

DOCUMENT RESUME

02676 - [A752756]

[Protest concerning Proposal Evaluation Criteria]. B-187675.
June 13, 1977. 4 pp.

Decision re: Hansa Engineering Corp.; by Robert P. Keller,
Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law I.
Budget Function: General Government: Other General Government
(806).

Organization Concerned: Geological Survey; Kucera and
Associates, Inc.

Authority: 41 C.F.R. 20.2(b)(1). B-185933 (1976). B-184402
(1975). B-181170 (1974). B-185103 (1976). B-188201 (1977).

A protest was made to the award of a contract on the basis that: price should have been the most important factor; protester's technical proposal should have received more points and the awardee's proposal less; evaluations insured that awardee would be the successful offeror; and alleged technical superiority of awardee did not justify award at a higher price than that of protester. Protest was denied as it was untimely; the contracting agency determines merits of proposals; allegation of bias in evaluation was speculation; and selection of higher priced but technically superior offer was proper.

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-187675

DATE: June 13, 1977

MATTER OF: Hansa Engineering Corporation

DIGEST:

1. Protest that evaluation of price proposals should have been afforded more weight relative to that of technical proposals than provided in RFP is untimely and will not be considered on its merits, since it was filed after closing date for receipt of initial proposals.
2. Where record shows that evaluation of proposals was in accordance with established criteria and was based on reasoned judgment of evaluators, protest based upon disagreement with evaluation is denied, since determination of relative merits of proposals is responsibility of contracting agency and will not be disturbed unless shown to be arbitrary or contrary to statutes or regulations.
3. Protester's burden of affirmatively proving allegation of bias in evaluation of proposals is not met where only evidence of impropriety is protester's speculation.
4. Awardee received 95 of 100 maximum points for technical proposal, and 56.4 of 66 maximum for price, for total of 151.4 out of possible 166. Protester scored 81 for technical and maximum 66 for price, totaling 147. On basis of award criteria, and since evaluation was neither arbitrary nor otherwise unreasonable, selection of higher priced but technically superior offer for award was proper.

Request for proposals (RFP) No. 298-W was issued on July 28, 1976, by the Department of the Interior, Geological Survey (USGS), for flood plain mapping in Arizona. The work was to be accomplished using a combination of aerial photography, ground surveying, and photogrammetry techniques. The solicitation required offerors to submit both technical and price proposals. Part VII of the RFP's Instructions, Conditions and Notices to offerors provided in part as follows:

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"EVALUATION/AWARD CRITERIA

"An award will be made as a result of this solicitation to a responsive, responsible contractor, determined by the Contracting Officer to be in the best interests of the Government on the basis of the following award criteria. In relation to the following criteria, offerors are advised that a maximum total of 166 points is obtainable between the Technical and Cost Proposal of which the Cost Proposal shall be weighted as 66 points."

Evaluation of technical proposals was to be based on the following weighted factors:

"Completeness of proposal and contractor's demonstrated understanding in his proposal response of the Scope of Work and solution approach thereto.	25 points
"Experience of key personnel required to manage and perform all tasks and provide the required data.	30 points
"Equipment required to perform all tasks and provide the required data.	20 points
"Related experience in photogrammetry from similar work.	10 points
"Ability to complete all tasks within the specified time.	15 points
"Total Possible Points for Technical Proposal	<u>100</u> "

Hansa Engineering Corporation (Hansa) was evaluated at a technical score of 81 points and a price score of 66 points for its price of \$72,300, totaling 147 points. Kucera and Associates, Incorporated (Kucera), received 95 points for technical and 56.4 points for its price of \$84,620, for the high total of 151.4 points. Award was made to Kucera on September 28.

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Hansa filed a protest in our Office on October 19, 1976, against the award to Kucera. Hansa argues that price should have been considered a more important factor; that for a number of reasons Hansa's technical proposal should have received more than 81 points, and Kucera's less than 95; that the technical and price evaluations were deliberately conducted in a manner that would insure that Kucera became the successful offeror; and that, in any event, Kucera's alleged technical superiority is not sufficient to justify award to that firm at a price \$12,320 greater than Hansa's.

Concerning the relative weights assigned by the RFP to technical and price proposals, section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1976), provides in pertinent part:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to * * * the closing date for receipt of initial proposals shall be filed prior to * * * the closing date for receipt of initial proposals.* * *"

Any disagreement Hansa had with the evaluation scheme arose upon receipt of the RFP. Initial proposals were due by August 26, 1976. Therefore, the protest on that matter, filed on October 19, is untimely and will not be considered on its merits.

In regard to the actual technical evaluation, Hansa submits considerable argument taking issue with the scores assigned both Hansa and Kucera for each of the five technical evaluation factors listed above. However, it is not the function of our Office to evaluate proposals to determine which should have been selected for award. The determination of the relative merits of proposals is the responsibility of the contracting agency, since it must bear the burden of any difficulties incurred because of a defective evaluation. Accordingly, we have held that procuring officials enjoy a reasonable degree of discretion in the evaluation of proposals and that such determinations are entitled to great weight and must not be disturbed unless shown to be arbitrary or in violation of procurement statutes or regulations. System Innovation & Development Corp., B-185933, June 30, 1976, 76-1 CPD 426, and decisions cited therein. Here, USGS has documented the findings upon which the challenged evaluations are based. We have reviewed this record in light of

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Hansa's allegations, and find nothing in it to indicate that the evaluations were improper or unfair, or that scores were arbitrarily arrived at by USGS. To the contrary, it appears that USGS rated the proposals on the basis of reasoned judgment and in accordance with the established evaluation criteria. The fact that Hansa does not agree with the evaluations does not invalidate them. See Houston Films, Inc., B-184402, December 22, 1975, 75-2 CPD 404; Honeywell, Inc., B-181170, August 8, 1974, 74-2 CPD 87.

In connection with the above, and specifically concerning Hansa's third contention, Hansa has provided no evidence of bias in the evaluation process other than its own speculation. Since the USGS report on the protest shows no impropriety in the evaluation of proposals, we cannot consider that the protester's burden of affirmatively proving its allegation has been met. See Reliable Maintenance Service, Inc.,--request for reconsideration, B-185103, May 24, 1976, 76-1 CPD 337. In this regard, Hansa does correctly point out that at least one reference listed by Hansa in its proposal was not contacted concerning Hansa's qualifications until after award to Kucera. However, USGS has subsequently advised that all client contacts but that one were made prior to award, and that contact with that reference during evaluation was unnecessary since the items delivered to it by Hansa had not then been field tested or machine checked for accuracy.

Finally, concerning whether award to Kucera at its higher price was justified, the RFP's evaluation and award criteria, set out above, indicated that award would be based upon scores received after evaluation of technical and price proposals in light of the listed and weighted factors. Accordingly, and since we have concluded that the evaluation of offers was neither arbitrary nor otherwise unreasonable, we cannot object to the selection of Kucera's higher priced but technically superior offer. See Gloria G. Harris, B-188201, April 12, 1977, 77-1 CPD 255.

The protest is denied.


Deputy Comptroller General
of the United States