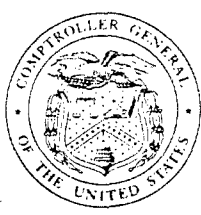


DECISION



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

9725

FILE: B-193256

DATE: April 5, 1979

MATTER OF: Science Management Corporation

[Allegation That Agency Deviated From RFP Evaluation Criteria]

DIGEST:

1. Agency's downgrading of revised proposal which reduced proposed level of effort does not represent deviation from evaluation criteria. Although RFP did not require minimum time commitment, evaluation panel, in determining relative worth of competing proposals, concluded that reduced level of effort was inadequate for contract performance.
2. While discussions, when conducted, must be held with all offerors in the competitive range, same detailed discussions need not be held with all such offerors; where agency is satisfied with an offeror's technical proposal, agency may properly limit further discussions with that offeror to price proposal even though further technical discussions are conducted with competitor.
3. Alleged conflict of interest on part of proposal evaluator who is listed as consultant to subcontractor of awardee appears to be more remote than real where record indicates evaluator has no meaningful relationship with subcontractor in connection with protested procurement. In any event, record shows protester was not prejudiced by participation of evaluator since other evaluators unani- mously selected awardee, relative ranking of offerors would not change if questioned evaluator's ratings were excluded and ques- tioned evaluator actually ranked protester higher than awardee.

Science Management Corporation (Science) protests the award of a contract to the Institute for Survey Research, Temple University (ISR), under request for

DLG 01418

~~004871~~

004871

proposals (RFP) No. 271-78-4627 issued by the National Institute on Drug Abuse (NIDA), Department of Health, Education, and Welfare. The RFP contemplated a cost reimbursement contract for developing three evaluation research monographs on evaluating research drug abuse prevention programs. (hwt)

Science asserts that the agency deviated from the RFP evaluation criteria in evaluating its proposal, that the agency improperly conducted a second round of negotiations with ISR but not with it, and that the evaluation was tainted by apparent or potential bias of one of the technical evaluators. We find the protest to be without merit.

Science's first allegation concerns NIDA's evaluation of its best and final proposal, which reduced the estimate of the professional staff years from 3.86, which was specified in its initial offer, to 3.25 and reduced its cost estimate from \$227,111 to \$184,642. NIDA evaluated that change as less desirable technically and lowered Science's technical score. Although the RFP specified that "approximately (4) year(s) of professional staff effort will be required to perform the contract," Science points out that the RFP did not require any minimum time commitment. Therefore, Science takes exception to the reduction in its score.

The record shows that the evaluation panel did not reduce Science's final technical score on the basis of any pre-established minimum or maximum staff years or hours; rather, the members of the panel unanimously concluded that the firm's substantial price reduction in its final proposal and the concomitant reduction of the estimated staff years jeopardized Science's ability to perform the work. We find nothing improper with NIDA's action.

Science not only cut back on the time commitment of both the project director and project manager but, most significantly, it cut the time commitment of authors and consultants. The panel concluded that the reduction in authors' staff days would adversely affect the main purpose of the contract, the production of three monographs. In the panel's judgment, the proposed reduced

manning effort (Science reduced the staff days of authors by 80 days or 21%) was inadequate for contract performance. Science has not challenged the panel's assessment of the impact of the reduced proposed level of effort. Thus, all NIDA did was to evaluate the relative worth of the modified proposal; it did not depart from the evaluation criteria. See Kay and Associates, B-190866, May 11, 1978, 78-1 CPD 361. Moreover, NIDA acted properly in revising its technical evaluation of Science on the basis of that firm's best and final offer cost and staff year reductions. See Electronic Communications, Inc., 55 Comp. Gen. 636 (1976), 76-1 CPD 15.

Science also questions the award to ISR at approximately a 20 percent greater cost than Science's proposed cost of \$184,642. However, where as here, the solicitation indicates that technical excellence is more important than cost, awards to firms submitting superior, albeit more costly, technical proposals are not improper and are to be expected in many such situations. See, e.g., 52 Comp. Gen. 358 (1972). Furthermore, ISR's cost per person year is actually lower than Science's.

Science's objection to the negotiation process concerns a second set of questions to which ISR, but not Science, was asked to respond. NIDA initiated written discussions with both offerors by requesting clarification of various aspects of their initial proposals. Both offerors responded in writing and both proposals were rescored. NIDA then conducted telephonic negotiations with ISR and Science. Because NIDA had questions regarding ISR's cost estimate and the functions of its subcontractor on this project, it propounded six additional questions to ISR. Science, however, was merely asked to justify the salary of its proposed project manager, since NIDA was otherwise satisfied with Science's technical proposal. Both offerors were asked to submit best and final offers. Science complains that it was somehow improper for ISR to have been given an opportunity to answer those additional questions.

Generally, when discussions are held, offerors must be provided an opportunity to correct or resolve deficiencies in their proposals through the submission

of revised proposals. Group Operations, Incorporated, 55 Comp. Gen. 1315 (1976), 76-2 CPD 79; Operations Research, Incorporated, 53 Comp. Gen. 593 (1974), 74-1 CPD 70 and 53 Comp. Gen. 860 (1974), 74-1 CPD 252. Once that opportunity has been provided, there is no general requirement that the agency continue to hold detailed discussions with all offerors. Century Brass Products, Inc., B-190313, April 17, 1978, 78-1 CPD 291. If there is an aspect of one offeror's proposal that warrants further discussion, the agency is not required to hold the same kind of detailed discussion with other offerors. RAI Research Corporation, B-184315, February 13, 1976, 76-1 CPD 99. Rather, it is required only to establish a common cut-off date for receipt of revised offers and provide an opportunity for all competitive range offerors to submit a revised proposal by that date. See University of New Orleans, 56 Comp. Gen. 958 (1977), 77-2 CPD 201. Thus, where, as here, the agency reasonably concludes that there are no technical deficiencies in one offeror's proposal which need to be corrected or resolved, it properly may limit discussions with that offeror to a request for a review of its pricing even though more detailed questions are put to another offeror. RAI Research Corporation, supra. Accordingly, we find nothing improper with how NIDA conducted discussions in this case.

Science's reliance on PRC Information Sciences Company, 56 Comp. Gen. 768 (1977), 77-2 CPD 11, is misplaced. In that case, the agency improperly conducted post-selection discussions regarding price with only the successful offeror instead of with each offeror in the competitive range as required. Obviously that situation is not relevant here, where discussions were held with all offerors in the competitive range and each was given the opportunity to submit a revised proposal by a common cut-off date.

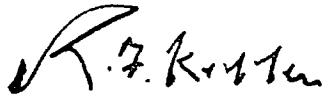
Science's final allegation is that a member of the evaluation panel had a conflict of interest and therefore should have disqualified himself from a review of this procurement. Science maintains that the conflict arises because this evaluator was a paid consultant of Pacific Institute for Research and Evaluation (PIRE),

DLG01420

the major subcontractor for ISR on this and prior procurements.

HEW reports that the evaluator was chosen as a reviewer for this procurement because of his expertise as a drug abuse prevention evaluation specialist. HEW further reports that the evaluator is listed by PIRE as a consultant solely because he acted as such for two days in early 1978, and that he has no existing contractual relationship with PIRE and will not be employed on this contract by either ISR or PIRE. In light of these circumstances, the alleged conflict of interest of this evaluator appears to be more remote than real. In any event, we see no prejudice to the protester as a result of the evaluator's participation in the procurement. All of the other evaluators were unanimous in their final selection of the awardee; when the ratings of the evaluator are excluded, the relative ranking of offerors is not changed. See Development Associates, B-187756, May 5, 1977, 77-1 CPD 310; Ackco, Inc., B-184518, September 14, 1976, 76-2 CPD 239. In fact the evaluator was the only panel member who rated Science significantly higher than ISR after the submission of initial revised offers.

In light of the above, the protest is denied.



Deputy Comptroller General
of the United States