



## Decision

**Matter of:** Sherikon, Inc.; Technology Management &  
Analysis Corporation

**File:** B-256306; B-256306.2; B-256306.3

**Date:** June 7, 1994

Keith L. Baker, Esq., Eckert Seamans Cherin & Mellott, for Sherikon, Inc., and Jacob B. Pompan, Esq., Gerald H. Werfel, Esq., and David B. Stinson, Esq., for Technology Management & Analysis Corporation, the protesters. William M. Weisberg, Esq., Barton, Mountain & Tolle, for ROH, Inc., an interested party. Annett H. Madison, Esq., and Josie C. Serracin, Esq., Department of the Navy, for the agency. Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Where the agency reasonably evaluated the relevant experience of the awardee's proposed key and general personnel whose resumes contained, in accordance with the terms of the solicitation, a reference to a cumulative number of years of relevant experience, including the number of years with the awardee or its subcontractors in particular positions, and a detailed narrative description of this relevant experience, and where the agency reasonably determined the awardee's and the protester's projected costs, the agency reasonably decided, consistent with the solicitation's award methodology, to award a contract on the basis of initial proposals without conducting discussions with the awardee, a higher technically rated, lower-cost offeror in comparison to the protester.

2. Where there was a "not so significant" 6-point difference in technical ratings, but the proposed awardee and the protester received the same overall adjectival rating, and where the awardee offered lower projected costs than the protester, the agency reasonably decided that the numerical difference in technical ratings did not warrant the payment of a 12-percent cost premium to the protester.

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**DECISION**

Sherikon, Inc. and Technology Management & Analysis Corporation (TMA) protest the proposed award of a contract to ROH, Inc. under request for proposals (RFP) No. N00024-93-R-6485(Q), issued by the Naval Sea Systems Command, Department of the Navy, for program management, engineering, and integrated logistics support services for the Ships, Boats, and Crafts Program Office. Sherikon and TMA principally contend that the agency unreasonably evaluated the experience of ROH's proposed personnel and the realism of the offerors' proposed costs.

We deny the protests.

The RFP, issued as a total small business set-aside on June 7, 1993, contemplated the award of a cost-plus-award-fee, level-of-effort contract for the base year and 4 option years. The RFP required offerors to submit separate technical and cost proposals. The RFP contained the following technical evaluation factors (and subfactors): (1) experience (personnel experience and corporate experience); (2) technical approach (program management support, engineering and technical support, and integrated logistics support); (3) management (organization, interface, contract management, subcontractor management plan, work force loading plan, start-up plan, and cost management); and (4) facilities (facility description/location and support capabilities). The RFP stated that the experience and technical approach evaluation factors were equally important and were significantly more important than the management evaluation factor; the management evaluation factor was significantly more important than the facilities evaluation factor. Relevant to this protest, the personnel experience evaluation subfactor was the most important subfactor.

Concerning personnel, the RFP required that an offeror demonstrate that qualified personnel (including subcontractor personnel) would be available to sufficiently staff the necessary level of effort. Among other items, the RFP required offerors to identify their key personnel (11 personnel categories deemed essential for contract performance) and general personnel (6 non-key, technical or higher-level professional staff personnel categories). For these positions, the RFP provided detailed narrative descriptions of the type of experience, including a reference to a number of years of experience, deemed necessary for an individual proposed for a particular position to perform the contract. The RFP stated that these descriptions were provided as "guidance to the offeror in understanding the level of support required" for the contract. For these positions, the RFP required offerors to

submit detailed resumes, signed by the individual and a corporate official certifying the accuracy of the information in the resumes. The RFP required the resumes to provide the following information, at a minimum: if the individual currently worked for the offeror (or a subcontractor), his/her years of relevant experience, positions held, and tenure with the firm; if the individual did not work for the offeror, his/her years of relevant experience and a rationale for proposing the individual. Resumes also were to include an individual's educational background and information concerning the in-depth experience of each project member as it related to the tasks to be assigned to the individual.

The RFP stated that an offeror's proposed costs would be evaluated for realism, reasonableness, and validity, including traceability of the costs to an offeror's technical proposal. The RFP provided that pertinent cost information, including Defense Contract Audit Agency (DCAA) recommended rates for direct labor, overhead, general and administrative, etc., would be used to calculate the most probable (projected) costs the government could expect to incur if the contract were awarded to a particular offeror. The RFP advised that if an offeror's proposed costs were determined unrealistic, these costs would be adjusted accordingly to reflect more realistic costs.

Concerning costs, the RFP required offerors to propose a 4.5-percent escalation rate for direct labor for each option year. Offerors were instructed to fully document any deviation from this escalation rate, including the firm's established policy on labor escalation. The RFP also required offerors with recent or similar experience to submit actual, historical cost data for contracts performed within the past 3 to 5 years.

The RFP stated that the award would be made to the responsible offeror whose proposal represented the combination of technical merit and cost most advantageous to the government (i.e., the best value). The RFP notified offerors that the agency intended to award the contract on the basis of initial proposals without conducting discussions and that the award could be made to other than the low-cost, technically acceptable offeror. The RFP stated that the agency would compare the projected costs of the low, technically acceptable offeror to the projected costs of the higher-scored, technically acceptable offerors. The RFP stated that the agency was willing to pay a cost premium for a higher technically scored proposal (as determined by the application of a mathematical formula).

Six firms, including Sherikon, the incumbent contractor, TMA, and ROH, submitted initial technical and cost proposals

by the August 20, 1993, closing date for receipt of initial proposals. The protesters and ROH submitted certified resumes for all proposed key and general personnel, providing a rationale for proposing a particular individual for a particular position and including a reference to the specific, cumulative number of years of relevant experience the proposed individual had. With respect to the descriptions of relevant experience, the protesters' proposed personnel structured their resumes in reverse chronological order, providing the time periods for which they worked for a particular firm, entity, or program office in a particular position and describing their relevant experience with specific narrative details. In contrast, ROH's proposed personnel structured their resumes in a "bullet" format, providing detailed narrative descriptions of their relevant experience and stating particular firms, entities, and program offices for which they worked, but not identifying specific time periods of employment with these employers. These individuals did provide, however, their length of service (out of the cumulative number of years of relevant experience) with ROH or its subcontractors and current and previous positions with these employers.

Technical proposals were evaluated by the agency's technical evaluation review panel (TERP), which was divided into three teams (with a team leader and two evaluators) corresponding to the RFP's statement of work (SOW) requirements: program management, engineering, and integrated logistics support. The team leader and evaluators read each offeror's entire proposal; the evaluators subsequently evaluated each offeror's proposal only for those SOW requirements for which they had particular knowledge and expertise. For each evaluation subfactor, the evaluators identified, through narrative descriptions, major and minor strengths and weaknesses in each offeror's proposal and assigned point scores corresponding to the following adjectival ratings: outstanding--90 to 100 points; good--80 to 89 points; satisfactory--70 to 79 points; and unacceptable--0 to 69 points.

With respect to the personnel experience evaluation subfactor, the evaluators determined that ROH's proposed personnel were overall "good." Specifically, based on the point scores, ROH received four "good" and two "satisfactory" ratings. The evaluators determined that ROH's proposed personnel were well qualified and experienced, and that ROH could perform effectively, efficiently, and economically. However, three of the evaluators who rated ROH "good" for this evaluation subfactor included the following narratives in their evaluation work sheets concerning the resumes of ROH's proposed personnel:

"[t]he resumes do not detail dates of employment where relevant experience was gained. The evaluator must make perhaps erroneous assumptions of the number of years of relevant experience the individual has. The resume leaves too much to interpretation.

"[w]hile meeting the RFP requirements, the resumes were difficult to review since prior employment and time periods were not included.

"[t]he format of the resume needs to be changed to indicate where the people worked, the time frame in which they worked and the sequence in which they worked in order to determine if someone has a great deal of time in a particular area or has just begun in that function. It [is] very difficult to determine experience. . . . The resumes should show the length of service in each job and what was accomplished during that time. It is nearly impossible to determine relevant experience."

Next, the evaluators determined that Sherikon's proposed personnel were overall "satisfactory." Specifically, Sherikon received four "good" and two "unacceptable" ratings. The evaluators determined that as the incumbent contractor, Sherikon proposed generally well-qualified personnel who had a broad spectrum of experience; Sherikon also offered a good support structure. However, the evaluators believed that Sherikon's proposal presented a risk because Sherikon proposed to phase out senior management personnel in the option years. The evaluators were concerned with the ability of the firm to accomplish future contract requirements.

Finally, the evaluators determined that TMA's proposed personnel were overall "outstanding." Specifically, TMA received four "outstanding" and two "good" ratings. The evaluators determined that TMA's proposed personnel were well qualified and generally exceeded the requirements in the RFP. The evaluators favorably viewed TMA's proposed use of a more senior staff in order to ensure continuity of performance during the phase-in period.

Following these evaluations, a final TERP report was prepared by the TERP chairman and team leaders, with input from the evaluators. Individual evaluations were reviewed and any differences of opinion between the evaluators were resolved. Consensus point scores, corresponding to the previously referenced adjectival ratings, were assigned to each offeror for each evaluation subfactor. Concerning the personnel experience evaluation subfactor, although the

consensus point scores did not necessarily reflect an average of the point scores previously assigned by the individual evaluators, ROH, Sherikon, and TMA respectively received consensus point scores corresponding to the overall adjectival ratings assigned by the evaluators.

The TERP report stated that ROH's proposal was of low risk since the majority of its proposed personnel were qualified, having recent relevant experience with most of the RFP requirements and with this program office. While three evaluators individually commented on the format, content, and organization of ROH's resumes, the only comment in the TERP report concerning these resumes was that "[t]he resumes provided were not structured so that the evaluator could discern the exact amount of time spent in each job position cited."

The TERP report also stated that Sherikon's proposal was of moderate to high risk due to the firm's plan to replace senior management personnel in the option years as the work load decreased, thus disrupting contract performance. The TERP report stated that Sherikon generally proposed qualified personnel with significant experience with this program office.

Finally, the TERP report stated that TMA's proposal was of low to very low risk because TMA proposed a talented and qualified team of individuals with experience with this program office; TMA also demonstrated a thorough understanding of the RFP requirements. The TERP report stated that the resumes submitted by TMA's proposed personnel were well structured, demonstrating the individuals' experience.

For these offerors, the overall, final weighted consensus point scores, out of a total of 100 points, and corresponding adjectival ratings, were as follows: ROH--81.56 (good); Sherikon--75.42 (satisfactory); and TMA--87.56 (good).

Cost proposals were evaluated by the agency's cost evaluation panel (CAP). The CAP considered the recommendations of DCAA in performing the cost realism analysis for each offeror's proposal. The CAP determined that the labor mixes proposed by ROH, Sherikon, and TMA were basically consistent with each offeror's proposed costs. Based on DCAA recommendations, for all three offerors, the CAP upwardly adjusted their escalation rates for direct labor in the option years to the required 4.5 percent. In addition, for ROH, the CAP upwardly adjusted its proposed direct labor rates due to mathematical errors. For Sherikon, the CAP accepted Sherikon's direct labor rates, but made a significant upward adjustment to its indirect

labor rates. In this regard, since Sherikon's calendar year (CY) 1994 budget was not readily available when DCAA performed its audit, DCAA reviewed Sherikon's indirect labor rates based on its actual CY 1993 data. For TMA, the CAP upwardly adjusted its proposed direct labor rates because, while based on April 1993 data, DCAA had data current as of September 1993. The CAP also made a significant upward adjustment in the direct labor rates of one of TMA's subcontractors based on a company-wide raise given to its employees in April 1993, but not reflected in the subcontractor's proposed costs which were based on February and March 1993 data. With respect to these offerors only, ROH submitted the lowest projected costs; Sherikon submitted the second-lowest projected costs; and TMA submitted the highest projected costs.

The contract award review panel (CARP) subsequently reviewed and accepted the final TERP and CAP reports. Using the evaluation methodology in the RFP, the CARP calculated the maximum cost premium range it would be willing to pay for a higher technically rated proposal by comparing the projected costs of the low, technically acceptable offeror (AERA, Inc.) with the projected costs of the higher technically rated, higher projected cost offerors. Sherikon was outside of the premium range, and thus essentially not in line for award. ROH and TMA were within the premium range. The CARP noted that there was only a 6-point difference in ROH's and TMA's final, weighted consensus point scores and both firms were rated overall "good." The CARP concluded that while TMA was rated higher than ROH in the personnel and logistics areas, ROH's risk in each of these areas was low and moderate, respectively, and for this reason, its proposal did not present an overall significant risk. The CARP also noted that TMA's projected costs were significantly higher than ROH's projected costs--by approximately \$2.4 million. The CARP concluded that the difference in total technical scores between ROH and TMA was "not so significant" as to justify paying a higher cost premium to TMA. Accordingly, on the basis of initial proposals without conducting discussions, the CARP recommended that the contracting officer, acting as the agency's source selection official, award the contract to ROH, which offered the best value, most advantageous proposal to the government. These protests followed.

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<sup>1</sup>While AERA was within the premium range as the lowest projected cost, technically acceptable offeror, it was rated at the low end of "satisfactory" and deemed to present a significant risk to the agency. For this reason, the agency decided to pay a cost premium for a higher technically rated offeror.

Sherikon and TMA challenge the agency's evaluation of ROH's proposal for the personnel experience evaluation subfactor. As indicated above, the protesters submitted resumes for their proposed key and general personnel that chronologically identified definite time periods for which an individual worked for a particular employer in a particular position, thus enabling the agency to evaluate whether their personnel had a specific number of years of relevant experience. The protesters argue that the agency could not reasonably make the same determination for ROH's proposed key and general personnel since their resumes were not organized with specific time periods of employment with particular employers. The protesters rely on the previously referenced comments of three evaluators who, while rating ROH "good" for the personnel experience evaluation subfactor, noted that there were some problems with the format, content, and organization of ROH's resumes in terms of determining the actual number of years of relevant experience an individual had. As a result, the protesters argue, the evaluators must have improperly assumed that ROH's proposed personnel had the required number of years of relevant experience.

The evaluation of technical proposals is primarily a matter within the contracting agency's discretion, since it must bear the burden of any difficulties incurred because of a defective evaluation. Thus, we will question the evaluation only if the record demonstrates that it was unreasonable or inconsistent with the RFP's evaluation criteria. Ways, Inc., B-255219, Feb. 17, 1994, 94-1 CPD ¶ 120.

Here, we believe that the agency's evaluation of the relevant experience of ROH's proposed key and general personnel was reasonable and consistent with the terms of the RFP. We cannot disagree with the assessment of the three evaluators concerning the difficulty encountered in reviewing the resumes of ROH's proposed personnel because their resumes, unlike those submitted by Sherikon and TMA, did not identify the specific time periods of employment with specific employers. This is not dispositive, however, since the RFP did not require this type of resume organization. Rather, the RFP stated that if the individual currently worked for the offeror or a subcontractor, he/she should indicate in a resume "years of relevant experience," "positions held," "tenure with the firm," and "[his/her] in-depth experience . . . as it relates to the task(s) to be assigned to that individual." The record clearly shows that ROH's proposed personnel furnished all of this information

in their certified<sup>2</sup> resumes by listing a cumulative number of years of relevant experience and out of this number, the number of years the individual had worked for ROH or a subcontractor, and positions held with these respective employers. Accordingly, ROH's resumes complied with the RFP requirement concerning the information to be disclosed in the resumes.

Moreover, although the RFP contained personnel category descriptions, which included a reference to a specific number of years of experience, according to the RFP these descriptions were provided as "guidance" in understanding the level of support required by the contract. For this reason, we think the evaluators who, in our view, were reasonably assigned to review resumes for proposed personnel in their own particular areas of knowledge and expertise (i.e., program management, engineering, and integrated logistics support), could reasonably review the information in an individual's resume and determine whether the individual had the amount of relevant experience deemed necessary for the position for which he/she was proposed. With respect to ROH's proposed personnel, if their experience was deemed relevant based on the evaluators' assessment of the quality of the described substantive experience, since the resumes stated an individual's cumulative number of years of relevant experience, including the time employed by ROH or a subcontractor in a particular position, we think the evaluators could reasonably conclude that the individual had the number of years of relevant experience deemed necessary to satisfactorily perform the contract.

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<sup>2</sup>The protesters take exception to the certification language in ROH's resumes, where the individual and corporate official "certify that the information contained in [the] resume is correct to the best of my knowledge." [Emphasis added.] Since the RFP did not require any particular certification language, and there is no evidence in the record of misrepresentation by ROH, we have no basis to object to the certification language used by ROH.

In addition, there is no evidence in the record to support the protesters' speculation that prior to performance, ROH plans to make wholesale substitutions of its proposed key and general personnel, and that ROH fraudulently misrepresented, by including the above underscored certification language, the availability of these individuals in its proposal (i.e., bait-and-switch tactics).

We note that the protesters do not contend that the actual substantive experience listed by ROH's proposed personnel in their resumes was not relevant vis-a-vis the personnel category descriptions in the RFP. In addition, the only statement in the final TERP report concerning ROH's resumes involved the agency not being able to discern the exact amount of time spent by ROH's proposed personnel in each job cited, not the relevance of this experience. The record thus shows that to the extent there were any doubts about the relevance of the experience listed by ROH's proposed personnel, these doubts were resolved by the TERP chairman, team leaders, and evaluators in preparing the TERP report and in reaching an evaluation consensus.

Therefore, for the reasons cited above, we have no basis to question the reasonableness of the agency's evaluation of the resumes submitted by ROH's proposed personnel, including the determination of the relevancy of these individuals' experience.

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<sup>3</sup>Sherikon also alleges various inconsistencies in the TERP report which it believes had a material effect on the selection decision. This argument is without merit. For example, one significant alleged inconsistency involved the statement in the TERP report, under the major weakness category for Sherikon, that 40 percent of its proposed integrated logistics personnel did not meet the RFP requirements, and of these, 85 percent were key personnel and 15 percent were general personnel. In contrast, under the minor weakness category for ROH, there was a statement that 39 percent of its proposed integrated logistics personnel did not meet the RFP requirements, but there was no mention of the breakdown of key (33 percent) and general (66 percent) personnel. Although the agency concedes that this fact was overlooked in the TERP report, we think the agency could nevertheless reasonably distinguish these weaknesses as major and minor since the majority of the weak staff were key personnel for Sherikon and only general personnel for ROH. While Sherikon maintains that it was because of the above inconsistency in the TERP report that it was deemed only "acceptable" and not "good" for the personnel experience evaluation subfactor, we believe Sherikon received the rating it did because, as shown by the record, an overriding concern of the agency was Sherikon's proposal to replace senior management personnel in the option years, thus presenting a risk to the agency with respect to the satisfactory completion of future contract requirements. Sherikon does not explain why this was not a legitimate concern on the agency's part.

Sherikon and TMA also challenge the agency's cost realism analysis of their own and ROH's cost proposals.

When an agency evaluates proposals for the award of a cost-reimbursement contract, an offeror's proposed estimated costs of contract performance and proposed fees are not considered controlling since an offeror's estimated costs may not provide valid indications of the final actual costs that the government is required, within certain limits, to pay. See Federal Acquisition Regulation (FAR) § 15.605(d); Purvis Sys., Inc., 71 Comp. Gen. 203 (1992), 92-1 CPD ¶ 132. Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror's proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. Id. Because the agency is in the best position to assess cost realism and must bear the difficulties or additional expenses resulting from a defective cost analysis, our review focuses on whether the cost evaluation was reasonable. Pacifica Servs., Inc., B-242290; B-242290.2, Apr. 8, 1991, 91-1 CPD ¶ 357.

Sherikon and TMA argue that ROH's proposed costs should be reevaluated because ROH did not demonstrate that its proposed personnel had relevant experience and that these individuals actually would be available to perform the contract. However, since we have determined that the agency reasonably evaluated the experience and availability of ROH's proposed personnel, and since the agency concluded that ROH proposed a labor mix corresponding to its cost figures (based on a DCAA audit for which no exceptions, other than correctable mathematical errors, were taken), we cannot object to the cost realism analysis for ROH.

Next, Sherikon and TMA challenge the information used by DCAA as the basis for its audit recommendations regarding their own proposals. In this regard, because Sherikon's CY 1994 budgetary data was not available to DCAA at the time of its audit of the firm's indirect labor rates, DCAA used Sherikon's actual CY 1993 data. For TMA, while the firm based its direct labor rates on April 1993 data, at the time DCAA performed its audit, it had available, and therefore

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<sup>4</sup>The protesters speculate that because of cost overruns on previous contracts, ROH will encounter cost overruns in performing this contract. In performing its audit, DCAA considered the rates under which ROH has actually performed, taking no exception to its proposed costs. Absent evidence to the contrary, we believe the agency could reasonably accept DCAA's recommendations, which were based on the rates under which ROH has actually performed, as the basis for its cost realism analysis for ROH.

used, TMA's September 1993 direct labor rate data. In addition, while one of TMA's subcontractors based its direct labor rates on February and March 1993 data, DCAA used direct labor rates for this subcontractor based on April 1993 data from the firm's personnel register, which showed that at that time company-wide raises were given to all of the firm's employees. In short, we believe DCAA's use of the most current available data in making its recommendations to the agency reasonable and proper, and conclude that the agency reasonably relied on DCAA's recommendations in performing the cost realism analyses.

Further, concerning Sherikon, the record shows that after the completion of DCAA's audit, Sherikon furnished supplemental cost data--ceilings for overhead and G&A. Although DCAA did not approve these ceilings or change its recommendations based on this post-audit data, but nevertheless forwarded the data to the agency for consideration. The agency considered this data by recalculating Sherikon's projected costs, and while the revised projection of Sherikon's costs was lower, these revised projected costs were not used by the agency since DCAA had not approved the subsequently furnished, post-audit ceilings. In any event, the record shows that Sherikon's revised projected costs, while lower, still were higher than the projected costs of ROH (and AERA, the low-cost, technically acceptable offeror which served as the basis for the agency's calculation of a cost premium range). Thus, in performing the cost realism analysis for Sherikon, the agency's use of either DCAA's original recommendation for projected costs based on currently available information or the agency's revised cost projections based on unapproved, post-audit data yielded the same result--Sherikon was not the low-cost, technically acceptable offeror and its overall

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<sup>5</sup>TMA believes that the agency's upward adjustment of this subcontractor's direct labor rates, based on the actual rate figures in the subcontractor's personnel register showing that company-wide raises were given to all employees in April 1993, was significantly overstated. However, TMA has failed to substantiate its position that these raises should have resulted in a significantly smaller upward adjustment to its subcontractor's direct labor rates; the record does show that the subcontractor's proposed escalation rate was increased to the required 4.5 percent, thus accounting for part of the upward adjustment. Accordingly, we have no basis to question the agency's upward adjustment of TMA's subcontractor's direct labor rates.

cost standing in relation to ROH and TMA, both higher technically rated offerors, did not change.

We also think that the agency reasonably decided, that while ROH received a lower numerical technical rating than TMA, since both firms were rated overall "good" with no significant risks, the 6-point, "not so significant," difference in the numerical technical ratings did not justify payment of an additional cost premium (approximately 12 percent) to TMA. Accordingly, we believe the agency's decision to award a contract to ROH is reasonable and consistent with the terms of the RFP.

Accordingly, the protests are denied.

/s/ John M. Melody  
for Robert P. Murphy  
Acting General Counsel

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<sup>6</sup>The protesters also argue that award on the basis of initial proposals was improper. However, since the RFP clearly stated the agency's intention to award a contract on the basis of initial proposals without conducting discussions, FAR § 15.610, and we have no basis to object to either the agency's technical or cost evaluations, the award based on initial proposals was unobjectionable.