

DECISION

referred to
PL 2

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

26575

FILE: B-212147

DATE: October 24, 1983

MATTER OF: E.S.E., Inc.

DIGEST:

1. Award of negotiated contract to higher technically rated, higher priced offeror is unobjectionable where result is consistent with evaluation criteria stated in request for proposals under which the procuring agency determined that the awardee offered the lowest dollars to quality point ratio and technical evaluation of proposals had a reasonable basis.
2. Protester's unsubstantiated allegations that the conduct of the procurement was unusual or objectionable do not meet the protester's burden of affirmatively proving its case.

E.S.E., Inc. (E.S.E.), protests the award of a contract to Burns & Roe Construction Group, Inc./Danac, Inc. (Burns), for the design and construction of 100 turnkey units of family housing at Guantanamo Bay, under request for proposals (RFP) No. N62470-81-R-1212, issued by the Navy. E.S.E. asserts that it submitted the low offer of \$6,486,000, that the Navy technical evaluation may be erroneous, and that the procurement was conducted in an unusual manner and the Navy may have enhanced Burns' design during the course of the negotiations.

We find the protest without merit.

With respect to E.S.E.'s allegation that it should have been awarded the contract because it submitted the lowest price offer, the RFP expressly stated that award would be made to the firm which offered the lowest dollars to quality point ratio determined by dividing the offered price by the technical points assigned during the evaluation and selection procedure. In general, the award of a negotiated contract need not be made to the offeror proposing the lowest price unless the solicitation so indicates.

026984
132661

Joint Action in Community Service, Inc., B-209359, May 16, 1983, 83-1 CPD 510. Here, Burns' proposal was awarded 539 technical points at a total price of \$8,550,000 for the lowest dollars per quality point score of \$15,862.71. E.S.E.'s proposal received 290 technical points at a total price of \$6,486,000 for a dollars per quality point score of \$22,365.52. Thus, award to Burns was consistent with the stated evaluation formula.

Concerning the allegation that the evaluation was in error, we point out that we do not independently determine the relative merits of proposals since the evaluation of proposals is the function of the procuring agency. We will not question an agency's technical evaluation unless it is shown that the agency's judgment lacked a reasonable basis or the evaluation did not comport with the evaluation criteria established in the RFP. SETAC, Inc., B-209485, July 25, 1983, 83-2 CPD 121.

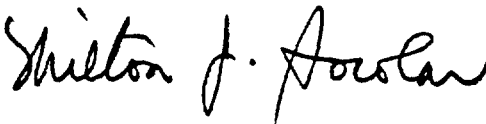
We have reviewed the evaluation of proposals and the narrative description of each proposal. Some of the shortcomings in E.S.E.'s proposal were that unit sizes were near the minimum net area requirements, it offered monotonous roof lines, poor entrance definition and minimum size patios, and the functional arrangement of some units appeared disjointed and inefficient. Also, the site design was characterized as having parking bays which were less than desirable due to tightness of space and deadend circulation patterns, walks were not designed to provide access to bus stops or tot lots and no tot lot equipment was specified.

The evaluation noted that Burns' proposal offered seven tot lots with good quality equipment, the best recreational facilities of any proposal and a good walkway system. The building design was near the maximum allowable net area, featured a good variety of roof lines and good entrance definition. Vehicle parking was the most acceptable of any proposal and large covered patios were offered. The unit floor plan was the most functional of all proposals and the solar system and air-conditioning distribution design were also the best.

Based on our review of the evaluation, we find there was a reasonable basis for the points awarded to each proposal and find the evaluation to be unobjectionable.

With regard to E.S.E.'s allegation that the Navy somehow may have enhanced Burns' design proposal during the course of negotiations, E.S.E. offers no evidence in support of this allegation and merely offers a blanket statement that the negotiations were conducted in what it characterizes as an unusual manner. However, the protester has the burden of affirmatively proving its case. Contact International, Inc., B-207602, May 31, 1983, 83-1 CPD 573. The protester's mere allegations that the conduct of the procurement was unusual, or that it believes that the agency may have enhanced the awardee's technical proposal, without offering any substantive evidence, constitute unsupported self-serving statements which are insufficient to meet this burden. CRC Systems, Inc., B-207847, May 2, 1983, 83-1 CPD 462; Gas Turbine Corporation, B-210411, May 25, 1983, 83-1 CPD 566.

We deny the protest.

for 
Comptroller General
of the United States