



Comptroller General
of the United States

227132

Washington, D.C. 20548

Decision

Matter of: A-Enterprises, Inc.

File: B-255318

Date: February 18, 1994

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Corp., an interested party.
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Department of the Army, for the agency.
Paul E. Jordan, Esq., and John Van Schaik, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Award to higher cost, higher technically rated offeror is proper where solicitation evaluation scheme gave greater weight to technical factors than to cost and where agency reasonably found that protester's lower cost did not outweigh the technical advantages demonstrated in the awardee's higher cost proposal.

2. Awardee's participation in government sponsored conference during evaluation of proposals was proper where participation was required by awardee's then current contract. Advantages due to incumbency are unobjectionable where there is no evidence of preferential or unfair action by the government.

DECISION

A-Enterprises, Inc. (AEI) protests the award of a contract to Materials Sciences Corporation (MSC) under request for proposals (RFP) No. DAAL01-93-R-4023, issued by the Department of the Army as a small business set-aside for updating Military Handbook 17 (MIL-HDBK 17). AEI challenges the agency's evaluation which found MSC's proposal to be technically superior and alleges that the agency provided preferential treatment to MSC.

We deny the protest.

MIL-HDBK 17 is a source document for statistically based, material property data which includes testing and analysis guidelines for the use of fiber-reinforced composite

materials in various applications such as aircraft, ships, and ground combat vehicles. The successful offeror is required to furnish all personnel, materials, and facilities necessary to plan, gather information, assess, maintain, coordinate, update, and implement MIL-HDBK 17. The contractor also is to provide computer facilities and software, manage the system, and provide updates as data for new materials are gathered. The RFP contemplated award of a cost-plus-fixed-fee contract for a base year with 2 option years.

The RFP, at section M.3, stated that award was to be made to the offeror whose proposal offered the greatest value to the government and that "QUALITY in terms of technical excellence, management capability, personnel qualifications, prior experience, past performance, and schedule compliance is the predominant factor." Also in section M.3, under the heading "Technical Approach," the RFP stated that "[t]his aspect of the proposal" will be evaluated to determine the offeror's capability to comply with the scope of work and that various technical "disciplines" and areas of experience and personnel qualifications were to be used in evaluating the proposals.¹

AEI and MSC, the incumbent, submitted proposals. After an initial evaluation and discussions, the agency requested best and final offers (BAFO) from both offerors. The proposals were rated on an adjectival basis as outstanding,

¹The technical "disciplines" listed included competence concerning polymer matrix and metal matrix composite technology and computer technology/capabilities. Concerning qualifications, section M.3 states that the evaluation would consider the contractor's specific experience, technical organization and support personnel, special facilities and equipment, logic and analytical capabilities, and past experience, and that resumes would be evaluated in order to assess computer programming and data entry capabilities, polymer matrix and metal matrix composite experience, and data/statistical analysis expertise.

acceptable, marginal, susceptible, or unacceptable. The evaluators scored the proposals as follows:

Evaluation Factors	MSC	AEI
Technical Excellence	Outstanding	Marginal
Management Capability	Outstanding	Marginal
Qualifications		
Technical Area	Outstanding	Acceptable
Computer/Database	Acceptable	Acceptable
Prior Experience	Outstanding	Marginal
Past Performance ²	Outstanding	Marginal.

MSC proposed to perform the work for \$719,068, while AEI proposed to perform for \$699,602. In making the award to MSC as representing the greatest value to the government, the contracting officer determined that the technical superiority of MSC's proposal was worth the approximately 2.7 percent higher cost.

AEI first contends that the Army failed to follow the evaluation criteria stated in section M.3 of the RFP. Specifically, AEI argues that the factors scored by the evaluators (Technical Excellence, Management Capability, etc.) resulted in a more cursory evaluation than would have occurred had the evaluators used the more detailed factors and disciplines also listed in section M.3 (technical competence, computer technology, qualifications, etc.). The record does not support the protester's contention. As noted above, the "factors" to which the protester refers were listed under "Technical Approach" in section M and, according to the RFP, were to be used to evaluate the offeror's "capability to comply with the technical requirements set forth in the [RFP] and the soundness of the technical approach" proposed. While the agency did not separately score the proposals under these "factors," the record establishes that the technical areas they reflect were considered in rating the proposals. We think this evaluation approach was reasonable and consistent with the RFP.

²The agency explains that the evaluation of "schedule compliance" was encompassed within "past performance" because of the intimate relationship between the two factors.

AEI principally contends that the agency's evaluation was flawed because its own technical proposal was allegedly superior to MSC's proposal. In this regard, AEI contends that the agency should have given the protester more credit for its innovative approach, computer capabilities, and superior proposed personnel, and should have awarded it the contract at its lower cost.

Where an evaluation is challenged, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the evaluation criteria and applicable statutes and regulations, since the relative merit of competing proposals is primarily a matter of administrative discretion. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203. Further, in a negotiated procurement, there is no requirement that award be made on the basis of lowest cost unless the RFP so specifies. Henry H. Hackett & Sons, B-237181, Feb. 1, 1990, 90-1 CPD ¶ 136. Cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the established evaluation factors. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. Awards to offerors with higher technical scores and higher costs are proper so long as the result is consistent with the evaluation criteria and the procuring agency has determined that the technical difference is sufficiently significant to outweigh the cost difference. Bendix Field Eng'g Corp., B-241156, Jan. 16, 1991, 91-1 CPD ¶ 44.

Here, we find that the agency had a reasonable basis to justify the award to MSC at its higher cost. The record shows that the services to be performed are highly technical and specialized in nature and that the agency found MSC's proposal to be technically superior to AEI's proposal in all but one area. While AEI contends that it is better qualified than MSC, its criticism of the evaluation simply reflects its disagreement with the agency's judgment, which does not itself render the evaluation unreasonable. Litton Sys., Inc., B-237596.3, Aug. 8, 1990, 90-2 CPD ¶ 115.

The evaluators found MSC's proposal to be outstanding under the technical factor based upon its clear understanding of MIL-HDBK 17 and composite materials standardization. AEI's proposal was rated marginal because it showed an inadequate understanding of the secretariat function³ and the purpose

³This function included input of data for preparation of MIL-HDBK 17, communicating technical issues presented by handbook users to the relevant working groups and the government representative, and maintaining correspondence.

and processes involved in developing MIL-HDBK 17. With regard to management, the evaluators found MSC's proposal outstanding due to its demonstrated capability in coordinating scientists and engineers in developing multi-disciplinary technical documents. AEI was rated marginal because it was a young, growing firm that had not yet demonstrated that it possessed the necessary administrative skills.

In the area of technical qualifications, the evaluators found that both offerors were qualified, but rated MSC outstanding for its demonstrated competence in composite materials. They noted that MSC's program manager was internationally renowned in the area of composite materials, while AEI's proposed professionals did not have a proven track record. Concerning qualifications with computers, both offerors were evaluated as acceptable. With regard to prior experience and past performance, the evaluators rated MSC as outstanding based on its extensive general experience in the area of composite materials and 7 years specific experience on the predecessor contract. AEI, with little general experience with composite materials and no specific experience on MIL-HDBK 17, was rated marginal. The evaluators recognized that AEI had proposed two engineer/scientists who had worked on the predecessor contract, but found they had limited involvement with MIL-HDBK 17.

AEI asserts that it should have received a higher technical rating as a result of its capabilities with computers and the innovative computer uses which it proposed. AEI notes that the RFP stated that in collecting, storing, analyzing, and presenting data, "maximum use of computers" should be made and argues that it proposed a number of innovative uses of computers. Although the protester believes the evaluators placed too much emphasis on continuity rather than innovation, we find nothing improper in the evaluation. While, as noted by AEI, the RFP made a number of references to computers, computer capability is only one of several factors involved in the evaluation. Further, the objective of the contract is to provide a maintenance program for the existing MIL-HDBK 17 database, and while innovation was permitted and sought, the protester emphasized its innovative approaches to anticipated needs which were not identified in the RFP. The solicitation was clearly designed to obtain service for an ongoing program. Thus, continuity was an appropriate consideration and the evaluators reasonably concluded that AEI's innovations were not deserving of an outstanding rating.

AEI also contends that it should have received a higher rating for its computer qualifications because it proposed personnel with significant computer science capabilities.

We disagree. As observed by the agency, the RFP required personnel with computer programming and data experience, not computer scientists. Thus, the evaluators reasonably concluded that the additional experience possessed by a computer scientist did not warrant an outstanding rating.

AEI contends that MSC is not entitled to an outstanding rating for the qualifications of its personnel since, according to the protester, most of MSC's experienced personnel have left the firm. While the protester may be correct with regard to the loss of certain employees, none of the employees mentioned by the protester were proposed by MSC. MSC proposed five engineer/scientists with doctoral degrees and experience in composite materials including its principle investigator, with 7 years experience on MIL-HDBK 17 in that capacity, and a program manager internationally known for his work with composite materials. While AEI's proposed personnel included three engineer/scientists with doctoral degrees, their resumes do not reflect the same level of relevant experience as those proposed by MSC.

With regard to past performance, AEI contends that MSC's outstanding score was undeserved since it failed to meet a requirement of the predecessor contract to create a "statistical parameters computerized database." In response, the agency explains that AEI has misconstrued the requirements of that contract and states that MSC fully complied with, and received a high rating for, its performance of this item. In its comments on the agency report, AEI provides no evidence to contradict the agency's position. Accordingly, we have no basis to dispute the agency's evaluation of MSC's past performance.

In short, the record shows that the agency reasonably found MSC's proposal to be superior to AEI's proposal in all evaluation areas except one (computer capability) in which both proposals were rated acceptable. Overall, AEI's proposal was rated marginally acceptable. Under these circumstances, we find the contracting officer reasonably concluded that MSC's technical superiority was worth a cost premium of less than \$20,000 on a \$719,000 contract.

AEI also contends that the agency showed MSC preferential treatment during the evaluation by paying MSC to attend a government-sponsored conference, called the Coordination Group meeting, in June 1993. AEI argues that MSC gained an unfair advantage as a result of that meeting because, according to the protester, MSC had access to the agency evaluators and was able to tailor its BAFO based on what it learned of the future course and direction of MIL-HDBK 17. AEI also contends that MSC effectively prevented the protester from attending because MSC was in charge of the invitations to the meeting.

According to the agency, the Coordination Group meetings are held twice a year at sites determined by the agency and are attended by numerous representatives of the defense, aeronautics, and polymer/composite material industries as well as government representatives. The meetings provide opportunities to discuss recent changes to MIL-HDBK 17, proposed changes to the handbook, and guidelines for use and testing of polymers. The MIL-HDBK 17 contractor is responsible for providing all necessary administrative support and technical coverage of the meeting. Tasks include serving as the meeting secretary, interacting with the working groups, preparing the meeting agenda, and compiling and distributing the results of each meeting. Although both MSC and AEI anticipated that the new contract would encompass the June 1993 meeting, when the agency was unable to award the contract prior to the meeting, it modified MSC's contract to include the meeting. Since the instant procurement was ongoing, however, the modification prohibited MSC from organizing or administering the meeting. The meeting place was set the year before, it was open, and the protester itself could have attended.

MSC's participation was limited to sending two personnel to provide technical input regarding the contractor's knowledge of polymer matrix composites gained while performing the incumbent contract. Since MSC was not in charge of sending the invitations to the June meeting, AEI is in error when it contends that MSC prevented the protester from attending. While agency personnel attended, the record establishes that their discussions with MSC were limited to MSC's technical efforts on the contract. The agency reports that there were no discussions concerning the AEI or MSC proposal, nor was the pending solicitation discussed. Further, from our review of MSC's BAFO, we find nothing to indicate that it changed in any way based on the meeting.⁴

In sum, there is no evidence that there was any impropriety or unfair advantage gained by MSC from attending the meeting. The protester's speculative allegations alone are

⁴While AEI observes that MSC deleted references to the June meeting from its BAFO, we do not see how this could have given MSC any competitive advantage. Moreover, in view of the August 1993 BAFO closing date, it should have been obvious to both offerors that proposed plans for the June 1993 meeting would have little if any effect on the evaluation.

insufficient to sustain its protest on this ground. Delta
Ventures, B-238655, June 25, 1990, 90-1 CPD ¶ 588.

The protest is denied.

Robert P. Murphy
fn Robert P. Murphy
Acting General Counsel