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Decision

Matter of: Structural Preservation Systems, Inc.

File: B-285085

Date: July 14, 2000

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DIGEST

1. Allegation that agency misevaluated awardee's proposal is denied where the record shows that the evaluation was reasonable and in accordance with the evaluation criteria.

2. Award to offeror submitting technically higher-rated, higher-priced proposal is unobjectionable where solicitation stated that price and technical factors were of equal weight and the agency reasonably determined that the proposal's technical superiority warranted payment of the associated price premium.

DECISION

Structural Preservation Systems, Inc. (SPS) protests the award of a contract to Advanced Construction Techniques, Ltd. (ACT) under request for proposals (RFP) No. DACW27-00-R-0006, issued by the Department of the Army, Corps of Engineers for seepage remediation at Patoka Lake, Indiana. SPS objects to the agency's evaluation of ACT's proposal and contends that as the low-priced offeror, it should have received the award under a proper tradeoff.

We deny the protest.

The RFP, issued on January 20, 2000, sought proposals for the construction of a specified balanced stabilized grouting based seepage cutoff for Patoka Lake. RFP § 00130, ¶ 1. Balanced stabilized grouts were to be designed and tested to reduce grouting processes, and procedures were to be refined as work progressed to achieve a residual permeability specified in “Lugeons.”¹ RFP at l. Real time computer monitoring with visual display of foundation permeabilities using electronic sensing of grouting parameters to determine these permeabilities was also called for. Id. The solicitation provided for the award of a fixed-price contract to the offeror whose proposal offered the most advantage to the government and cautioned that award could be made on the basis of initial offers without discussions. RFP § 00130, ¶ 2.6. The solicitation provided that all evaluation factors other than price, when combined, were approximately equal to price, and listed the following five evaluation factors which were to be point scored, in descending order of importance: technical approach, experience, management plan, equipment and materials, and safety. RFP § 00130, ¶¶ 3 and 4. Price was not to be point scored. RFP § 00130, ¶ 2.5.

The agency received eight proposals by the March 1 closing date. All eight proposals were initially reviewed by a proposal compliance review team to ensure that they were in conformance with the RFP requirements. The seven-member evaluation board then evaluated the proposals by initially crediting the proposals with half of the total points available for each sub-factor to reflect that the proposals were in conformance with the solicitation. If the board determined that a proposal exceeded the minimum requirements, the proposal was awarded additional points under the applicable sub-factor. Points were to be deducted where the board determined that a proposal did not meet the minimum requirements specified in the RFP. Agency Report, Tab 6, Evaluation Board Memorandum, at 1-2.

The evaluation board recorded its consensus scores and the comments for the various evaluation factors and sub-factors involved on the scoring sheets. These consensus scoring sheets represent the complete documentary evidence underlying the board’s evaluation process. Agency Report at 3.² The evaluation board point scoring of SPS’s and ACT’s proposals at the factor level (with the maximum available points in parentheses) was as follows:

¹ A Lugeon is a unit used to measure permeability, defined as the flow of a specified quantity of water per minute per meter of borehole length at a specified pressure. RFP amend. 0001, § 02249, § 3.3.1.6.

² The agency explains that its practice is to incorporate into the consensus sheets any pertinent and relevant comments made by individual evaluators in the initial process. Agency Report at 3. As a result, the consensus scoring sheets become the documentation supporting the evaluation process, and the individual sheets are discarded. Id.

	SPS	ACT
Technical Approach (40,000)	34,500	37,000
Experience (30,000)	21,500	26,000
Management (15,000)	9,000	13,000
Equipment & Materials (10,000)	8,500	8,000
Safety (5,000)	3,000	2,500
Total Points (100,000)	76,500	86,500

Agency Report, Tab 6, Evaluation Board Memorandum, at 2.

The total prices proposed by these offerors were:

SPS	\$1,397,725
ACT	\$1,594,205

Id. at 12.

The evaluation board found ACT's proposal, which received the highest point score, to be a superior technical presentation that covered all aspects of the computer monitoring system and operations required in the RFP. Id. at 2. Under the experience factor, ACT was awarded additional points because of its performance of a substantial number of similar type of projects utilizing similar grouting, and because ACT and its proposed subcontractor worked together on several similar projects since 1997. Id. at 3, 16.

In performing its best value assessment, the board directly compared ACT's highest-scored proposal with SPS's second highest scored proposal, which also had been recognized as demonstrating a clear and concise understanding of the requirement. The board considered that SPS did not demonstrate a project where it utilized real time computer monitoring software for stabilized grout in Karst

topography,³ while ACT had demonstrated the use of real time computer monitoring software and stabilized grout at the Penn Forest Dam Replacement Project. SPS did not designate a computer technician for the project, while ACT proposed two experienced computer technicians, both of whom had been involved in the development of the computer monitoring program to be used by ACT on this project. Additionally, ACT designated a CQC (contractor quality control) systems manager who had been responsible for the development of the first edition of the computer monitoring software program to be used for the Patoka project. While SPS demonstrated that it had experience with “alternate monitoring systems” and “manual calculation of Lugeon values,” the agency concluded that the recorder monitoring referenced by SPS did not qualify as experience with real time monitoring in Lugeon values as sought by the RFP. The board found that both ACT and SPS presented a detailed engineering analysis of geological and engineering information contained in the RFP. However, while ACT’s proposal demonstrated a clear understanding of the geology of the site and application of the hardware/software to successfully complete the project despite the potential high variability of subsurface conditions, the agency found that SPS simply focused on the requirements outlined in the specification and actual completion of work and did not go into as great detail of its application of the hardware/software program. Id. at 15-17. Based upon a comparison of the respective technical merit of the ACT and SPS proposals, the agency concluded that ACT’s technically superior, low risk proposal represented the best value to the government despite its associated higher price. Id. at 19.

In a letter dated March 28, SPS was advised that it had not been selected for award and was provided the following “general reasons” for its nonselection: “[d]id not designate Computer Technician that demonstrated experience in real time computer monitoring system; [a]ssignments of individuals for this project were stated as ‘tentative’; and [d]emonstrated limited experience with subcontractor.” Letter from Chairperson, Evaluation Board to SPS (Mar. 28, 2000).

SPS filed this protest with our Office on April 6.⁴ In addition to questioning the propriety of ACT’s proposal evaluation, SPS contends that the cost/technical tradeoff

³ The specified work is to be performed in Karstic conditions which, consistent with paragraph 4 of the RFP, the board recognized as a particularly complex geological environment requiring specialized understanding and ability on the part of the performing contractor. Id. at 18.

⁴ In its initial protest, SPS essentially objected to the award to ACT on the grounds that SPS submitted the lowest-priced proposal and asserted that the technical concerns about its proposal were unjustified and could have easily been resolved through discussions. The agency report responded to these allegations, and the protester’s comments failed to address the agency’s responses. As a result, we

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appears to be improper because its price of \$1,397,725 was 14.06 percent less than ACT's price of \$1,594,205 while ACT's technical scoring advantage was only 13.07 percent. Protester's Comments at 1.

The protester first objects to the proposal evaluation on the basis that, because the individual evaluation sheets were discarded, it is impossible to determine whether or not proposals were properly evaluated. We do not agree. The record includes the consensus scores of the evaluation board, which incorporated comments by individual evaluators, and a detailed and reasonable evaluation and comparison of the two highest-rated proposals. This record clearly documents the differences perceived among proposals and their strengths, weaknesses and risks. Accordingly, the evaluators' notes and scoring sheets are not necessary to judge the rationality of the evaluations. See Hydraudyne Sys. and Eng'g B.V., B-241236, B-241236.2, Jan. 30, 1991, 91-1 CPD ¶ 88 at 4-5.

The protester next contends that the agency failed to follow its own evaluation procedures. The protester points out that the evaluation procedure described in the evaluation memorandum indicates that for each of the factors or sub-factors, initial points awarded were half the total points available. Points were to be added if an offeror's proposal exceeded the minimum requirements and deducted if the offeror's proposal did not meet the minimum requirements. The protester asserts that a review of the consensus report shows that, while additive points were given, there were no deductions for offerors that failed to meet minimum requirements.⁵

The solicitation indicated that proposals would be point scored without stating how any evaluation factor or sub-factor would be scored. The actual scoring procedure utilized by the agency was described in its source selection plan and in the consensus evaluation report. The protester's assertion that the agency failed to follow its source selection plan does not provide any basis to sustain the protest. Source selection plans provide internal agency guidelines and, as such, do not give

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consider these issues to be abandoned and will not address them. Datum Timing, Div. of Datum Inc., B-254493, Dec. 17, 1993, 93-2 CPD ¶ 328 at 5.

⁵ The protester also asserts that ACT's proposal was awarded 5,500 points out of a possible 6,000 points under the management plan sub-factor, with no enhancements identified to warrant the addition. SPS contends that ACT's proposal should have received only 3,000 points for its management plan. Protester's Comments at 2. This assertion is simply factually misplaced since the consensus score sheets specifically recognize five management plan enhancements for ACT, Agency Report, Tab 7, ACT Consensus Report, at 5, each of which has a value of 500 points under the evaluation scoring plan that was used. Agency Report, Tab 6, Evaluation Board Memorandum, app. A, at 21.

outside parties any rights. Centech Group, Inc., B-278904.4, Apr. 13, 1998, 98-1 CPD ¶ 149 at 7 n.4. It is the evaluation scheme in the RFP, not internal agency documents, such as a source selection plan, to which an agency is required to adhere in evaluating proposals and in making the source selection. Id. In any event, the evaluation of ACT's proposal does not reflect any failure to meet minimum requirements which would have warranted point deductions, nor does the protester point to any such deficiencies.

The protester also argues that ACT's proposal was improperly awarded additional points for factors not identified as evaluation criteria in the RFP, namely for prior experience with the Corps of Engineers, for the number of projects completed, and for understanding the work, when the RFP contemplated additional points for recent successful experience in grouting Karstic terrain with stabilized grouts and dealing with the unknowns associated with such work, while lack of this experience would result in scoring that is less favorable. Protester's Comments at 2.

The evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Federal Envtl. Servs., Inc., B-260289, B-260490, May 24, 1995, 95-1 CPD ¶ 261 at 3. In reviewing protests challenging an agency's evaluation of proposals, we will not substitute our judgment for that of the agency regarding the merits of proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and applicable statutes and regulations. Id. A protester's mere disagreement with the agency's evaluation does not render it unreasonable. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454 at 5.

We find the agency's evaluation of ACT's experience unobjectionable. Where technical evaluation criteria are used to enable the agency to make comparative judgments about the relative merits of competing proposals, offerors are on notice that qualitative distinctions among competing proposals will be made under the various evaluation factors. FMS Corp., B-255191, Feb. 8, 1994, 94-1 CPD ¶ 182 at 5-6. Here, under the experience factor, denominated as qualifications and experience by the RFP, the solicitation provided that offerors would be evaluated on the extent and quality of recent experience, including the similarity, type and size of projects. Further, documentation of successful completion of similar projects was to be favorably considered, as was "[p]revious working relationship and experience with any subcontractors proposed for this work." RFP § 00130, ¶ 4. Thus, credit for understanding in the sense of documentation of the successful completion of a substantial number of similar projects was expressly contemplated by the solicitation. Further, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by or related to the stated evaluation criteria. FMS Corp., supra, at 6. Here, in substance, the agency evaluation credited ACT for demonstrating experience in performing a significant number of recent Corps of Engineers projects that were similar to the Patoka Lake

project and involved extensive computer monitoring. These factors reasonably relate to the experience evaluation criteria, and the agency reasonably credited ACT's proposal for these demonstrated qualifications.

SPS next argues that under the RFP evaluation system where technical and cost were to be equally weighted, its cost advantage outweighed ACT's technical advantage. Agency officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results. Price/technical tradeoffs may be made, and the extent to which one is sacrificed for the other is governed by the test of rationality and consistency with the established evaluation factors. 841 Assocs., L.P.; Curtis Ctr. Ltd. Partnership, B-257863, B-257863.2, Nov. 17, 1994, 94-2 CPD ¶ 193 at 7. This discretion exists even where price and technical factors are of equal weight. We will not disturb awards to offerors with higher technical merit and higher prices so long as the result is consistent with the evaluation factors and the agency has reasonably determined that the technical superiority outweighs the price difference. Id.

As indicated above, the agency made a detailed comparison between the proposals submitted by SPS and ACT comparing the advantages and disadvantages of both proposals under each evaluation criterion. The record shows that the agency reasonably found that ACT's proposal had demonstrated advantages over SPS in the three most important of the five technical evaluation factors. The agency particularly recognized the importance of a contractor's ability to properly conduct computer-aided monitoring of the grouting operations in real time Lugeon values and determined that ACT's demonstrated understanding of the project through its superior technical approach and extensive experience and expertise was worth the associated additional cost. The determination that ACT's technical superiority was worth the additional cost was consistent with the RFP and well within the agency's discretion. Notwithstanding the protester's assumption that this tradeoff should have been based on a mechanical comparison of the respective percentage differences between the two offerors' price and technical scores, there is no requirement that selection of a higher-priced proposal be justified through an exact quantification of the dollar value to the agency of the proposals technical superiority. Kay and Assocs., Inc., B-258243.7, Sept. 7, 1995, 96-1 CPD ¶ 266 at 6. Accordingly, the tradeoff and the resulting award determination are unobjectionable.

The protest is denied.

Comptroller General
of the United States