

Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** General Offshore Corporation

**File:** B-246824

**Date:** April 1, 1992

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of the decision.

### DIGEST

1. General Accounting Office will not object to evaluation of technical and cost proposals where review of evaluation records shows that evaluation was fair and reasonable and consistent with the evaluation criteria in the solicitation.
2. Although solicitation provided that technical factors were more important than cost, agency properly made award to technically lower rated, lower cost offeror instead of higher cost, higher technically rated offeror, since solicitation provided for cost/technical tradeoff, and contracting officer reasonably determined that there was no significant technical difference between proposals and that award to lower cost offeror would be most advantageous to the government.

### DECISION

General Offshore Corporation (GOC) protests the award of a contract to Seaward Services, Inc. under request for proposals (RFP) No. N60921-91-R-0101, issued by the Naval Surface Warfare Center (NAVSWC) for engineering and technical support of a weapons testing range at NAVSWC's Fort Lauderdale, Florida facility. GOC, the incumbent contractor, alleges that the Navy failed to make a proper cost/technical tradeoff in selecting a lower priced, lower technically rated offeror for award.

We deny the protest.

The solicitation contemplated award of a time and materials-type contract for a base year and 3 option years. The RFP stated that technical factors would be more important than

cost in the evaluation, but that cost could become the determinative selection factor if a technically superior proposal was deemed not to be worth any cost premium. The technical factors and subfactors and their weights in the evaluation were as follows;

1. Corporate experience and capabilities (25%)
2. Test support--range operation and maintenance (20%)
3. Personnel qualifications (18%)
4. Vessel and aircraft charter (15%)
5. Vessel repair and maintenance (10%)
6. Facilities and equipment (7%)
7. Support of visiting Navy vessels (5%)

Four firms submitted initial proposals by the closing date. Following the initial evaluation by the technical evaluation board (TEB), all four proposals were determined to be approximately technically equal, although GOC received the highest technical score. After discussions were held and best and final offers (BAFO) received from all offerors, GOC remained the highest ranked offeror technically, but Seaward offered the lowest price. Therefore, the TEB analyzed the proposals and evaluation results to determine whether the difference in technical scores reflected any difference in technical ability, and to make a "best value" determination. The TEB found that Seaward's lower score was a product of its status as a relatively new company, as compared to GOC's status as the incumbent, and concluded that there was no real technical difference between the proposals. The TEB therefore recommended to the contracting officer that award be made to Seaward. The contracting officer concurred that GOC's 9 percent higher technical score did not represent any actual technical superiority over Seaward, but instead reflected its status as the incumbent, and concluded that this incumbency advantage was not worth the 1.6 percent price premium. On this basis, the contracting officer recommended to the Contract Review Board that award be made to Seaward; the review board accepted the recommendation. Upon receiving notification of the award, GOC filed this protest.

GOC contends that the technical evaluation was flawed and that the record does not provide a reasonable basis for the agency's cost/technical tradeoff decision. First, GOC asserts that the record does not support the evaluators' conclusion that GOC's high technical score did not reflect any actual technical superiority. In this regard, GOC maintains that the individual evaluation worksheets show that the evaluators considered GOC's proposal superior to all the others, primarily because of its experience as the incumbent contractor. In addition, GOC contends that the evaluators overstated Seaward's scores under certain evaluation factors, and that its proposal actually was even

more superior to Seaward's than its scores suggested. GOC concludes that the agency's ultimate decision that its proposal was technically equal to Seaward's ignored GOC's superior experience and corresponding technical advantage, and resulted in an improper decision that GOC's higher scored proposal was not worth the higher cost. In view of the alleged improprieties in the technical evaluation and the support in the record for its higher technical score based on its incumbency, GOC argues, the agency's cost/technical tradeoff decision in favor of Seaward was improper.

#### TECHNICAL EVALUATION

GOC's challenge to the evaluation primarily concerns the most important evaluation factor, corporate experience. First, GOC notes that it has performed the test range support function at the Fort Lauderdale facility since 1980, while Seaward has little actual experience in test range support. In addition, GOC contends that the evaluators improperly gave Seaward credit under this factor for the experience of its president, who had been the project manager for the test range support contract from 1980 through 1987 while employed by GOC. GOC maintains that since the RFP called for evaluation of personnel under a separate factor, it was improper for the evaluators to consider the experience of GOC's president under the corporate experience factor. GOC concludes that Seaward's score for the experience subfactor of the corporate experience factor--82.5 out of 100 possible points, compared to GOC's score of 90--was unreasonably high.

The evaluation of proposals and the determination of their relative merits is primarily the function of the procuring agency, since it is the agency that is responsible for defining its needs and the best method of accommodating them, and must bear the burden of any difficulties resulting from a defective evaluation. Dimensions Travel Co., B-224214, Jan. 13, 1987, 87-1 CPD ¶ 52. In reviewing protests against allegedly improper evaluations, therefore, we examine the record only to determine whether the agency's judgment was reasonable and in accord with the evaluation criteria listed in the RFP. Taft Broadcasting Corp., B-222818, July 29, 1986, 86-2 CPD ¶ 125. A protester's mere disagreement with an agency's conclusions does not render them unreasonable. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. As discussed below, the record establishes that the agency's technical evaluation was reasonable and consistent with the stated evaluation criteria.

Our review of the evaluation documents shows that the evaluators were aware that Seaward does not have the extensive test range support experience that GOC has.

However, the evaluators also recognized that the firm has broad experience in the performance of tasks comparable to those required here, including deep water range operations, facilities planning, and ocean engineering. Our review of Seaward's proposal supports this conclusion. More importantly, the evaluators noted that Seaward's president was GOC's project manager for the test range support contract from 1980 through 1987. While GOC is correct that it generally is improper to consider personnel experience under a corporate experience factor where there are separate evaluation factors for each, Washington State Comm'n for Vocational Educ.--Recon., 64 Comp. Gen. 681 (1985), 85-2 CPD ¶ 59, we think the agency's consideration of the experience of Seaward's president under the institutional experience subfactor of the corporate experience factor was consistent with the RFP. In this regard, the RFP designated two subfactors under the personnel qualifications factor, engineering and technical/skilled labor. The evaluation of these subfactors was to address the education, experience and capabilities of "key engineering personnel" and "technical/skilled personnel." Since the personnel evaluation thus was limited to consideration of these personnel, there was no way for the agency to evaluate the extensive experience of Seaward's president under this factor. Moreover, we specifically have held that in evaluating the experience of a new business such as this one, an agency may consider the experience of supervisory personnel. See LD Research Corp., B-230912.3, Sept. 9, 1988, 88-2 CPD ¶ 223; Data Flow Corp. et al., B-209444 et al., July 6, 1983, 83-2 CPD ¶ 57. We conclude that the agency properly considered the extensive experience of Seaward's president in awarding the firm a relatively high score for its institutional experience under the corporate experience and test support factors.

#### COST/TECHNICAL TRADEOFF

GOC notes that it scored higher than SSI under all seven evaluation factors, particularly in the three most important areas--corporate experience, test support, and personnel qualifications. GOC contends that, contrary to the Navy's view, its higher scores reflect actual technical superiority. In view of this technical superiority and the evaluation scheme's emphasis on technical capability, GOC asserts that the Navy did not have a valid basis for its decision to make award to a lower rated offeror at an "insignificant" cost saving of 1.6 percent. GOC argues further that the award decision is improper because the record does not adequately document the basis for the Navy's cost/technical tradeoff decision. In this regard, GOC cites language in the TEB's and contracting officer's recommendations stating that all of the offerors, including Seaward, were "competent," and that their proposals were

"satisfactory" and "acceptable." GOC concludes that the Navy's determination that Seaward is capable of performing the contract is not a sufficient basis to forego GOC's technical advantage and make award based on price.

Notwithstanding a solicitation's emphasis on technical factors, an agency properly may award to a lower priced, lower technically scored offeror if it decides that the cost premium involved in awarding to a higher rated, higher priced offeror is not justified given the acceptable level of technical competence available at the lower cost. Dayton T. Brown, Inc., B-229664, Mar. 30, 1988, 88-1 CPD ¶ 321. The determining element is not the difference in technical merit, per se, but the contracting agency's judgment concerning the significance of that difference. Id. A contracting agency properly may find that a significant difference in technical scores does not represent a corresponding difference in technical merit, and make award based on cost. M. Rosenblatt & Sons, B-230026; B-230026.3, Apr. 26, 1988, 88-1 CPD ¶ 409. In this regard, we consistently have stated that evaluation scores are merely guides for the selection official, who must use his judgment to determine what the technical difference between competing proposals might mean to contract performance, and who must consider what it would cost to take advantage of it. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. The relevant considerations in such a case are whether the award decision was reasonable in light of the RFP evaluation scheme, and whether the selection official adequately documented the basis for his selection. Dayton T. Brown, Inc., supra; DynCorp, 71 Comp. Gen. 129 (1991), 91-2 CPD ¶ 575.

The evaluation record, including the individual evaluators' scoresheets and the evaluation summaries, supports the TEB's conclusion, and the contracting officer's concurrence, that GOC's and Seaward's proposals were essentially technically equal. In particular, the TEB cited four evaluation factors where Seaward scored lower than the other offerors, explaining in each case why Seaward's lower score did not reflect material technical inferiority. We discuss each below.

#### Corporate Experience

Under this most important evaluation factor, the TEB considered Seaward's experience to be directly applicable to the RFP requirements, primarily based on Seaward's president's long-term experience in managing GOC's predecessor contracts and the firm's related experience in range operations and maintenance. The evaluators particularly liked Seaward's management plan, noting its similarity to the approach GOC had used successfully under

the predecessor contracts, and found its organizational response mechanism to be "detailed and clear." In concluding that Seaward's lower score in this area did not reflect any technical inferiority, the TEB stated that Seaward "has demonstrated a clear understanding of the effort and has proposed a detailed plan for providing support that leaves absolutely no doubt about their ability to perform exceptionally, even though their corporation is young." GOC's disagreement with the TEB's conclusion does not provide us with any basis to question it. ESCO, Inc., supra.

#### Test Support

Under this factor, ranked second in importance, the evaluators found that Seaward's proposal demonstrated a thorough understanding of, and approach to, the RFP's technical requirements. The evaluators also noted that while Seaward as a firm was somewhat lacking in engineering experience, its proposed personnel had the required capabilities. Moreover, the firm was found to have "very good" experience in range operation and maintenance. In its determination that Seaward's proposal was technically equal to those of the other offerors, the TEB noted that while Seaward had been downgraded due to its inexperience as a firm, its proposal established its ability to perform successfully based on its employees' experience and its understanding of the requirements. While GOC's proposal was considered very strong in this area, the evaluation comments show that this was primarily due to its experience as the incumbent; the comments do not establish that GOC possessed any superior technical ability.

#### Personnel Qualifications

Under the third most important factor, the evaluators found Seaward's personnel to have the required capabilities and "directly applicable" experience that is "closely matched to their jobs"; the firm's proposed project management staff was found to have particularly strong credentials. Although the evaluators downgraded Seaward because some of its personnel were applicants rather than employees, they ultimately concluded that this was not a technical disadvantage but instead was a factor of Seaward's youth and small size. The record provides us no basis to find otherwise.<sup>1</sup>

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<sup>1</sup>Although one evaluator expressed doubt during Seaward's original evaluation that all of the firm's proposed personnel would ultimately accept employment, these doubts were apparently resolved by the time the evaluator signed the TEB consensus memorandum stating that the "applicant"



## Facilities and Equipment

Under the sixth-ranked evaluation factor, facilities and equipment, the TEB found that the other offerors' higher scores did not represent any technical advantage. The basis for the scoring difference here was that the other offerors own more of the necessary facilities and equipment than Seaward does, again a factor of the firm's size and age. This was not considered a material advantage over Seaward's plan to borrow or lease certain equipment and facilities from identified sources. GOC has not offered any reason why this conclusion was in error, and we have no other basis to question it.

## Other Factors

We have reviewed the evaluation records for the three remaining evaluation factors and conclude that the record supports the Navy's technical/cost tradeoff decision, notwithstanding the TEB's failure specifically to address these factors in making its recommendation. For example, under the fourth-ranked evaluation factor, the evaluators found that Seaward's proposal "exceeds requirements in every detail." Under the vessel repair and maintenance factor, ranked fifth in importance, Seaward's proposed maintenance system was found to demonstrate a "superior understanding of [the Navy's] requirements." Under the last evaluation factor, support of visiting U.S. Navy vessels, the evaluators found that Seaward's detailed description of its approach reflected a "superb" understanding of the requirement and "excellent" experience in the area.

In sum, the evaluation record supports the contracting officer's conclusion that Seaward's and GOC's proposals were technically equal. While there was a 9 percent differential between GOC's and Seaward's technical evaluation scores, primarily attributable to the scores under the corporate experience, test support, and personnel factors, we think the record provides substantial support for the contracting officer's conclusion that the differential reflected the relative ages of the two firms and GOC's incumbency advantage rather than any material technical differences between the proposals. We have held that a selection official properly may consider a numerical scoring advantage found to be based primarily on the technical advantages of incumbency as not representing a significant technical advantage that would warrant paying substantially more for

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status of some of Seaward's proposed personnel was not a technical concern.

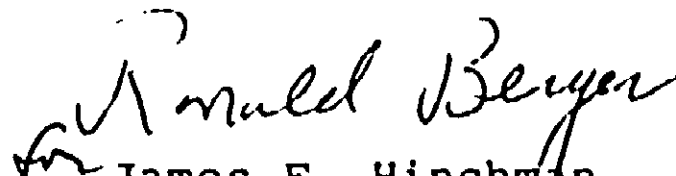
it. See Dayton T. Brown, Inc., supra; Master Security, Inc., B-221831, May 9, 1986, 86-1 CPD ¶ 447. In this regard, while the evaluation documents contain references to Seaward's lack of corporate experience, they also contain numerous favorable comments regarding the firm's experienced personnel, its similar work experience, and its excellent understanding of the RFP's technical requirements. In short, the evaluators essentially found that the technical scoring difference was exaggerated due to Seaward's status as a newer company and GOC's incumbency advantage, and reasonably concluded that Seaward could perform as well as GOC notwithstanding its lower technical score. See Dayton T. Brown, Inc., supra; United Eng'rs and Constr. Inc., Stearns-Roger Div., B-240691; B-240691.2, Dec. 14, 1990, 90-2 CPD ¶ 490.

GOC cites several of our decisions in support of its argument that the record does not support the agency's tradeoff decision, primarily PharmChem Laboratories, Inc., B-244385, Oct. 8, 1991, 91-2 CPD ¶ 317, in which we found that the record did not support the agency's decision to award to a lower priced, lower technically rated offeror. These decisions are inapposite here. In PharmChem, most of the 9 percent difference in the offerors' technical scores was attributable to quality of service, the most important evaluation factor, and the evaluation narrative indicated that PharmChem was considered superior to the awardee under this factor. At the same time, in selecting the awardee, the agency did not explain why PharmChem's quality advantage was not a material benefit to the agency such that payment of a 1.6 percent higher cost was not warranted. Similarly, in John Snow Public Health Group, Inc., 59 Comp. Gen. 498 (1980), 80-1 CPD ¶ 366; DynCorp, B-232999, Feb. 14, 1989, 89-1 CPD ¶ 152; and DynCorp, 71 Comp. Gen. 129, supra, also cited by the protester, the agency's determination that offerors were technically equal did not account for certain areas of the awardees' proposals that were considered deficient or unacceptable. Finally, in Hattal & Assocs., 70 Comp. Gen. 632 (1991), 91-2 CPD ¶ 90, the record showed that the agency had merely reviewed proposals for technical acceptability rather than evaluating them based on the RFP evaluation factors. Here, in contrast, the selection decision specifically found that Seaward's lower rating was a product of its lack of direct institutional experience in test range support and GOC's incumbency advantage, and adequately explained why these factors would not materially affect Seaward's contract performance. Contrary to GOC's assertion, the decision did not find Seaward merely capable of performing the contract; rather, it found that "the government would not derive any additional benefit in awarding this effort to the high technical offeror at a premium of \$136,409.70." As discussed, the evaluation documents support this conclusion.



In view of our conclusion that the Navy properly found that the 9 percent difference between Seaward's and GOC's technical scores did not reflect any material difference in the quality of the proposals, we cannot conclude that GOC's 1.6 percent cost premium is insignificant; payment of any premium simply is not warranted where the agency reasonably determines there is no technical advantage in doing so. The RFP advised that cost could become the determinative selection factor if proposals were determined to be essentially technically equal. Since the contracting officer specifically determined that the proposals were equal technically, which determination is supported by the record, she properly made award to Seaward based on its 1.6 percent lower cost. See Crowley Maritime Salvage, B-234555, June 13, 1989, 89-1 CPD ¶ 555; see also Associates in Rural Dev., Inc., B-238402, May 23, 1990, 90-1 CPD ¶ 495 (protester's 10 percent higher score did not represent technical superiority that would warrant payment of a 6.2 percent cost premium).

The protest is denied.

  
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General Counsel