

McArthur
12-1-1992



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

Decision

Matter of: The Knoll Group, Division of Westinghouse
Electric Corporation

File: B-246442

Date: March 10, 1992

Marsha Goodman, Esq., for the protester,
Milt Knee, for Herman Miller Inc., an interested party.
James L. Weiner, Esq., and Justin P. Patterson, Esq.,
Department of the Interior, for the agency.
C. Douglas McArthur, Esq., and Michael R. Golden, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Where solicitation does not reasonably communicate extremely heavy weight to be assigned design and installation in determining most advantageous offer, and in fact this weighting is not consistent with reasonable reading of solicitation evaluation method, protest against agency's use of its evaluation scheme is sustained.

DECISION

The Knoll Group, Westinghouse Electric Corporation, Furniture Systems, protests the award of a contract under request for quotations (RFQ) No. FWS3-91-RFQ-35, issued by the Fish and Wildlife Service, Department of the Interior. The protester asserts that the agency improperly evaluated offers for award.

We sustain the protest.

The solicitation requested quotes for a 5-year lease-to-purchase-option of approximately 97 office furniture work stations at the agency's Twin Cities, Minnesota, regional office, including design and installation services, in accordance with the requote procedures established under Federal Supply Schedule (FSS) 71, part II, section E, the FSS category for systems furniture. The schedule provides that for orders of 50 work stations or more in excess of \$125,000, an agency should issue a request for quotations to schedule contractors and allows these contractors to quote lower prices than those under their FSS contracts without triggering the price reduction clauses of the schedule.

Under the requote procedure, which is limited to vendors awarded FSS contracts for the specific stock item numbers covered by the RFQ, contractors must offer products listed under their FSS contracts. The FSS requires application of a predetermined technical evaluation score to requote prices but allows agencies "the option of separately evaluating and scoring the design and installation services offered by a contractor in response to a requote." The schedule refers agencies to a sample evaluation attached to the schedule, in which an offer's total discounted price of \$350,000 is increased by a technical score of .215, for a weighted price of \$425,250, to which are added design and installation costs of \$31,500 increased by a design/installation evaluation factor of .05 (or \$1,575), for a total weighted design and installation cost of \$33,075 and a total weighted price of \$458,325.

The RFQ, issued to contractors on the schedule, advised offerors that the agency would award a contract on the basis of low weighted cost, calculated as follows:

- (1) multiplying purchase price (list price less discount) by the previously assigned technical evaluation score for the offered product line, to obtain a "weighted purchase price";
- (2) multiplying the proposed design and installation cost by an evaluation score calculated on the basis of listed design and installation criteria, to obtain a "weighted design/installation cost";
- (3) with the use of an additional "lease rate factor," determine the low weighted offeror by adding the weighted purchase price to the weighted design/installation cost.

The RFQ further provided for assignment of a point score of 0, 3, or 6 for designer project experience and for installation project experience; the RFQ further assigned a weight of 3 to designer project experience, for a "weighted point score" of 0, 9, or 18, and a weight of 2 to installer project experience for a "weighted point score" of 0, 6, or 12.

The agency received three quotations on August 27, conducted discussions, and received revised proposals on August 29 and 30. The agency requested each offeror to submit a best and final offer by September 12, and all three offerors submitted a timely response.

Herman Miller Incorporated submitted a weighted purchase price of \$230,172.04, with design and installation costs of \$21,068; the protester's weighted purchase price of \$227,423.75 was somewhat lower but its design and installation costs at \$24,100 were slightly higher. The agency

assigned Herman Miller a total design and installation score of 6 points, while the protester received a total score of 15 points (higher scores being less favorable). In calculating the weighted design/installation cost and the low weighted offer for purposes of award, the agency multiplied design and installation costs by whole numbers, rather than percentages, resulting in the addition of a \$361,500 design/installation factor to the protester's price of \$227,423.75. Based on multiplying its design, installation score of 6, Herman Miller's design/installation factor was \$126,408.00. Under the agency's evaluation using whole numbers, rather than percentages to weight design/installation cost, the Herman Miller total evaluated price was low by \$231,075.80.

On September 20, 1991, the agency issued a purchase order to Herman Miller, and this protest followed. While the design phase based on purchasing Herman Miller furniture is complete, no orders for furniture have been placed with Herman Miller.

The protester contends that the agency incorrectly computed the weighed design/installation cost, multiplying its design and installation cost by a whole number factor of 15 instead of a percentage of 15 percent. The protester argues that the use of a whole number factor is inconsistent with the method previously used in requote procedures.

The agency contends that the evaluation criteria listed on the RFQ clearly state that the design/installation score is a whole number. We disagree. The evaluation criteria merely refer to "point" scores, which could arguably be either whole numbers or percentages. The evaluation formula refers to both the technical factor and the design/installation factor as a "score," but here the agency applied the factors differently, applying the technical factor as a percentage and the design/installation factor as a whole number. We find that the protester reasonably interpreted the RFQ as providing for the agency to apply both factors as percentages.

The applicable FSS evaluation approach as shown in the sample evaluation attached to FSS 71 expresses the score as a percentage. The Furniture Center at the General Services Administration advises that, as shown in the sample evaluation, agencies should use percentages rather than whole numbers to compute weighted design/installation cost; neither the agency nor the awardee denies that such is the normal practice in requotes. In Haworth, Inc., B-241583.5, Apr. 23, 1991, 91-1 CPD ¶ 398, the Forest Service had received a protest similar to this one, alleging that the application of a whole number designer/installer score was inconsistent with the RFQ evaluation terms. After

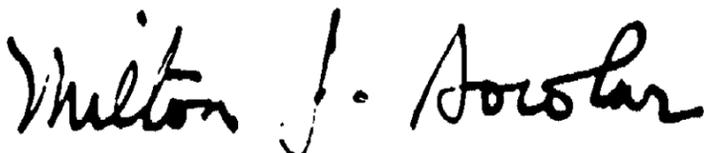
consultation with the Furniture Center, the Forest Service re-evaluated quotes using a percentage. In denying a protest by the original awardee, we found the use of whole numbers inconsistent with the applicable FSS 71 evaluation approach, and we found the re-evaluation using percentages reasonable. In this case, we find, that absent any indication of a contrary intention on the part of the agency in the RFQ, the protester's interpretation of the evaluation criteria was both reasonable and consistent with the solicitation language.

The agency essentially argues that design and installation are very important factors in the instant procurement and that under the FSS, which states that agencies may establish their own factors and methods for evaluation, it may give any weight that it desires to design and installation. While we agree that the agency could weigh design and installation heavier than 15 percent of design/installation cost, if its minimum needs justify such an approach, we find nothing in the solicitation to warn potential offerors that the agency intended to weigh design and installation costs as heavily as it did here--100 times more heavily than a reasonable reading of the solicitation would support. Nor could the protester anticipate that the agency intended to penalize a firm's design/installation approach \$15 for every actual dollar of cost proposed or stated differently 1-1/2 times its basic price for the furniture. Regardless of the importance that the agency argues that design and installation factors should have in determining the most advantageous proposal, it did not communicate that importance to offerors so that they could quote accordingly.

The agency also argues that the protester was not prejudiced by the use of whole numbers in the evaluation. It has recalculated prices to show that the awardee's price remains low by \$3,334.72, using a percentage design/installation factor. We are not persuaded by the agency's recalculation. While the awardee would be low if there were no other errors in the agency's recalculation of prices, our review indicates that the recalculation contains a mathematical error. Specifically, the recalculation shows a lease cost of \$27,735.75 for the awardee, added to a residual value of \$27,293.13, with a sum of \$50,028.88, rather than the correct total of \$55,028.88. This difference of \$5,000 when added to the awardee's evaluated price results in the protester's price being low by \$1,665.28. Thus the record does not support the agency's contention that the use of whole numbers in the evaluation did not prejudice the protester. Accordingly, we sustain the protest.

Since the furniture has not been ordered yet, and the design costs are relatively small, by letter of today, we are recommending that the agency review its calculations. If

the agency finds that with the use of a percentage design factor, the protester's weighted price is low, and if otherwise appropriate, it should award a contract to the protester. If the agency finds however that its needs demand a heavier reliance upon design and installation factors, it should cancel the RFQ, revise it to reflect the significance of those factors, and issue a new solicitation on the basis of full and open competition. In any event, the protester is entitled to its costs of pursuing this protest. The protester should submit its detailed and certified claim for such costs within 60 days of receipt of this decision. 4 C.F.R. §§ 21.6(d)(1), (f)(1) (1991).

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