



**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Virginia Technology Associates  
**File:** B-241167  
**Date:** January 29, 1991

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J. Scott Hauger, Virginia Technology Associates, for the protester.  
Ann Troy, Esq., Department of Education, for the agency.  
M. Penny Ahearn, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of this decision.

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## DIGEST

1. Selection of the awardee on the basis of its overall technical superiority, notwithstanding its 15 percent higher price, is unobjectionable where solicitation made technical considerations more important than cost and agency reasonably concluded that technical superiority of awardee's proposal was worth the 15 percent cost premium.
2. Discussions were adequate where agency led protester into areas of proposal deficiencies; agency could not properly coach the firm as to how it could improve its proposal to the superior level of the awardee's.

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## DECISION

Virginia Technology Associates protests award of an 18-month cost-plus-fixed-fee contract to Science Applications International Corporation, under request for proposals (RFP) No. 90-042, issued by the Department of Education for a study of technologies enabling access by sensory-impaired persons to media and communications. The protester alleges that award to a higher priced offeror was improper primarily because the evaluation of its own proposal and the cost-technical tradeoff between its and the awardee's proposals were defective.

We deny the protest.

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## BACKGROUND

The RFP's statement of work required the successful contractor to undertake the study to identify and examine advanced and emerging technologies. It identified the target population of the study as including, but not limited to, persons with hearing, visual and a combination of impairments. The end product of the study was to be a report presenting 20 scenarios featuring applications of technologies for access by the target population to media and communications.<sup>1/</sup> The RFP provided that award would be made to the responsible offeror whose offer conforms to the solicitation and is most advantageous to the government, cost and other factors considered. Technical quality was more important than cost, but the importance of cost was to increase as the technical merit of proposals became equal. The RFP provided for evaluation of technical factors that were accorded the following numerical weights (on a scale of 100): procedural plan-45, personnel-25, management plan-15, organizational capabilities-10, and resources/facilities/equipment-5.

Of the six firms submitting initial proposals, three, including Virginia Technology, were determined to be in the competitive range.<sup>2/</sup> Following discussions and receipt of best and final offers (BAFO), the technical scores and estimated costs were as follows:

Offeror	Total Technical Score	Cost
Science Applications	93.5	\$266,522
SRI International	83	\$279,317
Virginia Technology	74.5 <sup>3/</sup>	\$230,843

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<sup>1/</sup> The RFP's examples of media included films, video, television, and print; communications examples included telecommunication devices, electronic correspondence, and innovative uses of current communicative devices, such as fax and computers.

<sup>2/</sup> Although Virginia Technology's proposal initially was judged unacceptable by the evaluation panel, the contracting officer determined it was susceptible of being made acceptable and included it among those within the competitive range; she concluded that some of the concerns mentioned by the panelists were of the type that might be remedied with responses to technical questions.

<sup>3/</sup> Due to an arithmetical error made by the agency in tallying Virginia Technology's scores, the total reported score of 72, was 2.5 points less than the actual total. This minor change does not affect the evaluation.

While Virginia Technology's proposed cost was 15 percent lower than Science Applications', the contracting officer determined that Science Applications' proposal was most advantageous to the government and awarded the contract to the firm. Upon learning of the award, Virginia Technology filed this protest.

#### EVALUATION

Virginia Technology alleges that the agency miscalculated its proposal primarily under the two most heavily weighted factors--procedural plan and personnel (accounting for 70 percent of the total technical evaluation)--and also failed to raise certain evaluated deficiencies during discussions. The protester contends that, had its proposal received the higher scores it believes were warranted, its proposal would have been evaluated technically equal to that of the awardee's and, as a result, its lower cost would have become the determinative factor in source selection.<sup>4/</sup>

The determination of the relative merits of proposals is primarily a matter of agency discretion which we will not disturb unless it is shown to be without a reasonable basis or inconsistent with the evaluation criteria listed in the RFP. Crawford Technical Servs., Inc., B-240383, Sept. 20, 1990, 90-2 CPD ¶ 244. The mere fact that the protester disagrees with the agency does not render an evaluation unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. As for discussions, we have held that they are adequate so long as the agency leads offerors into areas of their proposals considered deficient. Honeywell Regelsysteme GmbH, B-237248, Feb. 2, 1990, 90-1 CPD ¶ 149.

We find the agency's evaluation of Virginia Technology's proposal reasonable and consistent with the evaluation criteria. We further find that the discussions of the deficiencies in the firm's proposal were meaningful. While we have considered all of the protester's allegations concerning

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<sup>4/</sup> The protester also argued initially that the evaluation did not give preference to the firm's small business status. In its report, the agency responded that because Virginia Technology was never considered technically equal to the other two offerors in the competitive range, the secondary consideration of Virginia Technology's small business status did not become a factor in the award decision. In its comments, the protester did not attempt to rebut the agency's response. We therefore consider it to have abandoned this issue. See Joint Venture of Diversified Turnkey Constr. Co. et al., B-239831 et al., Sept. 18, 1990, 90-2 CPD ¶ 226.

the adequacy of the evaluation and discussions, we discuss here only the most significant aspects of the protest.

#### Procedural Plan

Under this factor (accounting for 45 percent of the technical score), the evaluators determined that the protester's proposal was deficient primarily due to its imbalance toward technologies for hearing-impaired persons. The basis for the evaluation was the firm's heavy reliance on one of its intended subcontractors, Gallaudet University (with four of the firm's seven key personnel from Gallaudet), and numerous references in the firm's proposal to "TDDs," low technology devices which enable persons with hearing impairments to communicate over the telephone with persons who have similar devices. Additionally, in this area, the panel found that the firm's proposal had few references to technology for visually-impaired persons and only briefly mentioned technology for sensory-impaired persons other than deaf or blind, such as deaf-blind, multi-disabled persons. Further, the evaluators determined that the technologies mentioned in the firm's proposal were not discussed in-depth and few examples of advanced technologies were given. These deficiencies were viewed by the evaluators as showing "shortsightedness" on Virginia Technology's part concerning the issues involved in the required work.

Based on these concerns, during discussions the agency furnished the protester the following written question: "What assurance do we have that the apparent dominance of Gallaudet University's TAP [i.e., Technology Assessment Program, which emphasizes deafness-related research and issues] would not account for some possible biases toward deafness-related technology at the expense of technology for individuals with other sensory impairments?" In its BAFO response, Virginia Technology reduced the number of Gallaudet staff to two key staff members and equalized the effort in labor hours between Gallaudet and its other proposed subcontractor, the American Federation for the Blind. However, the panel determined that these changes did not significantly change the firm's procedural approach. Specifically, the firm's BAFO was determined to continue to show an imbalance toward deafness-related technology with sparse mention of advanced technologies. The protester's final score in this area was 35 out of 45 possible points (78 percent).

Our review of the protester's proposal confirms the evaluated emphasis of the firm's proposal on deafness-related issues. In this area, the RFP specifically required offerors to demonstrate an understanding of the problems and issues involved in the required work. Further, it clearly specified that the study would involve identification of advanced and

emerging technologies and would include technologies for sensory-impaired persons, but not limited to, hearing- and visually-impaired persons. However, with the hearing impairment focus of the protester's procedural plan, little in-depth discussion of potential technologies besides TDDs, and few examples of potential advanced technologies that could be examined, we think the agency reasonably determined that the protester's proposal warranted a reduced score in this area. It is an offeror's obligation to submit an adequately written proposal. See Educational Computer Corp., B-227285.3, Sept. 18, 1987, 87-2 CPD ¶ 274. While the protester may well possess state-of-the art knowledge as it asserts, the only significant consideration for purposes of our review is whether this knowledge was adequately conveyed in the firm's proposal. We agree with the agency that the protester did not do so and therefore find the evaluation in this area reasonable.

The protester acknowledges that it mentioned limited examples of possible technologies for examination, but contends that it did not elaborate on many other technologies because it did not wish to prejudice the research to be conducted to identify and select appropriate technologies. Absent such a discussion of technologies, however, the agency had no basis for determining whether the focus of the protester's proposal in this area was correct and sufficiently thorough.

In contrast to the protester's proposal, Science Applications' proposal received 94 percent of the available points under the procedural plan factor. In its proposal, the awardee discussed different degrees of hearing and sight loss, as well as examples of technologies that could be examined for application to these populations. This discussion included deaf persons with speech impairments and technological applications for this population, such as voice processing. Science Applications also gave numerous examples of representative advanced technologies that could be examined, as well as potential scenario topics. Additionally, Science Applications presented a detailed sample scenario for one technology in order to demonstrate its understanding of the problems and issues involved in the required work. The awardee's extensive demonstration of its awareness and knowledge of the kinds of impairments and types of technology for potential examination, as well as a cogent process for examining these factors, is precisely what the agency desired; this treatment simply was not present in the protester's proposal. Accordingly, the agency's determination that the protester's procedural plan did not present the high level of technical capability presented in the awardee's proposal, and that the protester's score in this area should be lower, was reasonable.

The protester complains that discussions in this area were deficient because the agency did not specifically question it on the evaluated imbalance in its proposal, its use of TDDs as technology examples, or its discussion of advanced technology devices. However, by emphasizing Gallaudet's proposed role, the discussion question in this area adequately indicated the area of the agency's principal concern, i.e., the imbalance of the proposal toward deaf-impaired persons and deaf-related technology. Although the protester believes the agency should have questioned it more specifically, for example on its approach, proficiency, and use of technology examples, its proposal was not unacceptable in these areas; it was merely inferior to the awardee's proposal. The agency was not permitted to advise the protester how to bring its proposal up to the superior level of Science Applications' proposal; such coaching would amount to technical leveling, which is prohibited. See Federal Acquisition Regulation (FAR) § 15.610(d)(1); Maytag Aircraft Corp., B-237068.3, Apr. 26, 1990, 90-1 CPD ¶ 430.

#### Personnel

Under this factor (25 percent of the technical score), the evaluators determined that the protester's proposal was deficient due to its low allocation of the protester's own staff resources in relation to subcontractor staff. In its BAFO, the protester proposed providing two out of six key staffing slots from its own staff (an improvement from the firm's initial proposal of two out of seven), with the remainder coming from its two proposed subcontractors. While there was not a great difference in the average hours per professional between Virginia Technology and Science Applications (540.7 hours/67.6 days versus 548.2 hours/68.5 days, respectively), the evaluators were concerned that Virginia Technology's staff distribution among six persons and three organizations would result in fragmented and disjointed performance. Additionally, the agency found it was unable to evaluate the qualifications of two of Virginia Technology's proposed personnel because no resumes were included in the firm's proposal. The firm's final score in this area was 16 out of 25 possible points (64 percent).

We find the agency's concerns in this area unobjectionable. An agency properly may consider whether subcontracting itself might detract from the contractor's performance, so long as it appraises offerors of this consideration and the evaluation is reasonable. ESCO, Inc., 66 Comp. Gen. 404, supra. Here, under personnel, the RFP provided generally for evaluation of allocation of staff resources. While the use of subcontract personnel was not prohibited in the RFP, during discussions the agency specifically requested the protester to justify its need to subcontract, and further questioned the firm on its

staff's availability and the percentage of their time to be devoted to this project. The protester thus clearly was on notice of the agency's intent to consider subcontracting, and staff resources generally, in the evaluation.

The protester argues that the agency erroneously determined that the firm intended to depend on subcontractors for most of the work; in fact, its proposal showed an allocation of labor hours of 68 percent to itself and 32 percent divided equally among the two subcontractors. However, Virginia Technology mischaracterizes the agency's overriding concern, that is, the low number of the protester's staff committed to the contract in relation to subcontractor staff which, again, the agency saw as posing a risk of a disjointed, unsuccessful effort. The protester's BAFO reduction in the subcontractors' staff members by one was viewed as insufficient to correct the imbalance in favor of subcontractor staff and, in any case, the agency also remained concerned as to the lack of explanation of how the two subcontractors and the protester would coordinate their efforts to assure successful performance; the protester did not address this concern. We thus have no basis for questioning the protester's reduced score in this area.

In contrast, Science Applications' proposal was evaluated to have a strong staff with no significant weaknesses. The firm's reliance on subcontracted staff amounted to only one out of five key staff members. The awardee received 98 percent of available points in the personnel area. Again, given the clear difference in the awardee's proposal in this area, we are unable to question the agency's determination that the protester's proposal did not warrant the same high technical score as the awardee's.

As for the missing resumes, this deficiency first appeared in the protester's BAFO, in which personnel different from those identified in the firm's initial proposal were offered. The protester argues that it made a de minimis error by including the name of an individual it had originally contemplated employing, but later dropped. This error and the other missing resume, according to the protester, easily could have been clarified had the agency brought the deficiency to its attention. This argument is without merit; a contracting agency need not reopen discussions to resolve technical deficiencies first introduced in a firm's BAFO. IPEC Advanced Sys., B-232145, Oct. 20, 1988, 88-2 CPD ¶ 380.

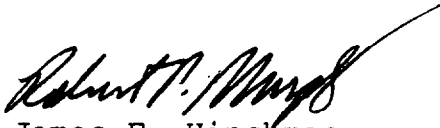
#### COST/TECHNICAL TRADEOFF

Virginia Technology complains that the agency failed to make a specific determination that the awardee's technical superiority warranted the additional cost compared to the

protester's proposal cost. Cost/technical tradeoffs may be made in selecting an awardee subject only to the test of rationality and consistency with the established evaluation factors. Maytag Aircraft Corp., B-237068.3, supra. Even where a source selection official does not specifically discuss the cost/technical tradeoff in the selection decision document, we will not object to the tradeoff if it is supported by the record. Id.

The record shows that the agency made a proper cost/technical tradeoff here. The RFP provided that technical factors were more important than price, and Science Applications' technical proposal was rated higher than Virginia Technology's in all areas, with a total score 19 points higher than the protester's. The source selection authority's selection decision did not refer to a cost/technical tradeoff per se, but it is clear from her written decision that she considered Science Applications' technical superiority worth the additional cost. The source selection document specifically notes Virginia Technology's lower cost; states that Science Applications' proposal was evaluated superior overall and that Virginia Technology's proposal was not technically responsive to evaluated deficiencies; and concludes that award to Science Applications offers the best overall value to the government. This constitutes a proper cost/technical tradeoff; nothing in the record leads us to question the agency's judgment.

The protest is denied.

  
for James F. Hinchman  
General Counsel