reflect the required expertise. MiTech's comments responding to the agency report did not address this matter; hence, we have no basis to question the agency's reasonably supported assessment.

The agency awarded MiTech's proposal a score of 16 out of a possible 20 points for the fourth technical subfactor, understanding the government's requirements. The agency concluded that MiTech's proposed transition plan demonstrated a failure to clearly comprehend the agency's requirements in that certain activities which MiTech listed in "step 2" of its transition plan should have preceded activities listed in "step 1." For example, in "step 2" of its plan, MiTech listed the activity "establishing FHWA coordination/communication points." The agency explains that this activity should have been one of the very first, preceding various "step 1" activities, and that failure to recognize this reflected a lack of understanding of the agency's requirements.

In responding to the agency report MiTech does not dispute the basis for the agency's criticism of its transition plan, but argues that its inversion of various required activities should have resulted in a smaller reduction in its score for this subfactor.

The evaluation and scoring of proposals is a matter primarily within the discretion of the contracting activity since it is responsible for defining its needs and for determining the best methods of accommodating those needs, and technical evaluators have considerable latitude in assigning ratings which reflect their subjective judgments of a proposal's relative merits. Bunker Ramo Corp., 56 Comp. Gen. 712 (1977), 77-1 CPD ¶ 427; Met-Pro Corp., B-250706.2, Mar. 24, 1993, 93-1 CPD ¶ 263; Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. In reviewing an agency's technical evaluation, we will not rescore proposals but rather will review the agency's evaluation to ensure that it was reasonable and in accordance with the RFP criteria. Abt Assocs., Inc., *supra*. A protester's mere disagreement with the particular point scores awarded to its proposal does not render the evaluation unreasonable. DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36.

We find nothing unreasonable in the agency's determination that MiTech's failure to fully understand the government's requirements, demonstrated by its inversion of various required transition activities, was properly reflected in a score 4 points lower than the maximum 20 points possible. We see nothing inconsistent between the magnitude of the reduction and the agency's determination that MiTech did not fully comprehend the relative priorities of the activities to be performed, and the protester does not provide any factual basis for a conclusion that it should have received a higher score in this area.

Overall, the record here, which includes MiTech's proposal, the evaluation documentation, MiTech's protest, the agency's report, and Mitech's comments on the report, demonstrates that the agency evaluation of MiTech's proposal was reasonable. MiTech's objection to the agency's evaluation constitutes no more than its disagreement with the evaluation results, which does not demonstrate that the agency's technical evaluation was unreasonable. See DBA Sys., Inc., supra; Atmospheric Research Sys., Inc., B-240187, Oct. 26, 1990, 90-2 CPD ¶ 338.

Next, MiTech protests the agency's evaluation of proposals under the past performance evaluation factor. MiTech complains that its proposal should have been rated higher than "excellent,"² arguing that the agency didn't obtain past performance information from all of the references MiTech submitted with its proposal. However, MiTech does not identify any particular reference that provided inaccurate information regarding its past performance.³

We have thoroughly reviewed the record and find no basis to question the agency's evaluation of past performance. Specifically, the RFP advised offerors that, "[t]he Government may use random sampling from the [past performance] references provided and also use any other information obtained by the Government through its own research." Thus, under the terms of the solicitation, the agency was not bound to contact all references submitted by an offeror with its proposal. Moreover, Federal Acquisition Regulation (FAR) § 15.608(a)(2)(ii) provides that "[t]he source and type of past performance information to be included in the evaluation is within the broad discretion of agency acquisition officials and should be tailored to the circumstances of each acquisition."

²In evaluating past performance, the agency used an adjectival rating scheme under which proposals were rated as "marginal," "acceptable," "good," "excellent," or "exceptional."

³MiTech also asserts generally that Signal's past performance rating should have been lower, but has not identified any specific information regarding Signal's past performance on which this allegation is based. To the extent MiTech's protest reflects unsupported speculation regarding the agency's evaluation of Signal's proposal, we do not view the allegation as forming a valid basis for protest.

Here, the record shows that the agency contacted certain references regarding MiTech's and [deleted] past performance, obtaining uniformly positive responses. In addition, the agency considered information from a Dun and Bradstreet report which concluded that MiTech's past performance "meets or exceeds expectations. Overall, Mitech's proposal was rated "excellent" under the past performance evaluation factor. On this record, we find without merit MiTech's assertion that the agency's evaluation was improper. We also note that even if MiTech's proposal had received the highest possible past performance rating ("exceptional"), the record indicates that the source selection decision would not have changed.

Finally, MiTech objects to the reasonableness of the SSO's cost/technical tradeoff decision, asserting that "the large price difference [between the two proposals]" was not reasonably offset by the "relatively small difference under [t]echnical merit."

In choosing between a higher-cost, higher-rated proposal and a lower-cost, lower-rated proposal, agency officials have broad discretion, and our review is limited to a determination of whether the cost/technical tradeoff is reasonable and consistent with the solicitation's evaluation criteria. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; SDA Inc., B-248528.2, Apr. 14, 1993, 93-1 CPD ¶ 320.

Here, we first note the inaccuracy of MiTech's factual characterizations of "the large price difference [between the two proposals]" and "the relatively small difference under [t]echnical merit." As discussed above, Signal's technical score was approximately 20 percent higher than MiTech's, while its price was only about [deleted] percent higher. Further, MiTech's and Signal's proposals were considered essentially equal with respect to past performance and, as noted above, the RFP specifically advised offerors that where proposals were evaluated as being "essentially equivalent in any of the three [evaluation] areas, the remaining areas will become more important in the selection decision." Accordingly, consistent with the RFP direction, the SSO reasonably compared MiTech's and Signal's prices and technical ratings in performing his cost/technical tradeoff. In selecting Signal's proposal for award, the SSO provided ample, documented support for his decision, stating:

"1. Signal's proposal was rated 72.8 points (out of a maximum of 80) or 91.0 % while MiTech's score was 60.2 points or 75.3%, a differential of 20.9 percent."

"2. The superior technical ability of Signal Corporation, as reflected in the technical rating scores and detailed in the attached comparative analysis of strengths and weaknesses, suggests a much higher chance of success in accomplishing the objective of the solicitation.

"3. The difference in cost in the best and final offer of Signal Corporation and MiTech, Inc. is \$[deleted] or approximately [deleted] percent. The cost differential does not outweigh the technical advantage. The lower rates of MiTech proposed reflect less experienced personnel.

"4. Signal has the highest overall average hourly rate. This is supported and justified by the magnitude of their technical score compared to all other offerors.

"5. Signal has the lowest indirect rates of all offerors, which also includes indirect ceiling rates as the proposed rates.

"6. Signal proposed a fee structure that provides the greatest incentive for them to perform.

"7. Signal's price-per-technical-point is \$442,656 while MiTech's is \$[deleted], a differential of \$[deleted] per technical point or [deleted].

"8. Signal proposed the most realistic transition plan."

As these assessments are consistent with and supported by the record, we see no basis to question the reasonableness of the agency's determination that Signal's substantially higher technical rating more than offset MiTech's somewhat lower price.

The protest is denied.

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of the United States