The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Meridian Corporation

File: B-228468

Date: February 3, 1988

DIGEST

1. An agency officer may properly decide in favor of technically lower rated proposal in order to take advantage of its lower cost, notwithstanding evaluation scheme in which cost was the least important evaluation criterion but must supply a reasonable justification for such a decision.

2. Competition in Contracting Act of 1984 prohibits contracting agencies conducting a negotiated procurement from making an award on the basis of initial proposals without discussions to other than the "lowest overall cost" offeror where there would be at least one lower-priced proposal within the competitive range.

DECISION

Meridian Corporation (Meridian) protests the award of a contract to Reynolds, Smith and Hills (RSH) under request for proposals (RFP) No. DAAC69-87-R-0125 issued by the New Cumberland Army Depot (NCAD). The RFP sought proposals for developing and conducting energy awareness seminars at Army installations within and outside the continental United States. Meridian complains that NCAD made an award that was inconsistent with the evaluation and source selection scheme set forth in the RFP.

We sustain the protest.

On July 29, 1987, NCAD issued the instant RFP, which provided for award to the contractor receiving the highest combined ranking in four areas. Management approach, technical approach and experience received equal importance while cost had one-third the importance of the other areas for a 30-30-30-10 ratio. The solicitation also contained the Federal Acquisition Regulation (FAR), § 52.215-16 (1987), Contract Award clause, providing that award would be made to the responsible offeror whose offer conforming to the solicitation would be most advantageous to the government, cost or price considered along with the other factors specified in the solicitation.

NCAD received 8 proposals in response to the RFP. Three offerors were determined to be within the competitive range with the following evaluation results:

Firm	Technical Score	Price
Meridian	84	$1,138,298
RSH	77.5	851,912
Hansen Assocs.	72	810,089

NCAD was uncertain how to evaluate price under these circumstances and referred the award decision to its higher command, the U.S. Army Depot System Command (DESCOM), which had retained the authority to review proposed awards exceeding $1 million dollars at depots including New Cumberland.

DESCOM advised NCAD to perform a value analysis, to identify areas of apparent superiority in Meridian's proposal and to decide whether that superiority was worth the price differential between Meridian and RSH. Accordingly, NCAD asked the requiring activity to conduct such an analysis. This analysis generated a determination that noted Meridian's excellence in its technical and management approach but concluded that the cost differential between Meridian's proposal and the other proposals could not be justified. To support this conclusion the agency noted that Meridian proposed to spend 38 hours on contract line item number (CLIN) 0002.1, 2-day visit in preparation for a seminar, and 50 hours on CLIN 0002.2, 4 day visit in preparation for a seminar. The agency believed that neither CLIN required more than 16 hours of effort. Additionally, the agency found that Meridian was paying its team leader more per hour than other offerors seemed to be paying their team leaders. The requiring activity therefore requested that award be made to RSH inasmuch as their proposal met the "minimum needs" of the government. The record further shows that the agency did not point score cost. Rather, the agency concluded that Meridian's technically superior proposal did not justify its higher cost. Thus, the selection of RSH was based on a cost/technical tradeoff by the agency which awarded the contract to that firm. This protest followed.

Initially, we point our that selection officials have the discretion to make cost/technical tradeoffs and the extent of such tradeoffs is governed only by the tests of rationality and consistency with the announced evaluation criteria. Grey Advertising Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. However, we have also held that where, as here, award is made to the lower priced, lower rated offeror notwithstanding an evaluation scheme placing primary importance on technical considerations, such a selection must be supported by reasonable justification. AMG Associates, Inc., B-220565, Dec. 16, 1985, 85-2 CPD ¶ 673.

The agency has not presented any rational explanation to justify its selection of a lower rated technically, lower cost proposal. Specifically, the agency has not explained why Meridian's technical superiority in the major technical areas (representing 90 percent of total evaluated points) was not worth the additional cost proposed. Rather, as stated above, the agency only discusses a minor cost consideration involving two subline items which concern preparatory visits for seminars in certain locations. (These subline items are a small part of total costs which, in turn, represented under the RFP only 10 percent of total evaluated points.) The agency otherwise fails to indicate why the costs proposed by Meridian were unreasonable or excessive, considering the apparent technical superiority of Meridian's proposal. Therefore, since the Army has not provided any rational explanation of its selection decision, we conclude that the Army has not shown that its cost/technical tradeoff was reasonable.

Furthermore, the agency had no basis to make award on initial offers in these circumstances. Our previous decisions have recognized that under the Competition in Contracting Act of 1984 (CICA) agencies have limited discretion to make award on the basis of initial proposals without discussions. We have recognized an exception to the general requirement that agencies must conduct negotiations in a negotiated procurement in that the requirement need not be met "when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of the most favorable initial proposal without discussions would result in the lowest overall cost to the government." CICA, 10 U.S.C. § 2305(b)(4)(A)(ii) (Supp. III 1985). By its express use of the term "lowest overall cost," CICA prohibits an agency from accepting an initial proposal, such as RSH's, where there is a lower cost technically acceptable proposal, such as Hansen's, in the competitive range. Pan Am Support Services, Inc.--Request for Reconsideration, B-225964.2, May 14, 1987, 66 Comp. Gen. ____, 87-1 CPD ¶ 512.

Accordingly, by separate letter of today, notwithstanding the release of this information, we are recommending to the Secretary of the Army that discussions now be conducted with all offerors whose proposals are within the competitive range to allow for the submission of revised proposals in satisfaction of the agency's requirements. We further recommend that RSH's contract be terminated for the convenience of the government if it is not the successful offeror at the conclusion of these discussions.

Milton J. Socolar

Acting Comptroller General
of the United States