



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Military Professional Resources, Inc.

File: B-243548

Date: August 7, 1991

Richard A. Hippler for the protester,
E. Benjamin Mitchell, Jr., Esq., for Logicon, Inc., an
interested party.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the
agency.
John W. Van Schaik, Esq., and John Brosnan, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Although protester argues that during post award debriefing its proposal was criticized for deficiencies unrelated to the evaluation criteria in the solicitation, since a debriefing is only an after-the-fact explanation of the selection decision, in reviewing the selection, the General Accounting Office is primarily concerned with the evaluation record and not the debriefing.

2. Award to offeror having higher cost, technically superior proposal under request for proposals which gave greater weight to technical merit compared to cost is justified where contracting agency reasonably determined that acceptance of the proposal was worth the higher cost.

DECISION

Military Professional Resources, Inc. (MPRI) protests the award of a contract to R & D Associates under request for proposals (RFP) No. DAKF57-90-R-0023, issued by the Army for battle simulations support services at Fort Lewis, Washington.^{1/}

^{1/} According to the solicitation, the contractor is to provide personnel, supervision, and services required to conduct computer driven battle simulation exercises, including data base maintenance, scenario development, exercise controller functions, post exercise actions, facility cleanup, and maintenance and functional area research to ensure readiness for upcoming exercises.

We deny the protest.

The solicitation contemplated the award of a cost-plus-award-fee contract for a 6 month base period and four 1 year options. Under the RFP, award was to be made to the offeror submitting the best overall proposal with consideration given to quality, the most important factor, and cost. The solicitation included the following quality subfactors, each with its own subfactors, listed in descending order of importance: (1) technical excellence; (2) related experience; (3) management capability; and (4) quality control program. The solicitation indicated that the agency would consider the realism of proposed costs and the value of each proposal in terms of the quality offered for the estimated cost, and reserved to the government the right to award to other than the lowest cost offeror.

Four firms submitted proposals. Based on their evaluation of the proposals, the agency's evaluation board assigned numerical scores and adjectival ratings to each of them. The evaluators gave MPRI's initial proposal an overall score of 650 (out of 1,000 points), compared to a score of 943 for R & D and 939 and 850 for the other offerors. MPRI's proposal was considered "susceptible to being made acceptable" while the other three offerors were rated either "Excellent" or "Satisfactory." After two rounds of discussions, and the submission and evaluation of best and final offers (BAFO), MPRI's score improved slightly to 682 while R & D's score was increased to 960 and the other offerors' scores also improved. MPRI's proposal was still considered "susceptible to being made acceptable," while the others were all considered "Excellent."

The agency analyzed each offeror's proposed costs and determined a "most probable cost" for each. MPRI's proposed cost of \$3,969,062 and its most probable cost of \$4,114,140 were the lowest of the four offerors.

The Army reports that it awarded the contract to R & D since that firm's proposal represented the best overall value to the government considering quality and cost. The agency notes that R & D received an excellent quality score of 960, the second highest, based on the "significant strength" in the qualifications of its personnel, their availability, and the incumbent firm's related experience.^{2/} The evaluators were also impressed by R & D's management approach and quality control program. R & D's most probable cost based on the

^{2/} Another offeror had a slightly higher technical score, 966, but its costs were higher than R & D's.

agency's analysis was \$4,717,793, the second lowest after MPRI.

MPRI protested the selection of R & D after receiving a debriefing on its proposal. According to the protester, at the debriefing, agency officials described weaknesses in its proposal that were not based on requirements listed in the solicitation. For example, according to the protester, it was told during the debriefing that it failed to propose a sufficient number of current, incumbent employees, that it would not be able to obtain sufficient personnel with the necessary clearances so they could have access to special compartmented information (SCI), that as a company it is "too young and small" to perform the contract and that it failed to propose an "impartial, outside quality element." In addition to arguing that these matters were outside the evaluation criteria, or were otherwise inappropriate, MPRI maintains that the criticisms of its proposal are contradicted by comments in the evaluation record that it "presented a well organized proposal which was highlighted by a superb quality control and inspection plan."

The evaluation of proposals is primarily within the discretion of the procuring agency, not our Office; the agency is responsible for defining its needs and the best method of accommodating them, and must bear the burden resulting from a defective evaluation. Consequently, we will not make an independent determination of the merits of offers; rather, we will examine the agency evaluation to ensure that it was reasonable and consistent with the stated evaluation factors. Litton Sys., Inc., B-239123, Aug. 7, 1990, 90-2 CPD ¶ 114. The fact that the protester disagrees with the agency's judgment does not itself render the evaluation unreasonable. Id.

Based on our review of the evaluation record and MPRI's proposal, we conclude that the evaluation was reasonable and the weaknesses pointed out in MPRI's proposal were related to the quality evaluation subfactors in the solicitation. For instance, with respect to the employees proposed by MPRI, the evaluation criteria in the solicitation included a number of references to personnel qualifications. Under the technical excellence subfactor, evaluators were to consider qualifications of personnel and personnel availability. The initial proposal evaluation report indicates that agency evaluators concluded that "[p]ersonnel qualifications and availability were the weakest areas" of MPRI's proposal. The evaluators were concerned that few of the protester's proposed employees had direct experience on the simulations and models they would have to support. As a result, during discussions, the agency repeatedly informed MPRI that its proposed personnel were considered to have limited relevant experience. Nonetheless,

after discussions and proposal revisions and after evaluating MPRI's BAFO, the evaluators were still concerned that "MPRI lacks adequate experienced personnel." These concerns regarding the experience of the personnel proposed by MPRI were consistent with the evaluation criteria in the RFP, particularly the technical excellence subfactor. Further, since the protester has not attempted to refute the evaluators' judgment concerning MPRI's proposed staff, we have no basis upon which to object to the agency's opinion.

As far as the debriefing is concerned, agency representatives did attempt to explain that the quality of the personnel MPRI proposed was a weakness in its proposal. In this context, one agency official stated that MPRI did not propose specific incumbent employees. The protester argues that this criticism was inappropriate since hiring incumbent employees was not a requirement of the RFP. Since a debriefing is only an after-the-fact explanation of the selection decision and not the selection itself, JSA Healthcare Corp., B-242313; B-242313.2, Apr. 19, 1991, 91-1 CPD ¶ 388, we are primarily concerned with the evaluation record and not the debriefing. As we have explained above, we have reviewed the actual evaluation of MPRI's personnel, and found that it was reasonable and consistent with the evaluation criteria.^{3/}

Similarly, we find that, in spite of any misunderstandings that may have arisen as a result of the debriefing, the evaluation of MPRI's proposal under the other evaluation subfactors was reasonable and consistent with the solicitation. In this respect, although MPRI argues that it was improperly criticized because it may not be able to obtain required SCI security clearances, under the management evaluation subfactor, the solicitation stated that the agency would evaluate "[a]bility to obtain personnel with appropriate security clearances for contract and replacement personnel." Consistent with the solicitation, the agency's evaluators were concerned about and discussed with MPRI the fact that its candidates for key positions lacked the required clearances and the firm lacked experience in providing SCI cleared personnel. Although MPRI responded to this issue in its revised proposal, in our view, the evaluators reasonably

^{3/} Although MPRI argues that it is not "normal, accepted procedure" to recruit the incumbent's employees, the record shows that other, nonincumbent offerors who scored higher than MPRI proposed incumbent employees and were found to have proposed better qualified employees than MPRI. Moreover, it is neither unusual, nor inherently improper for other offerors to recruit personnel employed by an incumbent contractor. Booz, Allen & Hamilton, Inc., B-236476, Dec. 4, 1989, 89-2 CPD ¶ 513.

remained concerned since the firm's response provided no specifics as to how it could provide cleared personnel in time for the start of contract performance.

MPRI also argues that at the debriefing agency officials characterized MPRI as a young, small company and were unreasonably concerned about the firm's ability to perform the contract. According to MPRI, its proposal included a list of contracts it has successfully performed which involved efforts similar to that required by this solicitation and there is no indication that the agency attempted to verify the firm's excellent previous performance. MPRI also argues that it was unfairly perceived as lacking experience and expertise even though it has managed larger projects and has key staff with very extensive management experience. The protester states that MPRI is owned, operated and staffed by retired senior military personnel and argues that it was unreasonable to conclude that such a company lacks competence to operate a war gaming facility.

The Army properly considered MPRI's firm experience under the related experience evaluation subfactor, which required the agency to evaluate (1) experience in operating a training simulation; (2) experience supporting Army operations at the battalion through corps level; and (3) corporate history in providing services under existing corporate structure. In this respect, the evaluation record shows that agency evaluators were concerned about MPRI's lack of experience managing projects of this size. Moreover, after discussions concerning these issues and the submission of proposal revisions and a BAFO, these concerns remained. Although MPRI argues that the agency did not contact the firm's references on previous contracts, the agency explains that this was unnecessary since the evaluators were familiar with the operations on which MPRI had previously worked. The agency states, and MPRI does not dispute, that the firm's previous experience was in battle simulation efforts smaller in scope, staffing and complexity than the required effort or was limited to a short-term subcontracting effort. Again, here, although MPRI focuses on the statement at the debriefing that MPRI is a young, small company, the record indicates that, consistent with the RFP evaluation criteria, the evaluators were concerned that MPRI lacked the experience required to successfully provide the required support.

MPRI also complains that its proposal was improperly downgraded for failing to propose an impartial outside quality control element, a requirement not included in the solicitation. Under the RFP quality control subfactor, agency evaluators were to consider each offeror's quality control program, including inspection, documentation and reports; and each offeror's corrective action program. The evaluation

record indicates that the agency was concerned that MPRI's proposal did not identify specific personnel to do quality control tasks and its quality control plan lacked detail. Although the agency raised this issue in discussions, the agency was not satisfied with the firm's response. In this regard, while the agency considered the protester's quality control plan to have weaknesses, it was considered to be acceptable. It viewed R & D's plan, which involved an external quality control process, to be superior. Once again, regardless of what was said at the debriefing, we are primarily concerned with the evaluation record and not the debriefing and we think that the agency's evaluation under the quality control subfactor was reasonable and consistent with the evaluation criteria.

In addition to the specific issues considered above, MPRI also argues that the evaluators' criticisms of its proposal are contradicted by comments in the evaluation record that it "presented a well organized proposal which was highlighted by a superb quality control and inspection plan." MPRI also questions how such criticisms could be leveled against its proposal even though, according to MPRI, the evaluation record indicates that "each and every" government concern was addressed during discussions. In addition, MPRI argues that the agency's application of the evaluation criteria was restrictive and favored the incumbent, R & D.

The evaluation report on MPRI's initial proposal indeed included the complementary references set out above regarding the organization of the firm's proposal and its quality control plan. We note, however, that those references were included in an introductory paragraph of the report on MPRI's initial proposal and, in that context, those comments indicate that the agency was sufficiently satisfied with MPRI's initial proposal to include MPRI in the competitive range and conduct discussions with the firm. In no way do those general comments indicate complete satisfaction with the firm's proposal, as indicated by the numerous specific weaknesses and deficiencies addressed in the remainder of that evaluation report and in later evaluation reports and during discussions.

Further, while the record shows that in general MPRI addressed the issues raised in discussions, the BAFO evaluation report, which was prepared after two rounds of discussions, states that "MPRI's revised proposal did not significantly change the overall evaluation of MPRI's capability to perform the needs of this contract." In other words, as the BAFO evaluation report indicates, even after discussions, weaknesses and deficiencies remained and, based on the firm's BAFO, additional deficiencies became apparent.

Although MPRI argues that the agency applied the evaluation criteria in a manner that favored the incumbent, it is not unusual for a contractor to enjoy an advantage competing for a government contract by reason of incumbency. Such an advantage, so long as it is not the result of preferential treatment or other unfair action by the government, need not be discounted or equalized. Nationwide Health Search, Inc., B-237029, Feb. 1, 1990, 90-1 CPD ¶ 134. Here, there is no evidence in the evaluation record which shows that the Army unfairly favored R & D, the incumbent.

MPRI also argues that the cost evaluation was flawed since higher costs were attributed to it than it proposed even though the contracting officer stated that its costs were acceptable and the firm offered to absorb any additional costs. In addition, MPRI maintains that cost must have been irrelevant in the selection decision and the contract must have been "wired" for the incumbent since its proposal was considered technically acceptable and its proposed cost was significantly below the awardee's.

The Army's upward adjustment of MPRI's proposed costs was appropriate. When an agency evaluates proposals for the award of a cost reimbursement contract, an offeror's proposed estimated costs of contract performance are not dispositive, since the offeror's estimates may not provide valid indications of the actual costs which the government is, within certain limits, required to pay. See Federal Acquisition Regulation § 15.605(d). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. General Marine Indus. of New York, Inc.; Todd Pacific Shipyards Corp., B-240059; B-240059.2, Oct. 18, 1990, 90-2 CPD ¶ 311. Our review of an agency's exercise of judgment in this area focuses on whether the agency's cost evaluation was reasonably based. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; Science Applications Int'l Corp., B-238136.2, June 1, 1990, 90-1 CPD ¶ 517.

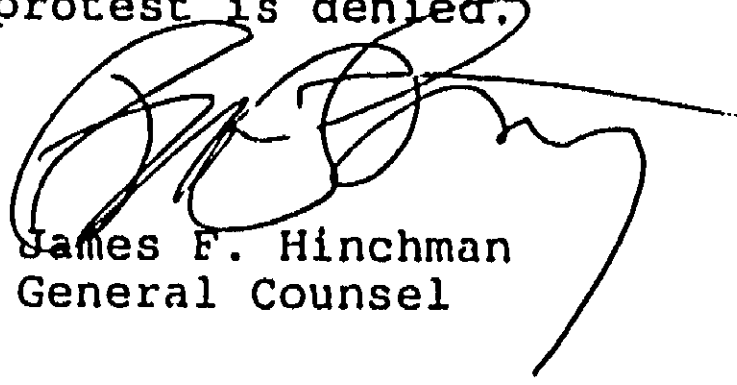
Here, the Army upwardly adjusted MPRI's proposed BAFO cost of \$3,969,062 by \$145,078 to \$4,114,140, based on the agency's conclusion that the contract, as proposed by MPRI, could not be performed at the proposed cost. MPRI has not challenged that adjustment except to complain that it had offered to absorb any costs over what it proposed. Nonetheless, the only costs which MPRI indicated in its proposal that it would absorb were those related to relocation of employees. Under the circumstances, the agency was not required to rely on MPRI's proposed costs and, in fact, as explained above, was obligated to determine what performance by MPRI would cost.

General Marine Indus. of New York, Inc.; Todd Pacific Shipyards Corp., B-240059; B-240059.2, supra. Therefore, although MPRI complains that its costs should not have been adjusted up, there was nothing improper in the cost evaluation. Moreover, both MPRI's and the awardee's costs were adjusted upward so that the adjustment of MPRI's costs had a negligible impact on the relative difference between the cost of the two firms' proposals.

Finally, we reject MPRI's contention that cost was ignored in the selection decision. Although MPRI's costs were lower than that of the awardee, in a negotiated procurement there is no requirement that award be made on the basis of lowest cost. Agency officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost results. Cost/technical tradeoffs may be made, and the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the established evaluation factors. Grey Advertising, Inc., 55 Comp. Gen. 1111, supra; Environmental Health Research & Testing, Inc., B-237208, Feb. 9, 1990, 90-1 CPD ¶ 169. We will uphold awards to offerors with higher technical scores and higher costs so long as the results are consistent with the evaluation criteria and the contracting agency reasonably determines that the cost premium involved was justified considering the significant technical superiority of the selected offeror's proposal. Midwest Research Inst., B-240268, Nov. 5, 1990, 90-2 CPD ¶ 364.

Here, the solicitation indicated that technical quality was more important than cost. Moreover, consistent with that standard, the contracting agency, in our view, reasonably determined that a contract with R & D was worth the additional cost. In this respect, as the agency pointed out in its selection decision, R & D's proposed cost was the second lowest after MPRI's and, under the quality factors, R & D's proposal was the second highest rated. In fact, the only lower proposed or evaluated cost was that of MPRI, and by a large margin that firm's proposal was the lowest ranked under the quality evaluation. Under the circumstances, we conclude that the agency's determination, that the technical excellence of R & D's proposal justified the cost premium involved, was reasonable.

The protest is denied.


For James F. Hinchman
General Counsel