



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: KPMG Peat Marwick, L.L.P.

File: B-271673

Date: July 15, 1996

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Ronald A. Schechter, Esq., and Rosemary Maxwell, Esq., Arnold & Porter, for Hay Management Consultants, an intervenor.

Michael P. Chiffole, Esq., Defense Commissary Agency, for the agency.

Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency failed to give adequate weight to performance risk in its source selection decision is denied where record shows that agency evaluated and considered performance risk in accordance with the requirements of the solicitation.
2. Protest that agency failed to consider cost in tradeoff decision is denied where the record shows that the source selection official was aware of the cost differences among the competing offerors and reasonably chose to select for award the higher priced, technically superior proposals.

DECISION

KPMG Peat Marwick protests the award of two contracts under request for proposals (RFP) No. DECA01-95-R-0036, issued by the Defense Commissary Agency (DCA) for advisory and assistance services. KPMG contends that the agency failed to give adequate consideration to past performance and cost in its award decision.

We deny the protest.

The RFP contemplated the award of multiple indefinite delivery, indefinite quantity fixed-price-per-labor-hour contracts on a best value basis. For evaluation purposes, the RFP provided that offers would be reviewed under three broad criteria, Technical Merit, Management, and Cost; the Technical Merit and Management areas (which each included numerous subfactors) were of equal weight. Cost, described

in the solicitation as a "substantial consideration" but deemed less important than Technical Merit or Management, was to be evaluated for realism, reasonableness and completeness.

In connection with the evaluation, the RFP advised that

"Each of the areas and factors (except cost) will be rated in three ways: an adjectival rating [of either exceptional, acceptable, marginal or unacceptable], a proposal risk rating and a performance risk rating. The adjectival rating depicts how well the offeror's proposal meets the evaluation standards and solicitation requirements. Proposal risk assesses the risk associated with the offeror's proposed approach as it relates to accomplishment of the requirements of the solicitation. Performance risk assesses the probability of each offeror's successfully accomplishing the proposed effort based on each offeror's demonstrated present and past performance. Within each area and/or factor, each of the three ratings shall be given equal consideration in making an award decision. The cost area . . . will also receive a performance risk rating which shall be given equal consideration with the evaluated cost."

Finally, as part of their proposals, offerors were required to prepare responses to two sample tasks. These responses were to be evaluated for both technical merit and cost purposes.

DCA received five initial offers, four of which were found to be within the competitive range. After engaging in discussions and obtaining best and final offers (BAFO), the agency determined--with the advice and assistance of the Defense Contract Audit Agency--that all four firms' proposed costs were reasonable, realistic and complete. Overall, DCA rated the four offers as follows:

OFFEROR	KPMG PEAT MARWICK	SRA CORP.	HAY MGMT. CON- SULTANTS	BOOZE, ALLEN & HAMILTON
TECH. MERIT/PRO- POSAL RISK	Marginal/ Moderate	Accept./Low	Accept./Low	Marginal/ Moderate
MGMT./PRO- POSAL RISK	Accept./Low	Accept./Low	Accept./Low	Accept./ Moderate
PERF. RISK	Low	Moderate	Low	Moderate
EVALUATED COST FOR TWO SAMPLE TASKS	\$397,782	\$503,459	\$761,215	\$363,316

On the basis of these evaluation results, DCA awarded contracts to Hay Management Consultants and SRA, finding that their offers represented the best value to the government.

KPMG initially protested on the grounds that the agency had failed to engage in meaningful discussions, failed to perform a cost realism evaluation, performed a flawed technical evaluation of KPMG's offer, failed to evaluate risk in accordance with the terms of the RFP, and made an arbitrary cost/technical tradeoff. After receiving the agency's report in response to its protest, KPMG withdrew all of its initial contentions except its allegation relating to the agency's risk evaluation, and raised the additional argument that the agency had failed to consider cost.

RISK EVALUATION

KPMG maintains that the agency erred in conducting the performance risk evaluation. As illustrated by the evaluation results outlined above, the agency assigned a single overall performance risk rating to each proposal rather than a performance risk rating for each of the three evaluation areas (technical, management and cost). The protester contends that, by failing to assign a performance risk rating in each of the evaluation areas, the agency failed to give performance risk the weight assigned to that factor under the evaluation scheme; according to KPMG, each offer should have received three separate evaluation ratings under each of the RFP's two non-cost evaluation areas--an adjectival rating, a proposal risk rating and a performance risk rating--and also a performance risk

rating in the cost area. KPMG surmises that it would have received one of the awards had the agency properly evaluated performance risk.¹

We find no merit to this contention. Although the RFP provided that the agency would consider performance risk under each of the evaluation areas (Technical, Management and Cost)—and give that consideration equal weight with the adjectival and proposal risk ratings—there is nothing in the RFP that dictated the form in which those evaluation results were to be presented; nothing in the solicitation required the agency to assign a discrete performance risk rating for each of the evaluation areas.

The record shows both that the agency in fact did consider performance risk as it related to each of the evaluation areas—describing in the evaluation documents in detail the perceived weaknesses of each firm's proposal—and that the performance risk ratings were given adequate consideration in the integrated award decisions.

For example, the RFP required the agency to consider the adequacy of each offeror's personnel management under the Management evaluation criterion. In evaluating Booze Hamilton's performance risk, the agency specifically noted that the firm's proposal had been assigned a Moderate rating based on the fact that its past performance indicated a problem with the turnover of management and technical personnel. Similarly, under the Technical evaluation criterion, the agency was required to consider the offerors' ability to conduct adequate studies and analysis, its adherence to sound practices and its ability to accomplish assigned tasks. In assigning SRA's proposal a Moderate performance risk rating, the agency found

¹According to the protester, the ratings should have been as follows:

	KPMG	SRA
Technical Rating	Marginal	Acceptable
Tech. Proposal Risk	Moderate	Low
Tech. Performance Risk	Low	Moderate
Management Rating	Acceptable	Acceptable
Mgmt. Proposal Risk	Low	Low
Mgmt. Performance Risk	Low	Moderate
Cost Performance Risk	Low	Low/ Moderate

that, on occasion, SRA had problems being concise, coming to "closure" and delivering final reports and products in a timely fashion; and that its subcontractor also had difficulty accomplishing qualitative services, conducting focus groups and writing "style" reports. Finally, in evaluating Hay's past performance, the agency noted that the firm had experienced minor difficulty in performing within its proposed cost, and had on occasion made requests for cost increases. The evaluation results thus show that in conducting its performance risk evaluation, DCA gave consideration to the offerors' performance record as it related to all three evaluation areas. Again, this is all the RFP required.

The record also shows that these evaluation conclusions were presented in detail to the Source Selection Official (SSO) for consideration in the award decisions, and the source selection decision document (SSDD) specifically discusses the offerors' performance risk ratings. Accordingly, there is no basis to find that the agency failed to consider performance risk in its integrated award decisions, or that it was somehow given inadequate weight.

CONSIDERATION OF RELATIVE COST

KPMG maintains that the agency never considered the relative total cost of the offers in making its award decision. The protester maintains that this is evidenced by the absence from the SSDD of any discussion of the offerors' evaluated costs, or any rationale for making award to the two highest cost firms. According to the protester, the awardees' costs were so much higher than its own that the source selection was irrational in light of KPMG's technical acceptability.

In a best value acquisition, agencies are not required to make award on the basis of low cost or price; agencies may make cost/technical tradeoffs, and the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the stated evaluation criteria. Science and Technology Corp., B-254405 et al., Dec. 14, 1993, 93-2 CPD ¶ 318. We conducted a hearing in connection with this issue because, in our view, the SSDD did not adequately present the bases for the agency's award decisions. We find, based on the entire record, that the award decisions were reasonable.²

At the outset, we note that the agency assigned a marginal rating to KPMG's proposal under the Technical criterion. This rating was based on the evaluators' opinion that KPMG's proposal reflected certain deficiencies even after discussions,

²KPMG contends that the best evidence of the agency's award rationale is contained in the SSDD. However, we review the entire record, including materials submitted in connection with specific protest arguments and oral testimony, in assessing the reasonableness of an agency's cost/technical tradeoff. Science and Technology Corp., supra.

in particular, the fact that its proposed study approaches lacked specific details regarding various standards. As neither of the awardees' proposals received such a low score under any of the non-cost evaluation criteria (and KPMG does not challenge the evaluation of their proposals), KPMG's proposal was the lowest technically rated among the three (i.e., KPMG's and the awardees' proposal); as discussed below, this consideration was significant in the final award decisions.

The SSO was provided adequate information to be fully aware of the difference in KPMG's and the awardees' proposed costs. In this regard, the agency's contract specialist responsible for evaluating the proposed costs testified that, after reviewing the BAFOs, she was concerned because Hay's proposed cost was higher than the other offerors', and conveyed her concerns to the SSO during numerous informal briefings, as well as during the official source selection briefing. Hearing Transcript (HT), pp. 5-6, 21-22, 44-45. The contract specialist also presented the SSO with detailed written information relating to the offerors' proposed costs for each of the sample tasks. HT, pp. 9-10. After becoming aware of the contract specialist's concerns, the SSO took time to review the offerors' cost proposals himself. HT, pp. 66, 68.

The record also shows that the SSO was aware of the cost premium associated with the awardees' proposals, HT, pp. 61, 71-72, 79, and decided to award them the contracts based on their technical superiority as compared to KPMG. The SSO specifically testified in this regard that the evaluators advised him that both Hay's and SRA's proposal had a number of technical advantages over KPMG's including, for example, SRA's innovative quality assurance program and the quality of its personnel, and the quality of Hay's personnel. HT, pp. 49-52. The SSO also was aware that the evaluators had continuing concerns about KPMG's offer from a technical standpoint, and that they were further concerned by KPMG's inability to cure these deficiencies during discussions. Id., HT, pp. 55, 73. Finally, the SSDD states that the SSO was somewhat less concerned about the cost premium associated with the awardees' proposals because any delivery orders would be competed between the two firms prior to award; this mitigating factor also led the SSO to select for award the two higher-priced, technically superior proposals. See also, HT, pp. 83-84, 87-88.

In view of the evidence outlined above, and considering that cost was less important than technical merit, we have no basis to object to the agency's source selection decisions. The record shows that the SSO was aware of the relative costs associated with making award to one firm versus another, and decided that the technical superiority offered by the awardees' proposals merited the additional cost.

The protest is denied.

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