



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Centech Group, Inc.

File: B-278904.4

Date: April 13, 1998

Kenneth A. Martin, Esq., and Jennifer C. Adams, Esq., Martin Rylander, for the protester.

Gena E. Cadieux, Esq., Patricia D. Graham, Esq., and Joseph A. Lenhard, Esq., Department of Energy, for the agency.

Jacqueline Maeder, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where solicitation proposal preparation instructions set forth type size and a clearly defined page limitation for proposals, agency appropriately declined to consider those pages of the protester's proposal which exceeded the specified page limitation.
2. Protest that agency failed to perform proper cost/technical tradeoff is denied where source selection official balanced technical merit and price and reasonably determined that the evaluated technical superiority of the 11 highest technically-rated proposals warranted payment of the cost premium associated with certain of those proposals, and determined not to make an award to the protester whose proposal was ranked 12th of 18 proposals on technical merit and offered the 9th-low cost of the 12 highest technically-ranked proposals.

DECISION

Centech Group, Inc. protests the award of contracts to 11 firms under request for proposals (RFP) No. DE-RP01-97EI30000, issued by the Department of Energy (DOE) for technical services for the Energy Information Administration (EIA).¹ Centech argues that DOE arbitrarily eliminated certain pages of Centech's proposal from consideration and improperly failed to consider price in making the award determinations.

We deny the protest.

¹EIA is an independent statistical and analytical agency within DOE.

DOE issued the RFP, referred to as the EIA Omnibus Procurement (EOP), via the Internet on July 7, 1997. The solicitation, which combined technical services that were currently being performed for EIA under 11 separate support services contracts, sought separate proposals for 3 functional areas/contract line items (CLIN) consisting of information management and product production support services (CLIN 001); energy analysis and forecasting support services (CLIN 002); and information technology (IT) support services (CLIN 003). For each CLIN, the RFP listed a maximum number of direct productive labor hours (DPLH), specifically, 528,984 DPLH for CLIN 001, 183,000 DPLH for CLIN 002, and 412,920 DPLH for CLIN 003. The EOP provided for multiple indefinite-quantity awards with awardees becoming eligible for post-award competition for task orders for a 3-year base period with one 2-year option. Since each contract will have cost reimbursement and fixed-price provisions, task orders will be issued on both a cost-plus-fixed-fee and a fixed-price basis.

Section L.15 of the RFP stated that DOE would "award contracts resulting from this solicitation to the responsible offerors whose offer conforming to the solicitation will be the most advantageous to the Government, cost or price and other factors, specified elsewhere in the solicitation, considered" and advised that DOE intended to award on the basis of initial offers without discussions. Section M-1(B) reiterated that award would be made to the offerors whose conforming proposals were determined to be most advantageous to the government. At section M-3, the RFP identified the following weighted evaluation factors and subfactors:

1. Business management, technical and organizational approach	50
1.1. Business management plan	20
1.2. Technical plan	20
1.3. Organizational Approach	10
2. Past and present experience	20
3. Corporate resource management	20
3.1. Retain labor categories	5
3.2. Additional resources	5
3.3. Staff training and development	5
3.4. Provide automated data processing hardware, software, facilities	5
4. Videotape response/presentation	10
5. Past performance	

Offerors were advised that past performance would be adjectively rated, and that the technical proposal was significantly more important than past performance or cost, and that past performance was also more important than cost.

In submitting a total estimated price, offerors were advised at section L.34(2) to include a fixed-price quotation for 50 percent of the maximum amount of level of effort (LOE) or DPLH for the total 5-year contract term. Section M.4 of the RFP advised offerors that the proposed fixed price for a particular functional area would be doubled and that amount would be used as a ceiling amount, indicating that this amount would provide the basis for the price comparisons of the proposals.

Section L.31 of the RFP contained the proposal preparation instructions for the Technical and Business Management proposal. Section L.31(A)(1) stated that each offeror will provide a Technical and Business Management proposal for each functional area for which an offer is being made and that:

All materials submitted shall be in typeface Times New Roman 12 Point, doubled spaced on 8 1/2 inch by 11 inch white paper with one inch margins all around and printed on one side. The Technical and Business Management Proposal shall not contain more than 150 numbered pages inclusive of the table of contents, charts, exhibits, and any other materials the Offeror deems required for each functional area for which an offer is being made.

On August 1, DOE issued amendment No. 001, which answered questions from offerors concerning the solicitation. Two questions concerning the page limitation were asked:

l.31(A)(1) Volume II - Tech & Bus Mgt Proposal. It is our understanding that the section and subsection tab dividers are not included in the page count. Is this correct?

The answer provided by DOE stated:

No. 'The page limit is a maximum of 150 pages per functional area in its entirety'. The '150 numbered pages [is] inclusive of the table of contents, charts, exhibits, and any other material the Offeror deems required for each functional area for which an offer is being made.'

The second question was whether DOE would "consider excluding the table of contents from the 150 page count?" The agency answered, "No."

Centech was 1 of 18 offerors that submitted proposals on CLIN 003, IT support services, under which the contractors are to provide hardware, software, database, and communications support, including, among other things, strategic planning, design, development and maintenance of EIA databases and applications, hardware, communications and software infrastructure, and life-cycle software development and maintenance support. When DOE counted the pages in each proposal, it determined that Centech's proposal exceeded the 150-page limit by 7 pages. By

letter dated September 18, the TEC returned these 7 pages to Centech, informing the protester that "only the first 150 pages of your Technical and Business Management Proposal will be accepted and forwarded for review and evaluation by the Technical Evaluation Committee." Other proposals which exceeded the page limit were treated in the same manner.

Members of the technical evaluation committee (TEC)² individually evaluated each proposal and, in internal discussions, reached a consensus on the strengths and weaknesses of each proposal and assigned a point score of 0, 2, 5, 8, or 10 to each evaluations criterion.³ Numerical ratings were multiplied by the weight for the factors and the scores for each factor were totaled. A proposal that received scores of 10 on each evaluation factor would receive a maximum point score of 1,000. Past performance was assigned an adjectival rating of "excellent," "good," "fair" or "neutral," "poor," or "unsatisfactory."

The TEC briefed the source selection official (SSO) and, based on the SSO's review of the evaluations, the SSO determined to make award to the 11 companies which submitted the highest technically rated proposals. Centech, whose proposal was 12th-ranked technically, was not awarded a contract. In his selection statement, the SSO noted that "past performance information was received and evaluated, and price proposals were evaluated. These evaluations were considered."

The Centech proposal received a total score of 595, consisting of 370 on business management, technical, and organizational approach; 100 on past and present experience; 75 on corporate research management; and 50 on the videotape presentation. The protester's past performance was rated "excellent" and its proposed cost was 9th low of the top 12 technically-ranked proposals. The relevant technical scores, adjectival ratings for past performance, and evaluated ceiling prices for the awardees' and the protester's proposals were as follows:

²Three separate TECs, one for each CLIN or functional area, evaluated the proposals.

³For example, a score of 5 reflected a proposal which appeared capable of meeting the RFP requirements and had few significant strengths or significant weaknesses. A score of 8 reflected a proposal evidencing very good responses showing a high probability of meeting the RFP's requirements and had significant strengths and few weaknesses.

Offeror	Technical/Business Management Score	Past Performance	Proposed Ceiling Price and Rank
UNISYS	890	good	\$35,159,002 (11)
SAIC	840	good	\$26,818,438 (1)
MSD, Inc.	790	excellent	\$32,905,478 (8)
Allied Tech.	780	excellent	\$44,693,504 (17)
BDM	740	excellent	\$29,864,140 (4)
Abacus Tech.	665	excellent	\$38,224,828 (12)
Comprehensive	665	excellent	\$30,368,668 (5)
Q Systems	650	excellent	\$29,399,704 (2)
Troy Systems	650	excellent	\$32,426,186 (6)
MIL Group	645	excellent	\$30,115,994 (4)
Z, Inc.	645	excellent	\$32,873,024 (7)
Centech	595	excellent	\$34,639,502 (9)

DOE notified Centech that it had not been selected for award and, after a late December debriefing, Centech filed this protest with our Office.

Centech argues that DOE improperly and unreasonably excluded from consideration the five pages from Centech's proposal that exceeded the 150-page limitation. Centech complains that it was unreasonable for DOE to include such things as a cover sheet, blank section dividers, and a table of contents in its page calculation.

Offerors are required to prepare their proposals within the format limitations set out in the solicitation, including the page limits at issue here, and assume the risk that proposal pages beyond the page limits will not be considered because consideration of an offeror's excess proposal pages could give that offeror an unfair competitive advantage. All Star Maintenance, Inc., B-244143, Sept. 26, 1991, 91-2 CPD ¶ 294 at 3-4; Infotec Dev., Inc., B-238980, July 20, 1990, 90-2 CPD ¶ 58 at 4-5.

Here, the RFP clearly provided for a 150-page limit on technical proposals and in response to specific questions concerning the page limit, DOE indicated by amendment that any page that an offeror deemed necessary to include in its proposal would be included in the page count, including the table of contents and tab dividers. Thus, offerors were on notice both of the 150-page limitation and that any and all pages, including coversheets, dividers, and table of contents pages would be considered in the page calculation. Centech's proposal clearly failed to comply with the solicitation format requirements. Centech did not protest the page limits of the RFP, but chose to exceed the proposal page limitation set forth in the RFP, thereby assuming the risk that excess pages in its proposal would be rejected for noncompliance with the page limits. Infotec Dev., Inc., supra, at 4. Under these circumstances, the agency reasonably computed the 150 pages and properly declined to consider the portions of Centech's proposal that exceeded the stated limits. All Star Maintenance, Inc., supra, at 3-4.

Centech argues that DOE did not perform a proper cost/technical tradeoff, noting that the agency's report on the protest contains no cost evaluation report and no record of a cost/technical tradeoff performed prior to award. The protester argues that, in making its award decision, DOE relied exclusively on the technical ratings given to the offerors and failed to consider price. The protester contends that DOE merely "ranked each offeror in descending order of technical strength of proposals," and based its evaluation and award determination only on technical and past performance factors. Centech contends that "DOE has provided absolutely no support for its broad and blanket assertion that it evaluated price" and argues that the agency's "blanket statement that it considered cost and cost had no impact on the selection decision, without more, is not [a] sufficient review of price."

The agency's position is that its cost/technical tradeoff was proper and that "[t]he record of this procurement makes clear that cost was considered." Specifically, the agency points out that appropriate cost information, consisting primarily of the proposed ceiling prices for each offeror, was given to the SSO and that the source selection statement expressly states, as noted above, that cost was considered and that the relative prices proposed by the offerors for CLIN 003 did not alter the overall ranking of the awardees. In response to Centech's argument that the agency merely ranked the firms according to technical merit and selected the highest technically-ranked firms for award, the agency notes that the Rating Plan called for each TEC to list offerors in order of their technical scores and, given the relative weights of the evaluation factors, argues that it was "rational" for the SSO to select the highest technically-ranked proposals in the circumstances presented here. DOE points out that Centech's proposed ceiling price of \$34.6 million was higher than all but three of the awardees' ceiling prices and its technical score was lower than all of them. Centech's technical score was 70 points lower than the technical score received by Abacus--which was the lowest technically-scored awardee that was higher priced than Centech.

DOE also argues that there is no technical/past performance/cost relative weighting that is consistent with the solicitation evaluation scheme in which cost was significantly less important than technical, and also less important than past performance, which would call for award to Centech. To demonstrate this, in response to the protest, DOE normalized the scores for the technical and cost factors and found, for example, that if technical were weighted 50 percent, past performance were weighted 30 percent and cost were weighted 20 percent, Centech's technical score would be 33.43 and its cost score would be 15.48, for a total of 48.91. In comparison, Abacus, the lowest technically scored awardee, would score 37.36 for the technical and 14.03 for cost, for a total of 51.39. Centech's total score would be less than any of the awardees' scores.

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Grey Advertising, Inc., 55 Comp. Gen. 1111, 1120, (1976),

76-1 CPD ¶ 325 at 12; Mevatec Corp., B-260419, May 26, 1995, 95-2 CPD ¶ 33 at 3. In exercising that discretion, they are subject only to the tests of rationality and consistency with the established evaluation criteria. Mevatec Corp., supra, at 3. As a general rule, however, agencies are required by the Competition in Contracting Act of 1984 (CICA) to include cost or price as a significant factor in the evaluation of proposals. 41 U.S.C. § 253a(b)(1)(A) (1994); Federal Acquisition Regulation § 15.605(b)(1)(i) (June 1997).

The record provide no basis for concluding that cost was not considered in making the awards or that the cost/technical tradeoff was unreasonable. The SSO expressly stated in his source selection statement that DOE considered price in its cost/technical tradeoff. Our Office conducted a telephonic hearing at which the SSO testified concerning DOE's cost/technical tradeoff. The SSO stated that he received extensive oral and written reports from the TEC presenting and explaining the evaluation and the award recommendations, and that he questioned the evaluation team members concerning the evaluations. He focused on the technical ranking form, which ranked offerors by technical scores and listed their size status, past performance ratings, and proposed costs. The SSO stated that, while he did not use statistics or perform precise calculations in comparing the offerors' technical scores and costs, he did balance the major factors in making his decision. Specifically, he first looked for "break points" in technical scores and examined ceiling prices to ensure that awards would be made to firms which provided a technical advantage at a reasonable cost. While no written cost evaluation report was prepared,⁴ the SSO stated that he looked at the ceiling prices of each offeror to see if a firm that was not an obvious candidate for award had a particularly attractive price. He said that the proposals from firms "on the margin," such as Centech, did not offer especially low prices. He stated that Centech was not selected for award because of the natural break in technical scores between it and the awardees and because its price was not particularly attractive. Specifically, the SSO noted that, while Centech proposed fairly average costs, Centech was not attractive because the five firms ranked immediately above it on technical merit proposed lower costs.

⁴Centech's argument that DOE's failure to prepare a cost evaluation report is a fatal flaw in the cost/technical tradeoff is without merit where, as here, the requirement for the report was not an RFP requirement but rather is simply listed in DOE's Rating Plan. The Rating Plan is the agency's own internal source selection document which addresses source selection procedures. Source selection plans are internal agency instructions and, as such, do not give outside parties any rights. Eccles Assocs., Inc.: Deloitte Touche Tohmatsu ILA Group Ltd., B-260486.6, B-260486.7, Oct. 17, 1995, 95-2 CPD ¶ 179 at 7. It is the evaluation scheme in the RFP, not internal documents, to which the agency is required to adhere in evaluating proposals and in making the source selection. Id.

We also note that, using the same normalization technique as DOE, we calculated technical and price scores for Centech and Abacus using different weights for the technical and cost factors which were consistent with the RFP criteria weighting provision. The agency is correct that no reasonable combination of weights consistent with the evaluation criteria alters the protester's ranking vis-à-vis Abacus (or any other awardee).⁵ While point scores are to be used merely as guides in decision making, this analysis does support the propriety of the selection decision. In our view, the source selection determination reflects an appropriate comparison of the competing proposals, balancing technical merit and costs. Under these circumstances, and given that technical factors were more important than price, we see no basis to object to the award selection.⁶

Accordingly, the protest is denied.

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⁵For example, if technical merit were weighted 45 percent of the evaluation and price were weighted 25 percent, Centech's total score would be 49.44 and Abacus's total score would be 51.16.

⁶Centech also argues that DOE failed to make an award to an 8(a) small business "as required" by the solicitation. While the agency argues that the protester has misinterpreted the RFP, which does not require such an award, we need not resolve this disagreement because the record shows that 3 of the 11 awards were to 8(a) small businesses.