



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Ecology and Environment, Inc.

File: B-277061.2

Date: September 5, 1997

Michael S. Betrus for the protester.

Gary M. Winter, Esq., Agency for International Development, for the agency.

Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency's evaluation of proposals was reasonable despite its decision not to rescore best and final offers (BAFO); agencies are not required to rescore BAFOs, and the record establishes that agency considered all changes contained in BAFOs and reasonably determined that changes did not affect relative ranking of proposals.

2. Agency had a reasonable basis for finding that protester's and awardee's proposals were technically equal, despite protester's alleged greater direct experience performing the type of work required under the solicitation, where (1) awardee's experience as a general contractor which had managed technical subcontractors was suited to the work under the solicitation, and (2) record shows that agency favorably considered awardee's proposed subcontractors' experience.

DECISION

Ecology and Environment, Inc. (E&E) protests the award of a contract to Chemonics International, Inc. under Agency for International Development (AID) request for proposals (RFP) No. 263-95-P-074, for technical services and program management in support of Egypt's Cairo Air Improvement Project (CAIP). The protester primarily argues that the evaluation of proposals was improper.

We deny the protest.

The RFP, issued on April 11, 1996, contemplated the award of a cost-plus-fixed-fee contract for 5 years, with a 2-year option. The evaluation was to be on a best value basis, with consideration being given to technical superiority (greatest weight) and cost. The technical factors consisted of the following: (1) Vehicle Emissions Testing (VET)--200 points; (2) Compressed Natural Gas (CNG)--200 points; (3) Lead

Smelter--0 points;¹ (4) Air Quality Monitoring--100 points; (5) Public Awareness--150 points; (6) Commodity/New Initiatives--50 points; and (7) CAIP Management--300 points.

With regard to cost, the RFP stated that the proposed total estimated cost-plus-fixed-fee would be evaluated for reasonableness, completeness, credibility, and realism; the cost proposal also was to be evaluated as to the ability of the offeror to control cost. Eleven proposals were received and six, including Chemonics's and E&E's, were included in the competitive range. After written discussions, the agency requested and received revised proposals. Following the second evaluation, Chemonics's and E&E's proposals remained in the competitive range. Following further written discussions with the firms, the technical evaluation committee (TEC) requested and received best and final offers (BAFO). During the BAFO evaluation, each TEC member performed an individual evaluation to assess any additional information, changes in strategies, and other revisions, and to determine whether the weaknesses discussed during the second evaluation had been addressed. The TEC, together with the contracting officer, thereafter decided that there were not enough significant changes in the scores to warrant rescoring the BAFOs. The total weighted scores from the second evaluation ultimately were used for the final ranking, which resulted in a determination that all proposals were essentially technically equal. The contracting officer therefore focused on the cost proposals in making the best value determination. Although E&E's evaluated cost was essentially the same as Chemonics's, the contracting officer determined that Chemonics's proposal represented the best value because E&E's proposed fees and ceilings on indirect cost rates were significantly higher than Chemonics's, and E&E's cost management plan showed lower cost savings than Chemonics's. The agency made award to Chemonics on this basis.

E&E challenges the evaluation on numerous bases. In considering a protest against an evaluation of proposals, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria. ESCO, Inc., 66 Comp. Gen. 404, 410 (1987), 87-1 CPD ¶ 450 at 7. We find that the evaluation was proper. We discuss E&E's principal arguments below.

FAILURE TO RESCORE BAFOS

E&E maintains that AID improperly failed to rescore the BAFOs and that as a result, the evaluation did not encompass E&E's change in the number of performance-based project milestones and three allegedly significant new initiatives in achieving the contract's objectives.

¹Although the original RFP assigned 150 points to the lead smelter factor, an amendment to the RFP stated that, while offerors had the option of providing information under this factor, no technical evaluation points would be applied.

There generally is no requirement that an agency formally rescore BAFOs; rather, all that is required is that the agency consider the effect on proposals of any changes contained in the BAFOs. University of Dayton Research Inst., B-245431, Jan. 2, 1992, 92-1 CPD ¶ 6 at 4. AID met this standard. The evaluation documentation shows that the TEC considered the changes in E&E's technical BAFO, and concluded that the changes had no effect on the overall rankings.

TECHNICALLY EQUAL DETERMINATION

E&E argues that the agency's determination that its and Chemonics's BAFOs were technically equal failed to reflect the fact that E&E has substantial direct experience managing complex environmental engineering programs, while Chemonics has experience only as a "general contractor, brokering a stable of technical subcontractors."

This argument is without merit. First, as the agency points out, the RFP nowhere indicated that an offeror's direct experience providing environmental technical and program management services would be assigned greater weight in the evaluation than experience managing the subcontractors providing the actual technical and management services. Moreover, there was nothing unreasonable in the agency's conclusion that E&E's experience did not warrant rating E&E's proposal superior to Chemonics's. In this regard, while it is undisputed that E&E possesses greater experience directly performing environmental services contracts, the effort under this RFP expressly allowed the use of subcontractors, and both E&E and Chemonics proposed to do so. This being the case, we think the agency reasonably could view Chemonics's subcontractor management experience positively in considering the relative merits of the proposals. Further, Chemonics's experience ratings reflected to some extent the agency's determination that Chemonics's subcontractors had significant direct experience performing similar work in Egypt. See Premier Cleaning Sys., Inc., B-249179.2, Nov. 2, 1992, 92-2 CPD ¶ 298 at 4 (agency properly may consider proposed subcontractor experience where solicitation permits use of subcontractors in performance, and does not prohibit consideration of their experience). It follows that there is no basis for concluding that E&E's experience should have been deemed superior to Chemonics's such that E&E's proposal should have been rated overall superior to Chemonics's.

FEES

E&E argues that AID improperly determined that its BAFO base and option fees were too high compared to the other offerors', since the agency erroneously included procurement services costs in evaluating its fees.

This argument is without merit. AID found it unclear whether E&E's procurement services costs were reflected in its fees, and therefore evaluated the fees both

including and excluding those costs. Even excluding the costs, E&E's total base and option fees were significantly higher than the range of the other offerors' fees. We therefore find nothing improper in the agency's conclusion that E&E's fees were higher than any offeror's, or in its ultimate determination that Chemonics's proposal therefore represented the best value.

BIAS

E&E maintains that the agency was predisposed to make award to Chemonics because it has contracted with that firm previously. However, given that we find no error in the evaluation, and that E&E has presented no evidence showing that AID acted with a specific intent to injure E&E, there is no basis for finding that the award was the result of bias. See Hill's Capitol Sec., Inc., B-250983, Mar. 2, 1993, 93-1 CPD ¶ 190 at 4.

The protest is denied.

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