The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: PECO Enterprises, Inc.

File: B-232307

Date: October 27, 1988

DIGEST

1. Procuring officials enjoy a reasonable degree of discretion in evaluating proposals, and the General Accounting Office will not disturb an evaluation where the record supports the conclusions reached and the evaluation is consistent with the criteria set forth in the solicitation.

2. Protester's argument that as low, technically acceptable offeror it is entitled to award is rejected where the solicitation provided that cost was secondary in importance to technical considerations and agency reasonably concluded that another offeror's technical superiority warranted its higher cost.

3. An agency is not required to equalize competition for a particular procurement by considering the competitive advantage accruing to an offeror due to its incumbent status provided that such advantage is not the result of unfair government action or favoritism.

DECISION

PECO Enterprises, Inc. protests the award of a contract to Management Consulting and Research, Inc. (MCR) under request for proposals (RFP) No. MDA903-88-R-0031 issued by the Defense Supply Service-Washington for technical support services and analytical studies to assist the Department of the Army in its cost and economic analysis of major weapons programs and related procurement policies and procedures. PECO argues that the agency improperly evaluated the proposals.

We deny the protest.

The RFP, which was issued on March 7, 1988, contemplated the award of cost-plus-fixed-fee requirements type contracts. It contained eight work categories: Missile Systems, Aircraft Systems, Wheel and Track Systems, Communication/ Electronic Systems, Information Management Systems, Armament Systems, Force Units, and Operating and Support Management Information Services (OSMIS). Offerors were allowed to submit offers on any one or more of the tasks. This protest concerns only the OSMIS category.

The RFP provided that award would be made to the proposal evaluated as the most superior technically with a realistic estimated cost. It listed five major evaluation areas, all of which were point scored. Cost was not point scored and was subordinate to technical factors. The evaluation areas and the total points possible for each were as follows:

Personal Qualifications	300
Technical Effectiveness	250
Corporate Preparedness	200
Management Plan	150
Facilities Capability	100

On April 11, the closing date for receipt of initial proposals, the Army received four proposals for OSMIS, including those of PECO and MCR. As the result of the evaluation of initial proposals, all four offers were included in the competitive range. MCR, the incumbent contractor, received an initial score of 990 and PECO received 851. Written and oral discussions were conducted with all offerors in the competitive range and all four submitted best and final offers by July 22. MCR improved its rating by four points for a total of 994 while PECO improved its rating by 35 points for a total of 881. MCR, which had the highest rated proposal of the four, was selected for award by the agency at an estimated cost of $11,497,659. PECO had the lowest rated proposal and offered the lowest cost at $7,650,362.

PECO believes that it should have been selected for award since it submitted a technically acceptable proposal and proposed far lower costs than the awardee. PECO disputes the technical weaknesses cited by the agency for its relatively low score and argues that even if these weaknesses are valid, it was not informed of them as required during discussions. Further, the protester argues that the difference of more than 3.8 million dollars between MCR's proposed costs and PECO's, coupled with PECO's technically acceptable rating, shows that the selection of MCR was unreasonable.

In reviewing protests against the propriety of an agency evaluation of proposals, it is not the function of our Office to independently evaluate those proposals. Ira T. Finley Investments, B-222432, July 25, 1986, 86-2 CPD ¶ 112. Rather, the determination of the relative desirability and technical adequacy of the proposals is primarily a function of the procuring agency which enjoys a reasonable range of discretion. AT&T Technology Systems, B-220052, Jan. 17, 1986, 86-2 CPD ¶ 57. Consequently, we will question an agency's technical evaluation only where the record clearly shows that the evaluation does not have a reasonable basis or is inconsistent with the evaluation criteria listed in the RFP. See American Educational Complex System, B-228584, Jan. 13, 1988, 88-1 CPD ¶ 30. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. ESCO, Inc., B-225565, Apr. 29, 1987, 66 Comp. Gen. ___, 87-1 CPD ¶ 450. After examining the record, we find the Army's evaluation was reasonable and consistent with the solicitation's evaluation criteria.

According to the agency, the evaluation panel considered PECO's proposal marginally acceptable. It identified four major areas of concern in its analysis of the proposal. The record indicates the panel was concerned about the proposal's lack of specificity concerning the state of current OSMIS operations, the feasibility of its proposed four-corporation team, the failure to demonstrate that PECO understood and had the capability to handle computer capabilities outside the Army's Logistic Evaluation Agency's processing facility and the lack of hands-on OSMIS experience.

With respect to the first weakness, PECO disputes the agency's conclusion that its proposal was not specific concerning OSMIS and states that the RFP did not call for offerors to provide specific comments about the current state of OSMIS operations.

We think the evaluators' conclusion was reasonable. First, although the RFP did not require specific comments about the current state of OSMIS, it did call for the technical proposal to provide a comprehensive work plan and the statement of work outlined specific requirements in terms of the current OSMIS system. In any event, a review of the proposals indicates that PECO's proposal provided little information compared to MCR's which discussed at length OSMIS design and past and present problems with the system. We believe the record supports the agency's conclusion that the lack of this type of information in PECO's proposal made it difficult to evaluate its comprehension of the project and justified a low rating. Further, the record shows that the evaluators' concern about PECO's in-depth knowledge of OSMIS was supported by the numerous references in PECO's proposal to OSMIS' computing replenishment spare parts cost factors. According to the evaluators the system only computes repair parts cost factors. Other similar concerns were raised by PECO's misstating the range of OSMIS abilities and referring to the system's ability to compute initial repair parts and initial spares, when it currently does not have such capability.

In regard to PECO's allegation that discussions were not held on this matter during oral negotiations with the agency on July 18, the record indicates that this matter was brought to the protester's attention as part of the written negotiations conducted prior to July 18 where PECO was asked several questions pertaining to the current state of OSMIS operations. The agency was not required to reiterate its concerns during the subsequent oral discussions.

The second major concern that the evaluators had regarding PECO's proposal was the feasibility of the use of four separate corporations as a project team. The evaluators questioned the control PECO could exercise over such a team. The protester maintains that it was never questioned on this subject during negotiations and therefore it cannot now be downgraded for this alleged weakness.

As part of the written negotiations, the agency submitted to PECO a question entitled "Subcontractor Management" in which the agency inquired how, if a PECO manager would supervise other company's personnel, the manager would interact with the program manager and program director and if the other firm's personnel were to be on call. We think this constitute sufficient notice to the protester that the agency was concerned about PECO's management of the four company team. While agencies generally must conduct meaningful written or oral discussions with all offerors in the competitive range, advising them of deficiencies in their proposals and offering the opportunity to submit revised proposals, this does not mean that offerors are entitled to all-encompassing discussions; agencies are only required to lead offerors into areas of their proposals considered deficient. Varian Associates, Inc., B-228545, Feb. 16, 1988, 88-1 CPD ¶ 153. The agency did that here. Additionally, we note that while PECO's proposal was deemed weak in this area relative to MCR's, the weakness was not a deficiency that would render PECO's proposal unacceptable. See Emerson Electric Co., B-227936, Nov. 5, 1987, 87-2 CPD ¶ 448. The agency is not obligated to discuss every aspect of the proposal which receives less than the maximum possible score. Varian Associates, Inc., B-228545, supra.

The third major weakness the agency found in the protester's proposal was PECO's failure to demonstrate that it understood and was capable of handling computer capabilities outside the Army's processing facility. According to the agency, a substantial amount of off-line computer resources are required in the current OSMIS process and PECO's proposal did not demonstrate the capability to handle this facet of the project. PECO contends that it adequately responded to the agency's concern in its technical proposal and in its responses to the agency's written questions during negotiations.

We do not believe the record supports a conclusion that the agency was unreasonable in finding PECO's proposal weak in this area. The agency's evaluation documents indicate that PECO's responses to its questions did not diminish the agency's concern. The evaluation panel noted that while PECO indicated the availability, for a price, of a 1100/80 UNIVAC computer currently used by Computer Sciences Corporation, one of the companies in its four company project team, it proposed to rely primarily on the agency's computer. The agency found that PECO did not provide any details about time available on Computer Science's computer for this project or its arrangements with the company. The evaluators' doubts were supported by the failure of PECO's cost proposal to contain any reference to computer time or special equipment purchases. We therefore find no basis in the record to question the agency's judgment on this matter. Although the protester again complains that he was not advised of this weakness in the July 18 negotiations, we note that in the earlier written negotiations, PECO was specifically asked about the use of the UNIVAC computer, its availability and its location. Consequently, we find no merit to this argument.

The last major weakness the agency found in PECO's proposal was lack of staff with hands-on OSMIS experience. PECO states that in response to discussions with the agency, it added a second individual in addition to its proposed project manager both of whom have hands-on OSMIS experience. It notes that it also proposed to make job offers, if appropriate, to the five employees of MCR's subcontractor currently operating OSMIS. While a summation of the evaluation panel's recommendation does state that the project manager appears to be the only key individual with hands-on experience available to the PECO team, the evaluation sheets reflect an acknowledgment of the additional personnel and PECO's score was raised several points as a result of its response. The agency states, however, that it still found

PECO's proposal weak in comparison to MCR's since MCR, as the incumbent, had a large staff with current hands-on OSMIS experience.

We again have no reason to object to the agency's determination. All of MCR's key personnel had current hands-on experience in comparison to PECO's two. We find nothing unreasonable in the agency's conclusion.

PECO also argues that the technical evaluation failed to account for the "inside" information MCR possessed as the incumbent contractor. We do not think that it was improper for the agency to consider in the evaluation MCR's specific experience performing the required tasks. We have recognized that incumbent contractors with good performance records can offer real advantages to the government and that those advantages may properly be considered in proposal evaluation. Dalfi, Inc., B-224248, Jan. 7, 1987, 87-1 CPD ¶ 24. An agency is not required to equalize competition with respect to these advantages so long as the advantages do not result from unfair action by the government. Wolf, Block, Schoor & Solis-Cohen, B-221363.2, May 28, 1986, 86-1 CPD ¶ 491. The record here does not support a conclusion that the agency showed a particular preference for MCR or acted unfairly towards PECO. Rather, it indicates that evaluators properly considered, in accordance with the RFP's evaluation criteria, MCR's first-hand knowledge and experience in performing the required work.

Finally, the protester argues that the difference in the technical proposals was not so significant as to justify award to MCR at a substantially higher price. PECO's proposed costs were 3.8 million dollars lower than MCR's and were the lowest of all four offerors by almost 2 million dollars. In a negotiated procurement the contracting agency has broad discretion in making cost/technical tradeoffs, the extent of which is governed only by the tests of rationality and consistency with the established evaluation criteria. Tracor Marine, Inc., B-226995, July 27, 1987, 87-2 CPD ¶ 92. We have upheld awards to higher rated offerors with significantly higher proposed costs where the agency reasonably determined that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. University of Dayton Research Institute, B-227115, Aug. 19, 1987, 87-2 CPD ¶ 178.

Here, the RFP specifically stated that cost was subordinate to technical considerations and that the agency was looking for the best overall response defined as the proposal most superior technically with a realistic estimated cost. The Army determined MCR's proposal to be technically superior, by more than 100 points, to PECO's and we have not found that technical determination to be unreasonable. Therefore, there is no basis in the record for our Office to question the agency's decision to award to MCR based on its technical superiority.

The protest is denied.

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for James F. Hinchman
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