

DECISION



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

FILE: B-209359

DATE: May 16, 1983

MATTER OF: Joint Action in Community Service, Inc.

DIGEST:

1. A protest of the technical evaluation of proposals and contract award to an offeror proposing a higher cost than the protester's is denied where the contracting agency's determinations have not been shown to be unreasonable or inconsistent with the evaluation criteria contained in the solicitation.
2. Evaluators' consideration of an offeror's unique approach to satisfying solicitation requirements does not demonstrate that criteria other than those set forth in the RFP have been applied.

Joint Action in Community Service, Inc. (JACS) protests the Department of Labor's award of a contract to NERO and Associates under request for proposals (RFP) No. JC-RX-82-03 for Job Corps recruitment, screening and placement services. We deny the protest.

JACS argues that the contract award was not consistent with the evaluation criteria contained in the solicitation. JACS notes that it submitted the lowest priced offer and asserts that it is better qualified than NERO because it has experience in the region where the services are to be performed but NERO does not.

The RFP provided that proposals would be evaluated on the following basis:

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|---|----------------|
| 1. Design of Program (Including start-up) | 0 to 10 Points |
| 2. Counseling | 0 to 15 Points |
| 3. Corpsmember Support | 0 to 20 Points |

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4. Administration	0 to 10 Points
5. Knowledge of Community Resources	0 to 15 Points
6. Past Effectiveness	0 to 10 Points
7. Quality of Staff	0 to 10 Points
8. Price Advantage	0 to 10 Points

JACS' best and final offer received a total score of 67.8 points--57.8 for the technical factors and 10 for price. NERO, whose proposal was second low in price, received a total score of 85.1--75.60 for technical and 9.5 for price. Two other firms submitted higher priced best and final offers; they received total scores of 73.8 and 70.5.

With respect to JACS' argument concerning its low offer, we point out that the award of a negotiated contract need not be made to the offeror proposing the lowest cost unless the solicitation so indicates. A.B. Dick Company, B-207194.2, November 29, 1982, 82-2 CPD 478. Here the solicitation clearly indicated that price was worth only 10 points out of a possible total of 100 points. Therefore, the fact that JACS submitted the lowest priced offer did not entitle it to contract award. Id. We therefore find no merit to the argument.

In reviewing protests against alleged improper evaluations, our Office will not substitute its judgment for that of the evaluation panel, which has considerable discretion. Quest Research Corporation, B-203167, December 10, 1981, 81-2 CPD 456. Thus, we will not conduct independent technical evaluations of proposals or make independent judgments concerning the numerical scores which should have been assigned to various proposals. Blurton, Banks & Associates, Inc., B-206429, September 20, 1982, 82-2 CPD 238. Rather, we limit our review to an examination of whether the evaluation was reasonable and in accordance with the evaluation criteria listed in the RFP. Id.

In this case, we have reviewed the proposals of both JACS and NERO, as well as the evaluation sheets for each.

We cannot conclude that the point scores awarded were either unreasonable or based on criteria other than those listed in the solicitation.

Although JACS believes it should have received a higher score than NERO because of its "region wide" experience, nothing in the RFP required that an offeror have prior experience in the region where the services are to be performed. Nor was such experience listed as a specific factor to be considered in proposal evaluation. Therefore, we find no merit to JACS' allegation in this regard.

JACS also alleges that during an oral debriefing, Labor identified deficiencies in its proposal which were unrelated to the evaluation criteria listed in the RFP. Our review of the rating sheets used in evaluating JACS' proposal, however, shows that the evaluation was consistent with the listed criteria.

The only specific example cited by JACS of the alleged deviations from the listed criteria is that it was told it had been penalized for not having a toll-free "800" phone line. The rating sheets and accompanying narrative contain no evidence that JACS was penalized for this.

The record does show that NERO proposed to install such a phone line and that some of the evaluators noted this favorably under the "Program Design" evaluation criterion. Thus, it was one aspect of NERO's proposal which, in the evaluators' judgment, made it superior to JACS' proposal. This, however, does not demonstrate that the evaluators applied criteria which were not included in the RFP.

In a negotiated procurement, offerors inevitably will have different approaches to meeting the solicitation's requirements, and evaluators necessarily must consider the unique aspects of each proposal in applying the stated evaluation criteria. Here, the "800" phone line was part of NERO's proposed approach to satisfying the solicitation requirements, and as such, was an appropriate matter for consideration in evaluating NERO's proposal.

In addition, it is clear from the record that the "800" phone line was simply one of many factors which contributed to the difference of nearly 20 points between JACS' and

NERO's overall technical scores. It is apparent that the evaluators judged NERO's overall technical proposal as superior to JACS', and concluded that JACS' lower price did not outweigh NERO's technical advantage. While JACS does not agree with this determination, we find nothing to suggest that it was anything other than the reasonable judgment of the evaluation panel, arrived at in accordance with the established evaluation criteria.

The protest is denied.

for Milton J. Fowler
Comptroller General
of the United States