

Moorehouse



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Barron Builders and Management Company

File: B-225803

Date: June 30, 1987

DIGEST

As a general rule, an agency's source selection officials are afforded broad discretion in determining the successful offeror under a negotiated procurement, as long as the selection decision made is rationally based and consistent with the established evaluation criteria in the solicitation, and hence selection officials are bound neither by the technical scores assigned to the various proposals during evaluation nor by the recommendations of the technical evaluators.

DECISION

Barron Builders and Management Company protests the award of a contract to National Property Services/Steven W. Barrick & Associates, a joint venture (National Properties/Barrick), under request for proposals (RFP) No. 788-86-114, issued by the Department of Housing and Urban Development (HUD). The procurement is for services to manage HUD-acquired multifamily housing projects. Barron principally complains that the selection of National Properties/Barrick for the award was irrational and inconsistent with the evaluation and source selection scheme set forth in the RFP.

We deny the protest.

BACKGROUND

The RFP was issued on June 16, 1986, seeking proposals to furnish fixed-price management services for HUD-acquired multifamily housing projects within 150 miles of metropolitan Houston, Texas. The RFP provided that technical and management aspects of the proposals were more important than price, but that price, although secondary, would be considered in selecting the "most advantageous" proposal.

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The technical and management factors enumerated in the RFP, as well as their maximum point values assigned for evaluation purposes (which were disclosed to the offerors), are summarized as follows:

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|---|-----------|
| 1. Repair Program Management | 10 points |
| 2. Demonstrated Understanding of HUD Procedures | 25 points |
| 3. Ability to Deal with Particular Project Conditions | 20 points |
| 4. Management Plan | 10 points |
| 5. Management Capability | 20 points |
| 6. Experience | 10 points |
| 7. Key Personnel | 5 points |

The RFP contained the following "suggested format" by which offerors were to express their proposed price for the services in terms of a monthly management fee:

"PRICING (Subject to negotiation)
The monthly management fee shall be completed as follows: (a) When the total number of occupied plus vacant units under the contract is:

0-100	\$	per occupied unit per month
0-150	\$	per occupied unit per month
0-200	\$	per occupied unit per month
0-300	\$	per occupied unit per month
0-400	\$	per occupied unit per month
0-500	\$	per occupied unit per month
0-750	\$	per occupied unit per month
750 and over	\$	per occupied unit per month

(b) For vacant units the following charges will prevail regardless of the total number of units (occupied and vacant):

0-100	\$	per vacant unit per month
0-200	\$	per vacant unit per month
0-300	\$	per vacant unit per month
0-400	\$	per vacant unit per month
0-500	\$	per vacant unit per month
0-750	\$	per vacant unit per month
750 and over	\$	per vacant unit per month"

HUD received 12 proposals in response to the RFP, and the proposals were then evaluated by a Source Evaluation Board (SEB) convened for the purpose. The proposals of Barron and National Properties/Barrick received the highest combined technical and management scores, with 95 and 91 total points out of a maximum possible 100 points, respectively. The SEB perceived no weaknesses existing in either proposal.

Five other proposals were also determined to be in the competitive range, with point scores ranging from 89 to 80. Oral discussions were then held with all seven firms and best and final offers (BAFOs) were requested. The point scoring between the proposals of Barron and National Properties/Barrick remained unchanged after the SEB's evaluation of the BAFOs.

In terms of proposed prices for the work, National Properties/Barrick essentially offered in its BAFO a "flat-rate" monthly management fee of \$16.00 for each occupied unit and \$14.00 per vacant unit, regardless of the total number of units to be managed. Barron's BAFO price more closely followed the format suggested in the RFP with a monthly management fee for occupied units ranging from \$21.50 to \$14.50, depending upon the total number of units to be managed, and monthly management fees for vacant units ranging from \$17.50 to \$12.50, depending upon the number of vacant units involved. The SEB determined that National Properties/Barrick's "flat-rate" management fee approach would result in a lower overall cost to the government than Barron's variable fee structure.^{1/}

Nevertheless, the SEB concluded that the price differential between the two offers "is insignificant in comparison with the difference in each [technical/management] rating." Accordingly, because Barron's proposal had obtained the highest competitive ranking in terms of technical and management factors, the SEB recommended to the source selection official for the procurement that Barron be selected for final contract negotiations.

However, the source selection official declined to adopt the SEB's recommendation. Although he found that both the Barron and National Properties/Barrick proposals were

^{1/}The record is not specific as to the calculations the SEB used in making this determination. However, we find the Barron's average monthly charges for occupied and vacant units are, respectively, \$17.13 and \$14.11.

"excellent," he also determined from his review of the offers that the National Properties/Barrick proposal "is technically superior in terms of overall management capability, and management experience, including experience of key personnel." The source selection official also noted that the SEB had found National Properties/Barrick's proposal to be lower in overall cost to the government. The source selection official then specifically determined:

"[A]ssuming an average of approximately 500 units in the inventory at a time, with 75 percent occupied and 25 percent vacant, National Properties/Barrick still offers the lowest cost to the government."

The official selected National Properties/Barrick for the award and directed the contracting officer to execute a contract with the firm. Barron's protest to this Office follows HUD's denial of an earlier agency-level protest against that award.

PROTEST AND ANALYSIS

Barron's essential ground of protest is the assertion that its proposal was technically superior to National Properties/Barrick's, and given that the SEB had in fact evaluated it as superior and recommended the firm's selection, the source selection official's decision to select National Properties/Barrick instead was unreasonable and at odds with the RFP's established criteria.

It is well settled that, in a negotiated procurement, a source selection official has broad discretion in determining the manner and extent to which he will make use of the technical and cost/price evaluation results obtained. DLI Engineering Corp., B-218335, June 28, 1985, 85-1 CPD ¶ 742, aff'd on reconsideration, B-218335.2 et al., Oct. 28, 1985, 85-2 CPD ¶ 468; Stewart & Stevenson Services, Inc., B-213949, Sept. 10, 1984, 84-2 CPD ¶ 268. Hence, this Office will defer to the source selection official's judgment as long as the selection decision made was rationally based and consistent with the solicitation's established evaluation factors. L&E Assocs. Inc., B-224448, Nov. 17, 1986, 86-2 CPD ¶ 568; Consolidated Group, B-220050, Jan. 9, 1986, 86-1 CPD ¶ 21.

The various scores assigned to competing proposals during a traditional numerical scoring evaluation process, as here, reflect good-faith judgments by the agency's technical evaluators as to the demonstrated merits of those proposals. See RCA Service Co., B-219406.2, Sept. 10, 1986, 86-2 CPD

¶ 278. At the same time, given their wide discretion, selection officials are bound neither by those technical scores nor by the source selection recommendations of the technical evaluators. Grey Advertising Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; Polaris, Inc., B-220066, Dec. 16, 1985, 85-2 CPD ¶ 669. The reason is that the source selection official is responsible to determine if, in fact, technical point advantages are worth the cost that might be associated with a higher-scored proposal. SETAC, Inc., 62 Comp. Gen. 577 (1983), 83-2 CPD ¶ 121. Thus, whether a given point spread between two competing proposals resulting from a technical evaluation indicates an actual superiority of one proposal over another is a decision for the selection official which depends upon the facts and circumstances of each case. RCA Service Co., B-208871, Aug. 22, 1983, 83-2 CPD ¶ 221.

However, despite the broad discretion afforded to selection officials, this Office has declined to endorse a source selection decision where the selection official has failed to justify the decision adequately or where it is otherwise unsupported by the evaluation record. See NUS Corp. et al., B-221863 et al., June 20, 1986, 86-1 CPD ¶ 574, aff'd on reconsideration, B-221863.3, Sept. 29, 1986, 86-2 CPD ¶ 364.

Here, the source selection official found that National Properties/Barrick's proposal was superior to Barron's in terms of factors such as overall management capability and experience, including key personnel experience. For example, in the area of management capability, the SEB rated both proposals as equal, giving each 18 out of a possible 20 points. The source selection official, however, found National Properties/Barrick slightly stronger because of the experience of its top officials and its size and his concomitant belief that the firm had better organizational structure and capability to manage a large number of units. He accordingly lowered the Barron rating in this area by one point. The source selection official also believed that National Properties/Barrick had better corporate experience because of its key personnel. He found that National Properties/Barrick's two top officials had 18 and 14 years experience, where Barron had only 14. He accordingly lowered Barron's 10 point score to 9, and increased National Properties/Barrick from 8 to 10. The experience of National Properties/Barrick's same top personnel caused the source selection official to lower Barron's rating in the area of key personnel by one point. The source selection official's rescoring resulted in a score of 95 for National Properties/Barrick versus the 91 awarded by the SEB and 92 for Barron (95 was awarded by the SEB).

We find the source selection official's justification of the scores to be reasonable. This official obviously viewed the experience of National Properties/Barrick's top officials as a significant element with respect to management capability, corporate experience, and key personnel, and the change in scores reflected his view. We see nothing unreasonable or irrational in this approach, which clearly was within the selection official's discretion. See Bank Street College of Education, 63 Comp. Gen. 393 (1984), 84-1 CPD ¶ 607. Moreover, we note that both the source selection official and the SEB found National Properties/Barrick to be somewhat lower in cost. We therefore have no basis to object to the selection decision.

The protest is denied.

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Harry R. Van Cleve
General Counsel