



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Schaeffer Eye Center

File: B-284268

Date: March 20, 2000

Jeffrey L. Sachs for the protester.
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DIGEST

Where contracting officer reasonably concludes that, notwithstanding a slight difference in technical rating scores, two proposals were essentially technically equal, selection of lower-priced proposal is unobjectionable.

DECISION

Schaeffer Eye Center protests the award of a contract to Classic Optical Laboratories, Inc. under request for proposals (RFP) No. 247-0003-99, issued by the Department of Veterans Affairs (VA) for prescription eyeglasses for eligible veterans at VA medical centers in Alabama, Georgia, and South Carolina. Schaeffer contends that the award on the basis of Classic's lower-priced, lower-rated technical proposal is not in accordance with the RFP's stated evaluation scheme, which provided that technical factors were more important than price.

We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract for a base year and 2 option years. RFP, Statement of Work, ¶ 3, at 23. Offerors were to submit technical and price proposals. RFP, Proposal Submittal Instructions, ¶ 1, at 30. The RFP's evaluation scheme, referencing Federal Acquisition Regulation § 52.212-2 Evaluation--Commercial Items, provided that the agency "will award a contract . . . to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered." RFP § 52.212-2(a), at 31. The following evaluation factors, listed in descending order of importance, were identified: quality assurance plan (weighted at 35 points), past performance and demonstrated capability (weighted at 30 points), personnel

qualifications (weighted at 20 points), and cost/pricing (weighted at 15 points). Id. at 31-32; Protester's Comments at 1. The lowest evaluated price proposal was to receive the maximum points available for the cost/pricing factor, with the remaining proposals receiving a proportion of those points based on the relationship of their prices to the lowest price. RFP at 32. The RFP provided that each technical factor was more important than the cost/pricing factor, and combined, the three technical factors were significantly more important than cost/pricing. Id.

Eight proposals were received in response to the RFP; three of the proposals were subsequently eliminated from the competitive range after the initial evaluation of proposals. Discussions were conducted with the remaining five offerors and revised proposals were received and evaluated. Contracting Officer's Statement at 1. Five evaluators independently scored the proposals under each factor; the evaluators' scores were then averaged for each offeror. Final Evaluation Scores at 1. The Schaeffer and Classic proposals received slightly higher averaged technical scores than the other proposals. Schaeffer's proposal received a slightly higher average point score than the Classic proposal under the first two factors (quality assurance and past performance/capability), and Classic's proposal was rated higher than Schaeffer's for the third factor (personnel). Schaeffer's proposal received a slightly higher average total technical score (69.28 points out of the available 85 technical points) than the Classic proposal (which received a technical score of 66.8 points). Classic submitted the lowest-priced proposal (at a total price of \$2,215,683.63), which received the maximum 15 points available under the cost/pricing factor; Schaeffer submitted the highest-priced proposal of all offerors (at a total price of \$2,480,268), which received 13.4 points under the cost/pricing factor. The Schaeffer proposal's overall combined technical and price score of 82.68 was less than 1 point higher than the Classic proposal's overall score of 81.8 (out of the 100 available evaluation points). Id. at 2.

The technical evaluation board recommended that award be made to Classic, as the offeror submitting the proposal deemed most advantageous to the agency; the evaluation team found "no discernable distinction between the technical scores," and concluded that the 11-percent price differential in an award to Classic, compared to Schaeffer's higher-priced proposal, offered "considerable savings." Cost/Technical Tradeoff at 1-2. The contracting officer agreed with the source selection recommendation and awarded the contract to Classic. This protest followed.

Schaeffer contends that the award to Classic based on that firm's lower-priced proposal is contrary to the evaluation scheme provided in the RFP, which stated that technical factors were significantly more important than price. Specifically, Schaeffer argues that, under the agency's weighted evaluation factors (where quality assurance was weighted at 35 percent, past performance/capability at 30 percent, personnel at 20 percent, and cost/pricing at 15 percent), "technical (factors 1, 2 & 3) were 5.67 times more important than price." Protester's Comments at 1. Schaeffer contends that a weighted factor of 5.67 should therefore be applied to the "raw

difference of 2.48” points between the two offerors’ technical proposal scores, which, according to Schaeffer, increases the point score differential between the proposals to an extent that cannot be considered a minor difference. Id. Schaeffer then argues that the weighted factor of 5.67 also should be applied to the evaluated price differential between the proposals by dividing the 11-percent differential by 5.67, reducing the price difference between the proposals to less than 2 percent. Id. We disagree.

Schaeffer’s argument is based on a misinterpretation of the RFP’s evaluation scheme as to the weighted percentages assigned to the evaluation factors. The agency’s assignment of available points to each evaluation factor here encompasses the appropriate weighting of the factors for purposes of the evaluation of proposals (i.e., the number of points available for the factor matches the stated weight of the factor, out of the 100 total points available for the four factors). In other words, Schaeffer is incorrect in its assertion that the 2.48 point differential between the two technical proposals is a “raw difference” in the point scores that requires further weighting or adjustment for the proper evaluation of proposals for award under the RFP’s evaluation scheme. Accordingly, the protester’s contention in this regard does not provide a reason to question the propriety of the evaluation or the award.

The protester has put forth only a general challenge to the award to Classic, namely, that the award determination improperly was based on Classic’s lower-priced proposal, where the RFP listed cost/pricing as the least important evaluation factor. Schaeffer does not contest the evaluators’ assessments of the merits of the proposals or the evaluation scores assigned to the proposals. Rather, the protester contends that, because the RFP provided that technical factors were more important than price, and Schaeffer’s technical proposal received a technical score slightly higher than that received by Classic’s proposal, Schaeffer is entitled to the award. Specifically, Schaeffer argues that “the potential contract savings of \$204,000 is not large enough to justify ignoring Schaeffer’s technically superior rated proposal point score” and that the RFP did not provide for a source selection on the basis of the lowest evaluated price among technically acceptable proposals. Protester’s Comments at 2.

The agency reports that no discernable distinction was found between the proposals’ technical scores, and that it did not make award on the basis of the lowest technically acceptable proposal. Rather, the agency asserts that it made its award determination based upon the substantial savings associated with an award to Classic, which offered the lowest price between essentially equal technical proposals. Agency Report at 1-3; Contracting Officer’s Statement at 1-2.

In reviewing protests of allegedly improper evaluations, our Office will examine the record to determine whether the agency’s judgment was reasonable, consistent with the stated evaluation scheme, and in accordance with applicable procurement statutes and regulations. Merdan Group, Inc., B-231880.3, Feb. 28, 1989, 89-1 CPD ¶ 210 at 2. In a negotiated procurement with a best value evaluation plan, point

scores are useful as guides, but they do not mandate automatic selection of a particular proposal. Resource Management Int'l, Inc., B-278108, Dec. 22, 1997, 98-1 CPD ¶ 29 at 4. Whether a given point spread between two competing proposals indicates a significant superiority of one proposal over another depends upon the facts and circumstances of each procurement and is primarily a matter within the discretion of the procuring agency. Id. The question of whether a difference in point scores is significant is for determination on the basis of what that difference might mean in terms of contract performance and what it would cost the government to take advantage of it. Id. Where selection officials reasonably regard proposals as being essentially equal technically, price can become the determining factor in making award notwithstanding that the evaluation criteria assigned price less importance than technical factors. The Parks Co., B-249473, Nov. 17, 1992, 92-2 CPD ¶ 354 at 4.

Our review of the record, including the proposals and evaluation documentation, provides no basis to question the reasonableness of the agency's determination that the two proposals were essentially equal in technical merit. As the source selection documentation provides, for the technical evaluation factors of quality assurance and past performance/capability, Schaeffer's proposal was rated only 2 percent higher than Classic's proposal. Conversely, Classic's proposal was rated 5 percent higher than Schaeffer's proposal under the personnel qualifications criterion. Cost/Technical Tradeoff at 1; Contracting Officer's Statement at 1. Of the five evaluators who reviewed the two proposals, two of the evaluators rated Schaeffer's proposal technically higher overall, two of the evaluators rated Classic's proposal technically higher overall, and the last evaluator assigned virtually the same overall technical score to both proposals (assigning only a .3 difference in their total technical scores). Our review of the evaluation record supports the lack of any demonstrated technical superiority by one firm; in fact, the evaluation record is essentially split, with approximately half of the evaluators' ratings favoring one (and the other half of the ratings favoring the other) of the two offerors under each of the evaluation factors.

Our review of the contemporaneous narrative evaluation findings for each of the offers under each of the evaluation factors also does not provide any basis to question the agency's determination of technical equality. For instance, both offerors' proposals were credited for providing solid documentation of their proposed approaches, extensive experience, and personnel qualifications; Classic's proposal, in fact, was rated technically outstanding in more evaluation areas than Schaeffer's proposal and Classic's proposal was noted for exceeding certain important RFP requirements, surpassing the extent by which Schaeffer's proposal

exceeded the same requirements.¹ When a selection official determines that proposals are technically equal, it means that overall there is no meaningful difference in what the proposals have to offer. It does not mean that the proposals are identical in every respect; one may be superior to the other in a variety of areas. Northern Virginia Serv. Corp., B-258036.2, B-258036.3, Jan. 23, 1995, 95-1 CPD ¶ 36 at 9. Here, Schaeffer does not argue with any specificity as to what aspects of its proposal render it overall technically superior to Classic's proposal. Rather, Schaeffer relies only on the slightly higher technical score its proposal received to assert its claimed superiority, which, as discussed above, is alone insufficient to question the agency's technically equal determination. Consequently, since our review of the record also provides no support for the protester's claimed technical superiority, we have no basis to object to the reasonableness of the agency's determination that the proposals were essentially technically equal. Classic's lower evaluated price consequently served as a proper determinative factor for award.

The protest is denied.

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¹ A protective order was not issued in this protest, since the protester was not represented by legal counsel. Our discussion of the evaluation record and proposals in this decision is therefore necessarily general.