



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pelavin Associates, Inc.
File: B-222556
Date: July 24, 1986

DIGEST

1. Protest that award should not have been made to offeror whose proposal was 22 percent higher technically rated and 10 percent higher in cost than protester's proposal, where RFP advised that technical considerations were of paramount importance, is denied where selection had a rational basis.
2. No requirement exists that all evaluators of original proposals must evaluate revised proposals.

DECISION

Pelavin Associates, Inc. (Pelavin), protests the award of contract to Decision Resources Corporation (DRC) under request for proposals (RFP) No. 86-017 issued by the Department of Education (DOE). The RFP solicited data analysis and technical support services for special issue and analysis studies and contemplated a requirements-type contract with fixed hourly rates for an initial 1-year base period and two 1-year options.

Offerors were required to submit separate technical and cost proposals. The RFP contained the following four technical evaluation criteria worth a total of 100 points:

| | |
|-------------------------------|-----------|
| Quality of technical approach | 30 points |
| Qualification of staff | 30 points |
| Quality of management plans | 20 points |
| Institutional capacity | 20 points |

The RFP advised offerors that while award would be made to the offeror whose proposal represents the combination of technical merit and cost most favorable to the government, technical proposals "will be of paramount importance" in the evaluation.

Pelavin, the lowest technically ranked/lowest priced offeror, protests that DOE failed to properly consider cost in the award decision and, if a proper balancing of cost and technical factors had been done, Pelavin should have received the award. Additionally, Pelavin argues that revised proposals were not reevaluated by the entire evaluation panel.

Three of the four firms which submitted proposals in response to the RFP, DRC, American Institute for Research (AIR) and Pelavin, were found to be within the competitive range. After both technical and price negotiations, these three offerors submitted the following best and final offers:

| | <u>Technical Scores</u> | <u>Prices</u> |
|---------|-------------------------|---------------|
| DRC | 91.75 | \$2,011,004 |
| AIR | 81.0 | 2,857,409 |
| Pelavin | 74.75 | 1,801,618 |

The source selection official made award to DRC. The agency explains that while DRC was the second lowest priced offeror, award was made to the firm on the basis of its technical superiority. All technical evaluation panel members rated DRC consistently higher than any other offeror under each of the above-listed evaluation criteria. The panel found that DRC's staff qualification was superior to other offerors' staff qualifications and that the firm's familiarity with the agency's data base centers, strong analysis and writing skills, superb graphic capabilities and very good understanding of the agency's needs justified award to DRC at the higher cost.

Further, DOE states that complete cost analyses were conducted on all aspects of the offerors cost estimates and DRC's best and final offer was found to be reasonable based on comparing the firm's rates with rates currently being paid by DOE for similar services. Further, DRC's cost estimate was below the government estimate for these services. Thus, the agency maintains that there is no merit to the protester's argument that the agency failed to consider or evaluate cost proposals.

In a negotiated procurement, the government is not required to make award to the firm offering the lowest cost unless the RFP specified that cost will be the determinative factor. The Communications Network, B-215902, Dec. 3, 1984, 84-2 C.P.D. ¶ 609. We have upheld awards to higher rated offerors with significantly higher proposed costs where it was determined that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. Stewart & Stevenson Services, Inc., B-213949, Sept. 10, 1984, 84-2 C.P.D. ¶ 268. The procuring agency has the discretion to select a more highly rated technical proposal if doing so is in the government's best interests and is consistent with the evaluation scheme set forth in the solicitation. Haworth, Inc., B-215638.2, Oct. 24, 1984, 84-2 C.P.D. ¶ 461.

Our review of the record reveals that the agency's award decision comported with the solicitation evaluation scheme. It is clear that the contracting officer considered the cost proposals, including the cost analysis, in arriving at the award decision. The recommendation for award memo, which formed the basis for the selection, contained both technical scores and best and final cost figures for all three offerors, including the ranking of offerors from both a technical and cost standpoint. The contracting officer selected a proposal that was rated 22 percent higher technically at a 10-percent cost premium. We find such action to be rationally based, especially where the RFP made clear that technical considerations were of paramount importance. Further, Pelavin's contention that cost was not properly considered because the evaluation panel only considered the technical proposals is without merit since we know of no requirement that the evaluation panel consider both technical and cost proposals. While Pelavin argues that the proposals were technically equal based on a statement in the recommendation for award that any of the three offerors in the competitive range could perform the contract, we do not consider such a statement to mean the proposals were technically equal, especially in view of the point score difference, with Pelavin rated third technically.

Finally, concerning Pelavin's allegation that the revised proposals were not reevaluated by the entire original evaluation panel, there is no requirement that the entire panel be reconvened to consider revised proposals. Roy F. Weston, Inc., B-197866, B-197949, May 14, 1980, 80-1 C.P.D. ¶ 340.

The protest is denied.

for Raymond E. [Signature]
Harry R. Van Cleave
General Counsel