

Zelkowitz



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gould Inc., Ocean Systems Division

File: B-229965

Date: May 16, 1988

DIGEST

1. Protest that agency abandoned evaluation cost criteria set forth in solicitation is denied where the protester does not establish that it was misled to its prejudice by the agency's actual evaluation approach.
2. Normalization of cost scores but not technical scores is not objectionable where point scores are used merely as guidelines in the selection process and the selection official retains discretion to determine whether differences in scores are indicative of superiority.
3. Rescoring of technical proposals after submission of best and final offers is not required where agency determines that revisions made in final offer only affect price and not technical approach.

DECISION

Gould Inc., Ocean Systems Division, protests the award of a contract to AT&T Technologies Inc., under request for proposals (RFP) No. N00039-87-R-0015(Q), issued by the Space and Naval Warfare Systems Command, Department of the Navy. Gould alleges that the Navy improperly applied evaluation criteria stated in the RFP; that the scoring method employed by the Navy underemphasized the significance of technical factors in the award selection; and also that the Navy improperly failed to reevaluate AT&T's technical proposal despite a significant cost reduction in its best and final offer (BAFO). We deny the protest.^{1/}

^{1/} Both the Navy and AT&T argue that the latter two protest grounds, filed 10 days after Gould's receipt of the agency's administrative report, are untimely and should be dismissed pursuant to our Bid Protest Regulations, 4 C.F.R.

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The solicitation requested offers for the design and manufacture of a passive undersea surveillance system for anti-submarine warfare. The solicitation contemplated the award of a fixed-price incentive contract for one Engineering Development Model (EDM) and related equipment, and options for a second EDM subsystem and various EDM upgrade and production items. The solicitation specified that award would be made to the offeror deemed most advantageous to the government, technical risk, price, and other factors considered. As amended, it provided for evaluation under the following criteria listed in descending cost of importance, with the additional caveat that within the cost section, the first subcriterion was "significantly more important" than the second:

- A. Technical
- B. Cost
 - 1. EDM Cost
 - 2. EDM Upgrade and Production Options
- C. Life Cycle Cost (added by amendment).

Although not disclosed in the solicitation, the evaluation factor weights assigned to the criteria were: technical/55; cost/35 (of which 20 points were allocated to the EDM cost subcriterion and 15 points to the EDM options cost subcriterion); and life cycle cost/10. Prior to the amendment, which added life cycle cost as a criterion, the weights for the two original criteria were technical/60 and cost/40 (of which 30 points, or 75 percent, was allocated to the EDM cost subcriterion).

Three firms responded to the RFP. A technical evaluation board rated the offerors on the basis of technical merit. Gould and AT&T were the two highest-rated offerors with respective composite weighted scores of 81.32 (37.48 technical points, 35.00 cost points and 8.84 life cycle cost points) and 70.95 (34.62 technical, 26.33 cost and 10 life cycle cost), and were included in the competitive range. The contracting officer forwarded a list of questions to the two firms, and the technical proposals were reevaluated

§ 21.2(a)(2) (1988), which require that protests be filed not later than 10 days after the basis of protest is known. We find considerable doubt as to whether Gould had sufficient knowledge, prior to receipt of the agency report, to raise these two bases of protest; accordingly, we will consider them. See Packaging Corp. of America, B-225823, July 20, 1987, 87-2 CPD ¶ 65.

based on the firms' responses. A review panel found both proposals technically acceptable, although Gould's design approach was considered superior. The contracting officer then requested that Gould and AT&T submit BAFOs, stating that changes from their original offers were to be documented with complete pricing data to fully substantiate the differences.

Both firms timely responded to the BAFO request. AT&T included with its BAFO a summary of changes amounting to reductions of more than 33 percent from its total EDM costs and almost 66 percent from its EDM upgrade and production option costs, for a reduction in total price for the program from \$58,730,534 to \$28,946,909. Gould also revised its cost proposal downward, from \$44,415,928 to \$43,704,177.

The final total weighted scores for Gould and AT&T were 70.78 (38.70 technical, 25.79 cost and 6.29 life cycle cost), and 79.18 (34.70 technical, 34.48 cost and 10.00 life cycle cost), respectively. With reference to these scores, the contracting officer selected AT&T for award; the contracting officer found AT&T's proposal to be the most advantageous to the government, cost and other factors considered, specifically finding that the considerable cost advantages of AT&T's proposal in terms of production and life cycle cost more than offset the technical advantages of Gould's proposal, which he did not consider significant in terms of the overall system specifications.

Gould first contends that the Navy effectively abandoned the evaluation cost criteria set forth in the solicitation. The solicitation, from its inception, provided that cost proposals were to be evaluated on the basis of two subcriteria, EDM cost and EDM option cost, with the former being "significantly more important" than the latter. Unlike the original evaluation scheme contemplated by the Navy (the allocation of 30 points for the first subcriterion and 10 points for the second), Gould maintains that the approach ultimately adopted (the allocation of 20 points for the first subcriterion and 15 points for the second), was inconsistent with the descriptive term "significantly" in describing the relationship between the criteria. Gould claims that, had it been aware of the true relative importance of these two cost subcriteria, it would have priced its BAFO much differently, making its proposal the most attractive to the Navy.

We need not decide whether the reduced ratio (of 4:3) of the two cost subcriteria was inconsistent with the "significantly more important" language in the RFP since we fail to see how Gould was prejudiced. Gould argues that it would have lowered its EDM option cost by approximately \$6 million

(25 percent), and lowered its EDM costs by approximately \$800,000 (4 percent), for a total reduction in cost of \$6.8 million (roughly 15 percent of its total price of \$43,704,177). However, while the relative importance of the two cost subcriteria may have changed, the overall importance of cost in the evaluation scheme remained approximately the same (reduced from 40 to 35 percent of the total evaluation). That being so, we see no reason why Gould's total proposed cost would have varied in any significant way. While a change in the relative importance of subcriteria might lead an offeror to revise its costs with respect to what would be encompassed by each subcriterion, we do not understand why an offeror in such circumstances would have any reason to lower its overall costs, particularly in the amount alleged by Gould. Thus, we are not inclined to accept Gould's assertion that it was misled to its prejudice by the agency's evaluation approach.

In any event, even if we accepted Gould's statements regarding its cost proposal at face value, it does not appear that these reductions would have overcome AT&T's considerable cost advantage. AT&T's proposal would have remained almost \$8 million, or 27 percent, lower than Gould's, and since the contracting officer determined that Gould's technical advantage was not significant, Gould's proposal still would not have been considered most advantageous to the government.

Gould next contends that the Navy's normalization of cost and life cycle cost scores (that is, awarding the maximum available cost points--EDM cost/20, EDM option cost/15, life cycle/10--to the low offeror for each category, and a proportionate number of points to other offerors based on the percentage difference in cost), but not technical scores, in determining the total composite weighted scores for each offeror, was inconsistent with the stated evaluation criteria, which indicated that technical merit was to be accorded more weight than cost. Gould states that, had technical scores been normalized, the difference between its technical score and AT&T's would have increased by 1.7 points, thereby reducing AT&T's composite score advantage from 8.4 to 6.7 points.

This contention is without merit. Gould's argument is predicated on its understanding that award was to be made to the offeror receiving the highest cumulative score. However, point scores here were merely guidelines in the selection process, not the sole basis for award; the source selection official retained discretion to determine whether the scores were indicative of superiority and what the difference in point scores may mean during contract

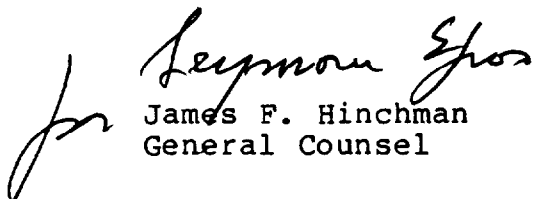
performance. See Training and Management Resources, Inc., B-220965, Mar. 12, 1986, 86-1 CPD ¶ 244.

The record reveals that the contracting officer properly looked behind the technical scores of Gould and AT&T and found that the 4-point advantage enjoyed by Gould (38.70 to 34.70) did not reflect technical superiority. The contracting officer therefore selected AT&T for award because AT&T's considerable cost advantage outweighed Gould's negligible technical advantage, and not because AT&T's composite score was higher than Gould's. In any case, normalization of cost scores would not have affected the award even had selection been based on composite scores; Gould's composite score would have remained lower than AT&T's by 6.7 points. See Columbia Research Corp., B-227802, Sept. 24, 1987, 87-2 CPD ¶ 295.

Gould lastly argues that the Navy improperly failed to reevaluate AT&T's technical proposal after receipt of BAFOs. AT&T may have achieved the vast drop in its final price, Gould speculates, by changing the technical terms of its original offer.

While the Navy did not rescore technical proposals after receipt of final offers, the record discloses that the Navy did consider whether AT&T's revisions to its cost proposal had an impact on its technical approach. See Northwest Regional Educational Laboratory, B-222591.3, Jan. 21, 1987, 87-1 CPD ¶ 74 (there generally is no requirement that an agency formally rescore BAFOs). AT&T, as required by the solicitation, submitted with its BAFO an item by item explanation for its reduction in overall price. Specifically, AT&T reestimated the labor effort and material costs required for certain work; lowered its overall costs by relying on certain efficiencies and technological advances; and reduced its fee for the contract from 15 percent to 5.5 percent. The record shows that the review panel examined each of these changes and determined that they had no material impact on AT&T's technical proposal. Under these circumstances, the agency was not required to rescore the AT&T proposal based on the BAFO changes.

The protest is denied.


James F. Hinchman
General Counsel