



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Bildon, Inc.
File: B-243000.3
Date: November 19, 1991

Donnell R. Fullerton, Esq., for the protester.
Maj. Richard B. Robison and Capt. Steven D. Starnes,
Department of the Air Force, for the agency.
Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

1. Protest is denied where the procuring agency, in a negotiated, indefinite quantity procurement for construction, maintenance, and repair services, reasonably determined that the awardee's exceptional technical rating under the two most important technical evaluation factors reflected actual technical superiority; the protester was evaluated as technically acceptable with moderate risk under the same evaluation factors and the protester only challenges the agency's evaluation of the protester's and awardee's proposals under the least important technical evaluation factor.

2. Award to a higher-priced offeror is unobjectionable in a negotiated procurement in which technical factors were more important than cost/price since the agency reasonably concluded that the awardee's technical superiority and lower risk proposal outweighed the protester's less than 1 percent price advantage.

DECISION

Bildon, Inc. protests the award of a contract to Childers Construction Company, Inc. under request for proposals (RFP) No. F08651-90-R-0004, issued by the Department of the Air Force, for the simplified acquisition of base engineering requirements (SABER) at Eglin Air Force Base, Florida. Bildon contends that the Air Force improperly evaluated its proposal and that if a proper cost/technical tradeoff were performed the protester would be entitled to award on the basis of its lower-priced proposal.

We deny the protest.

The RFP, issued as a total set-aside for small disadvantaged businesses, contemplated the award of a fixed-price, indefinite quantity contract for minor construction and small and medium-sized maintenance and repair projects at Eglin AFB for a base year and 3 option years. Tasks under the RFP included carpentry, road repair, roofing, excavation, interior electrical services, steam fitting, plumbing, sheet metal, painting, demolition, concrete masonry, and welding. The RFP included detailed task specifications. A minimum of \$300,000 was required to be ordered each year and a maximum of \$10,000,000 could be ordered for the base year.¹

The RFP included a unit price book (UPB), containing price information (i.e., a government estimate) for a large variety of work items in specified units of measure.² The RFP required offerors to provide percentage factors for standard and non-standard³ working hours to accomplish the RFP work, and informed offerors that the actual cost of contract work would be determined by multiplying the UPB unit price by the appropriate percentage coefficient. To evaluate prices, the RFP included a formula to compute a weighted coefficient from the offerors' proposed price coefficients.

Offerors were informed that award would be made to the responsible offeror, whose offer was the most advantageous to the government, based upon an integrated assessment of the evaluation criteria. Technical criteria were stated to be more important than cost/price, but cost/price was identified as "a substantial factor." The technical evaluation factors were stated in descending order of importance as follows:

- (1) Project Management Ability
- (2) Subcontracting Support Capability
- (3) Project Execution

¹Specified larger amounts of work could be ordered in the option years.

²The UPB prices include the costs of material, delivery, equipment, and labor. The RFP provided that work items that were not pre-priced in the UPB would be negotiated during the contract. The stated contract goal was that over 90 percent of the work items would be pre-priced listings from the UPB.

³The RFP estimated that less than 5 percent of the maximum dollar amount of the contract would be accomplished on a non-standard basis.

Section L of the RFP set forth the required format and content of technical proposals relative to each of the evaluation factors and subfactors. For the "project execution" criterion, offerors were informed that attached to the RFP was a sample work order for the construction of a pre-engineered metal building and that offerors were required to submit all necessary drawings, documents and cost estimates for the execution of this model project. The RFP provided that the model projects would be evaluated for (1) technical approach to meeting the RFP requirements, specifications and statement of work; (2) use of the UPB (i.e., the use of pre-priced listings vis-a-vis non-pre-priced listings); and (3) cost effectiveness decisions.

Of the 10 proposals received by the Air Force, 7 proposals, including Childers's and Bildon's, were found to be in the initial competitive range. Written discussions were conducted with each of the competitive range offerors. Bildon received six clarification requests (CR) and six deficiency reports (DR) while Childers received five CRs and one DR. After evaluation of the offerors' responses to the agency's CRs and DRs, six proposals, including Childers's and Bildon's, were found to be in the revised competitive range. Best and final offers (BAFO) were requested and received from the six remaining offerors.

In the final technical evaluation, Childers's proposal was found to contain no weaknesses and was evaluated as low risk overall and exceptional under the two most important evaluation factors--project management ability and subcontract support capability--and acceptable under the project execution factor. Bildon's proposal, on the other hand, was found to contain a number of weaknesses and was evaluated as acceptable with moderate risk under each of the evaluation factors. Bildon's model project was downgraded under the project execution factor primarily because the firm failed to use the pre-engineered building that was pre-priced in the UPB; instead, Bildon offered a structure that was composed of components that were pre-priced in the UPB.

The firms with the three lowest weighted coefficients were as follows:

<u>Offeror</u>	<u>Coefficient</u>	<u>Cost based on \$500,000 of UPB Work</u>
Offeror A	1.2125	\$606,250
Bildon	1.2525	\$626,250
Childers	1.255	\$627,500

The source selection authority (SSA) determined that while all offers in the competitive range were adequate, Childers

"offered a proposal which excels in meeting the technical requirements [and] exhibited through its past performance, an understanding of and ability to accomplish the SABER project." Specifically, Childers was found to be the only offeror to be rated exceptional under the two most important evaluation factors.⁴ The SSA concluded that "[a]lthough the proposed cost of Childers exceeds the lowest priced proposal [Offeror A's] by 10 percent . . . the technical superiority of Childers outweighs the added cost." Bildon's price advantage over Childers's proposal was less than 1 percent. Award was made to Childers on July 8, 1991, and Bildon protested on July 17.

Bildon protests that the Air Force improperly downgraded the firm's model project response because Bildon had not offered the pre-engineered building that was pre-priced in the UPB.⁵ Bildon contends that if the agency had properly evaluated its model project that Bildon would be entitled to award because it offered a lower weighted coefficient than Childers.

The determination of the relative merits of proposals is primarily a matter of agency discretion, which our Office will not disturb unless it is shown to be unreasonable. GP Taurio, Inc., B-238420; B-238420.2, May 24, 1990, 90-1 CPD ¶ 497. In this regard, we have consistently upheld awards to offerors with higher technical scores and higher costs where it was determined that the cost premium was justified, considering the technical superiority of the awardee's proposal, and the result is consistent with the evaluation criteria. See Computer Based Sys., Inc., 70 Comp. Gen. 172 (1991), 91-1 CPD ¶ 14.

The Air Force evaluated Bildon's proposal as containing a number of weakness, in addition to its model project, and as being of moderate risk overall.⁶ Specifically, Bildon's proposal was downgraded under the two most important evalua-

⁴The source selection decision document does not discuss the relative merits of model projects for Childers or Bildon or indicate that the technical superiority of Childers was based upon its model project.

⁵Bildon argues that the UPB listed building does not satisfy the local building code regarding wind load and the UPB did not specify critical dimensions, such as length and width, to allow offerors to determine that the listed building would satisfy the model project requirements.

⁶The source selection plan defines "moderate" risk as "can potentially cause some disruption of schedule, increase in cost, or degradation of performance."

tion factors--project management and subcontractor support capability--because Bildon, despite specific discussions in this regard, failed to provide information concerning the capability or availability of its architectural/engineering support and was vague regarding its normal time for commencing work after an agency request.

Childers, on the other hand, was evaluated to be exceptional under the two most important evaluation factors and to be of low risk overall. The record shows that the SSA's determination that Childers's proposal was technically superior to the other offerors was based upon the firm's exceptional ratings under the two most important evaluation factors. For example, the SSA noted that subcontractor support capability was crucial to the effective performance of the SABER contract, and that Childers submitted a comprehensive subcontract plan that showed significant experience with its subcontractors on other SABER related contracts.

Bildon does not challenge the Air Force's evaluation of Childers's or Bildon's proposals under the two most important evaluation factors.⁷ Since, as noted above, the record shows that Childers's technical superiority was based upon its exceptional scores under these factors, we have no basis to find that Childers's proposal was not properly determined to be technically superior overall to Bildon's, even if we were to find that Bildon's proposal was improperly downgraded under the least important, model project evaluation factor.⁸ Under the circumstances, given the SSA's determination that Childers's exceptional ratings reflected actual superiority and Bildon's less than 1 percent price advantage, the SSA reasonably concluded, in

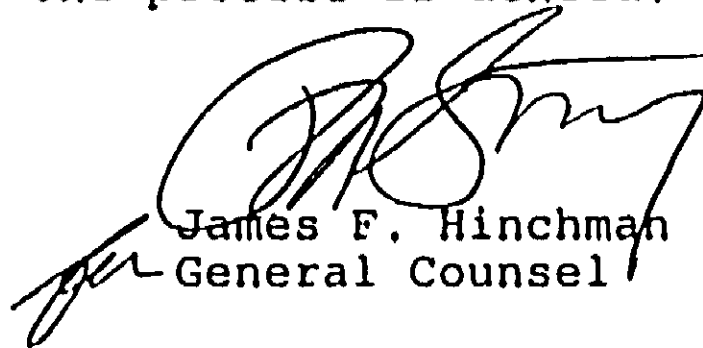
⁷While Bildon questions Childers's model project response, for which Childers's was evaluated as acceptable with low risk, the protester does not challenge Childers's exceptional rating under project management or subcontractor support capability.

⁸In any case, we agree that Bildon was properly downgraded for failing to propose the UPB-listed pre-engineered building. Bildon did not persuasively respond to the Air Force documented report that indicated the listed building met the wind load requirement and that sufficient information regarding the building dimensions was provided to offerors. The Air Force reports that of the seven offerors in the initial competitive range, only Bildon and Beneco Enterprises, Inc. (whose proposal was properly eliminated from the competitive range in part because of this same deficiency, see Beneco Enters., Inc., B-243000, June 24, 1991, 70 Comp. Gen. ____, 91-1 CPD ¶ 595) failed to propose the UPB-listed building.

accordance with the RFP evaluation scheme (in which technical factors were more important than price), that Childers's superior, low risk proposal outweighed the slight price advantage of Bildon's acceptable but moderate risk proposal.

Bildon also argues that the agency failed to conduct meaningful discussions with it concerning the deficiency of its model project. During discussions, Bildon received the following DR concerning its model project: "[a] proposal for a pre-engineered building was not submitted. The project calls for a pre-engineered building." We think that this question sufficiently informed Bildon that the agency considered its model project to be deficient because Bildon did not propose the pre-engineered building listed in the UPB.

The protest is denied.



James F. Hinchman
General Counsel