



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Moran Associates
File: B-240564.2
Date: November 27, 1991

Jon W. Van Horne, Esq., McDermott, Will & Emery, for the protester.

Lucy T. Jackson, Department of Transportation, Urban Mass Transportation Administration, for the agency.

Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest by eighth-technically ranked, fifth-highest cost offeror is denied where the record indicates that the evaluation was reasonable and in accord with the listed evaluation criteria, and the protester does not identify any specific area where it was wrongfully downgraded.

DECISION

Moran Associates protests the failure of the Department of Transportation, Urban Mass Transportation Administration (UMTA), to award Moran a contract under request for proposals (RFP) No. DTMU60-89-90012, for services in support of the review of the procurement systems maintained by various UMTA grantees. Moran contends that UMTA improperly evaluated the proposals.

We deny the protest.

UMTA issued the RFP on December 26, 1989, to obtain a contractor to provide personnel, facilities, materials, and equipment to review UMTA grantee's procurement systems, on a cost-plus-fixed-fee task order basis. The RFP contemplated award of up to five contracts based on the technical, cost/price and business management factors listed in the RFP. The RFP provided that the technical proposal would be the most important factor in the evaluation, with the cost proposal being next in order of importance, and the business management proposal being of least importance. However, the RFP cautioned offerors not to minimize the importance of cost.

The RFP identified "Personnel," "Technical Management Plan," and "Experience with UMTA Grantees," as technical evaluation factors. The RFP advised that personnel was the most important factor, which was much more important than technical management plan, which in turn was more important than experience with UMTA grantees. Under personnel, the RFP listed "Key Personnel" and "Other Resumed Personnel" as evaluation subfactors. The technical management plan did not list specific subfactors but contained a five sentence description of the factor. Key personnel was said to be the most important subfactor and was more important than other resumed personnel, which in turn was more important than technical management plan, which was more important than experience with UMTA grantees.

On March 8, 1990, UMTA received 10 proposals, including Moran's, in response to the RFP. Proposals were evaluated by a three-member Source Evaluation Board (SEB). The SEB assigned the evaluation factors weighted values of 70 for personnel, 20 for technical management plan, and 10 for experience with UMTA grantees. Moran's weighted score of 327.3 was ranked eighth of the 10 proposals. The higher scores ranged from 450 to 330.2 points and the ninth and tenth rated offerors were eliminated from the competitive range.

UMTA initiated discussions with the eight offerors on July 19, 1990. After determining to award only three contracts, and several rounds of negotiations, UMTA reduced the RFP's labor hours estimate and requested best and final offers (BAFO) on March 11, 1991. Moran's revised technical proposal received a total weighted score of 317.4;¹ Moran's proposal ranked eighth of the eight revised proposals and the higher technically rated proposals ranged from 451.1 to 319.7 points. Moran's BAFO cost proposal was \$1,809,536, the fifth highest evaluated cost.

In accordance with the RFP's award criteria, on July 11, 1991, UMTA made award to the offerors which received the three highest technical ratings (ranging from 394.5 to 451.1). UMTA determined that these highly rated proposals represented the best buy to the government, considering the technical, cost and business management proposals.

¹Moran's total weighted score was decreased because Moran revised its personnel allocation by shifting an individual initially proposed as other resumed personnel to a key personnel position, which the SEB rated less favorably because the individual possessed limited experience and knowledge.

On July 19, Moran filed this protest against its failure to receive an award. Moran protests that the technical evaluation of personnel and the technical management plan were flawed. Our review of allegedly improper technical evaluations is limited to a determination of whether the evaluation was fair, reasonable and consistent with the evaluation criteria. We will question the agency's determination of the technical merit of proposals only if it is unreasonable or not in accordance with evaluation criteria. Sach Sinha & Assocs., Inc., B-236911, Jan. 12, 1990, 90-1 CPD ¶ 50.

Moran first contends that UMTA improperly evaluated the personnel technical factor by more favorably rating proposals offering personnel possessing a specific UMTA relationship than those proposals offering personnel who only possessed comparable procurement experience. Under this factor, Moran's 276 weighted score was fifth ranked and was less than the three awardees' scores, which ranged from 319 to 374.

As noted by the protester, under the key personnel subfactor, the RFP provided that offerors would be evaluated for their knowledge of UMTA issues and regulations as they relate to third party contracting. The record confirms, and Moran does not dispute, that Moran properly was downgraded under this subfactor.

Except for this subfactor, our review of the record does not indicate that Moran's lower rating for personnel, as compared to each of the awardee's, was directly based on the awardees' personnel's previous relationships with UMTA. While it is true that some of the awardees' personnel were employed by, or were experienced in dealing with, UMTA, our review does not show that these individuals (as groups) were not more highly qualified (as they were rated) than Moran's personnel based on the evaluation criteria stated in the RFP.

Further, that the agency had a reasonable basis for downgrading Moran's personnel. Even though Moran's key personnel were found to have a "strong procurement background," there was a lack of procurement knowledge in the other resumed personnel, which was the second highest weighted technical evaluation factor. Moran did not improve itself in the other resumed personnel subfactor after discussions and it weakened its key personnel by proposing in its revised proposal an individual with limited procurement experience and knowledge. The record indicates that the key personnel of the awardees were otherwise higher rated than Moran. In conclusion, the SEB's final report described Moran's personnel as "a minimally qualified team of key and other resumed personnel." Although Moran's

counsel had access to the evaluation documentation under a protective order issued by our Office, Moran has identified no area where it was unfairly or unreasonably downgraded for the key personnel or other resumed personnel subfactors. Based on our review, we find reasonable the agency's downgrading of Moran in the personnel area and do not find that "UMTA relationships" were unduly weighted in the personnel evaluation.

Moran next contends that UMTA failed to adequately disclose the subfactors under the technical management plan factor that were actually used to evaluate proposals. Moran argues that while these subfactors were essentially contained in the narrative of this evaluation factor, the agency never formally disclosed them as subfactors. Moran also asserts that the RFP misled offerors regarding the relative order of importance of the technical management plan subfactors.

Contracting agencies are required to include in solicitations all significant evaluation factors and their relative importance. 41 U.S.C. § 253a(b)(1) (1988). Solicitations must disclose "any significant subfactors" to be considered in the source selection decision and their relative importance, and inform offerors of the "minimum requirements that apply to particular evaluation factors and significant subfactors." Federal Acquisition Regulation § 15.605(e). However, a contracting agency need not specifically identify the subfactors comprising the evaluation criteria if the subfactors are reasonably related to the stated criteria, and the correlation is sufficient to put offerors on notice of the additional criteria to be applied. Flight Int'l Group, 69 Comp. Gen. 741 (1990), 90-2 CPD ¶ 257; Kaiser Elecs., 68 Comp. Gen. 48 (1988), 88-2 CPD ¶ 448.

We find that the technical management plan subfactors were sufficiently disclosed in the RFP by their specific identification in the narrative describing the factor. Moreover, Moran has not indicated how it was prejudiced in any way by the RFP's failure to more specifically identify these subfactors or their relative importance. See Kaiser Elecs., supra. For example, Moran has not specified how, or even if, it would modify its proposal if it had been apprised of the precise evaluation weights of the subfactors.

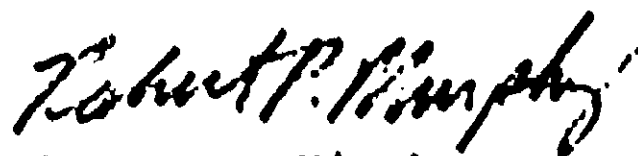
Moran next argues that UMTA did not properly evaluate offeror's cost proposals. Moran asserts that UMTA evaluated proposals on the basis of cost only, as opposed to cost reasonableness. Moran asserts that the RFP evaluation criteria only contemplated the evaluation of cost reasonableness.

The record confirms UMTA's assertion that all cost proposals were evaluated for realism, reasonableness, and accuracy, and audited by the Defense Contract Audit Agency. Cost discussions were held with all offerors. After each offeror's costs were found reasonable the total costs were appropriately considered in the award selection.

Finally, Moran objects to the SEB's use of a technical to cost ratio in evaluating proposals. We have recognized that such a cost/technical ratio formula can be a proper tool for the government to utilize in determining which proposal is the most advantageous to the government. See Morrison-Knudsen Co., Inc., B-237800.2, May 2, 1990, 90-1 CPD ¶ 443. Here, the ratio was only one tool utilized to assure that the government was getting the best buys, given relative technical rankings and costs. The record show that awards were not made to the offerors with the best ratios. Also, even if the ratios had been given more importance, in view of Moran's last ranked technical proposal and fifth highest cost proposal, Moran suffered no possible prejudice as a result thereof.

In sum, the record indicates that UMTA had a reasonable basis for not selecting Moran's eighth ranked offer for an award. As discussed above, Moran's personnel were reasonably rated lower than the awardees' personnel. In addition, Moran received 0 points for the "Experience with UMTA Grantees" evaluation factor, a rating that Moran does not contest. Finally, Moran's fifth highest cost does not represent an advantage to the government. Moran has not identified any areas where its proposal was wrongfully downgraded, although it had access to the complete evaluation documentation. Instead, as discussed above, Moran has only unsuccessfully attacked various aspects of the evaluation methodology without correlating it to how the evaluation of its proposal was prejudiced by these methods.

The protest is denied.


James F. Hinchman
General Counsel