



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

## Decision

**Matter of:** Krug Life Sciences, Inc.

**File:** B-258669.2

**Date:** February 22, 1995

Donald J. Kinlin, Esq., Thompson, Hine & Flory, for the protester.  
Daniel J. Kelly, Esq., Gadsby & Hannah, for GEO-Centers, Inc., an interested party.  
Elward L. Saul, Esq., and Robert Swennes, Esq., Department of the Navy, for the agency.  
David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Agency properly considered offeror's specific experience performing the work required under the statement of work where solicitation listed experience as an evaluation factor, since specific experience is intrinsically related to and encompassed by a general experience evaluation factor.

2. Protest against agency acceptance of expired offer without reopening negotiations is denied where offeror originally offered more than the required minimum acceptance period and acceptance is not prejudicial to the competitive bidding system.

### DECISION

Krug Life Sciences, Inc. protests the Office of Naval Research's (ONR) award of a contract to GEO-Centers, Inc., under request for proposals (RFP) No. N00014-94-R-0003, for research and development support for the Naval Medical Research Institute (NMRI). Krug principally challenges the evaluation of technical proposals and the cost/technical tradeoff.

We deny the protest.

### BACKGROUND

The solicitation contemplated award of a cost-plus-fixed-fee contract to furnish research and development support to NMRI

with respect to the investigation of "Navy-related combat casualty care issues, Navy operational-related injuries and illnesses, and approaches to enhanced Navy/Marine Corps combat personnel performance." The solicitation provided for award to be made to the offeror whose proposal was most advantageous to the government under the two listed evaluation factors--technical and cost. The technical factor was more important than the cost factor, and was comprised of four subfactors: (1) understanding research objectives/research approach and plans/research plan feasibility assessment (worth 20 of 60 available technical evaluation points); (2) previous performance experience (15 points); (3) proposed personnel experience (15 points); and (4) proposed program management structure (10 points).

ONR received three proposals. Based upon its evaluation of initial proposals, the agency determined that GEO-Centers's proposal was most advantageous. GEO-Centers's proposal, which received the highest technical score (56.1 points), was evaluated as demonstrating a "high likelihood of success." The agency found that GEO-Centers had discussed and provided a comprehensive assessment of all 14 of the required research tasks, and that GEO-Centers's research plans were "well developed," demonstrating an understanding of the statement of work (SOW) and proposing a good utilization of resources. Further, as the incumbent with 5 years of experience in medical research at ONR, GEO-Centers was evaluated as possessing extensive, recent and "highly-relevant experience" in all areas of the SOW. The agency noted in this regard that GEO-Centers's work for it had been timely, on-budget, and characterized by excellent outcomes, quick responsiveness to urgent requirements (during Operation Desert Storm), and impressive innovation in technology development. The agency further noted that all proposed personnel were incumbent employees with excellent credentials, with all investigators having experience in conducting the research required under the SOW. In addition, the agency found that GEO-Centers's proposed managers were "highly capable and experienced" and that GEO-Centers's sample task discussion "illustrated well how projects would be planned and managed."

In contrast, Krug's proposal received a technical score of 37 points, and was rated inferior to GEO-Centers's (and the third offeror's) proposal. ONR concluded that award to Krug would result in significant operational degradation. The agency found that, although Krug's proposal indicated knowledge of the general aspects of all tasks, there were problems with its approach to some tasks, and its proposal generally lacked sufficient detail and in-depth discussion to permit a determination as to whether the offeror fully understood the research objectives. ONR further found that while Krug's proposal indicated experience with aviation

research and with the National Aeronautics and Space Administration and the Air Force, Krug lacked Navy experience, failed to adequately describe recent research experience similar to that required under the SOW and, indeed, appeared to lack experience with respect to basic medical research. With respect to the research Krug had performed, the agency concluded that the "evidence of success is small/limited." Although the agency found it difficult to assess the qualifications of the staff with which Krug would perform the contemplated contract (since Krug proposed to hire the incumbent employees and only identified three proposed personnel), it did note that the identified employees lacked Navy experience and that there was nothing to show their experience in planning, programming, and budgeting. Further, the agency noted that Krug had not described its proposed management structure in sufficient detail to permit an understanding of how all functions would be handled.

Although the evaluated cost of Krug's proposal (\$9,013,044 over 3 years) was 18.7 percent lower than GEO-Centers's (\$11,091,481), ONR determined that any cost advantage Krug possessed was offset by the technical superiority of GEO-Centers's proposal and the greater likelihood of GEO-Centers successfully performing the SOW. Upon learning of the resulting award to GEO-Centers, Krug filed this protest.

Krug argues that ONR's emphasis on Krug's lack of Navy experience departed from the stated evaluation criteria. We find Krug's argument to be without merit.

As noted by the protester, the Federal Acquisition Regulation (FAR) provides that an agency "shall evaluate competitive proposals solely on the factors specified in the solicitation." FAR § 15.608(a); see 10 U.S.C. § 2305(b)(1). ONR, however, did not depart from the stated evaluation criteria in evaluating proposals. In describing the previous performance experience subfactor, the solicitation's statement of evaluation criteria specifically requested information with respect to "contractor experience in planning, programming, and budgeting systems in use in the Navy and in the Department of Defense" and "recent or current research experience directly related to Navy efforts or requirements, particularly of a nature similar to this effort." Thus, the solicitation clearly advised offerors that the agency would consider the extent of an offeror's Navy experience in evaluating proposals. Furthermore, the record indicates that the agency's fundamental focus was on an offeror's experience performing the specific work required under the SOW. Where, as here, a solicitation lists experience as an evaluation factor, the agency may consider an offeror's specific experience performing the

work required under the SOW; specific experience is intrinsically related to and encompassed by a general experience evaluation factor. Tritech Field Eng'g, Inc., B-255336.2, Apr. 13, 1994, 94-1 CPD ¶ 261; see DAE Corp., Ltd., B-257185, Sept. 6, 1994, 94-2 CPD ¶ 95.


Krug also questions whether cost was accorded adequate weight in the award decision. Cost/technical tradeoffs may be made in deciding between competing proposals; the propriety of such a tradeoff turns not on the difference in technical scores or ratings per se, but on whether the agency's judgment concerning the significance of that difference was reasonable and adequately justified in light of the RFP evaluation scheme. Brunswick Defense, B-255764, Mar. 30, 1994, 94-1 CPD ¶ 225.

OWR's tradeoff was reasonable. Although the evaluated cost of Krug's proposal was 18.7 percent lower than GEO-Centers's, the technical factor was more important than the cost factor and GEO-Centers's proposal was rated sufficiently superior to Krug's to justify its higher cost. As discussed above, the agency specifically determined that GEO-Centers's comprehensive and well-developed research plans (demonstrating an understanding of the SOW), extensive and successful experience performing the specific work required under the SOW, and excellent qualifications of proposed staff, demonstrated a high likelihood of success and offset Krug's cost advantage. As there is nothing in the record which calls that judgment into question, the cost/technical tradeoff is unobjectionable.

Krug further argues that GEO-Centers was not eligible for award since at the time award was made the proposal acceptance period for GEO-Centers's proposal had expired, while Krug's proposal had not expired because Krug had submitted repeated, unsolicited extensions of the acceptance period. Krug's position is without merit. It is not improper for an agency to accept an expired offer without reopening negotiations where acceptance is not prejudicial to the competitive system. See The Fletcher Constr. Co., Ltd., B-248977, Oct. 15, 1992, 92-2 CPD ¶ 246. Here, acceptance of GEO-Centers's expired offer did not prejudice the competitive system. Nothing in the record indicates that GEO-Centers sought or obtained an unfair competitive advantage. While the solicitation required a minimum 60-day acceptance period, GEO-Centers offered a 100-day acceptance period, 40 days more than required. At no time did GEO-Centers refuse to extend its offer for an additional period. While Krug's unsolicited extensions may have put Krug at greater risk of market fluctuations, Krug's decision to

offer extensions was a matter of its business judgment. Krug's decision to follow this strategy is not a basis for upsetting the award to GEO-Centers which, again, did all that was requested by the agency. See Rubbermaid, Inc., B-238631, May 2, 1990, 90-1 CPD ¶ 444.

The protest is denied.

  
Robert P. Murphy  
General Counsel