

DECISION



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

FILE: B-220772 **DATE:** February 4, 1986
MATTER OF: Kempster-Rossman International

DIGEST:

1. Where the RFP does not clearly indicate the relative importance of price to technical factors, they must be given equal weight in the evaluation.
2. Where the RFP gives equal weight to price and technical factors, a protest against an agency's award to an offeror whose technical proposal was rated 25 percent below that of the protester whose price was only 2 percent more than the awardee is sustained since evaluation gave controlling weight to price.

Kempster-Rossman International (KRI) protests the award of a fixed-price contract to conduct value engineering workshops to Smith, Hinchman & Grylls Associates, Inc. (SH&G), by the Federal Highway Administration, Department of Transportation, under request for proposals (RFP) No. DTFH61-85-R-00053. Performance of the contract is being withheld pending resolution of the protest. KRI contends that the award was inconsistent with the evaluation scheme announced in the solicitation. We agree and sustain the protest.

The proposal evaluation factors were set out in the RFP as follows:

"Evaluation Criteria

Proposals will be evaluated and the prospective Contractor will be selected based principally on the following criteria listed in order of descending importance:

"1. Offeror's Technical Competence and Understanding of the Subject material

- a. Demonstration of the offeror's familiarity and experience in the following.
 - 1. Value Engineering as it relates to highway programs.
 - 2. Conducting VE/VA workshops or training courses for highway professionals and other transportation related disciplines.

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"2. Offeror's Indication of Sufficient Resources to Complete the Contract Requirements Satisfactorily and on Schedule.

- a. Education and experience of the proposed instructors in value engineering and value analysis relating to highway and transportation projects. Also, prior experience in conducting VE/VA Workshops.

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"3. Offeror's Responsiveness to the Technical Requirements of the RFP.

- a. Grasp of the tasks to be performed and recognition of the critical technical issues regarding the results expected from all workshop and study presentations.
- b. Completeness and thoroughness of the technical proposal.

In addition to the criteria listed above, relative costs will be considered in the ultimate award decision."

The proposals of KRI and SH&G were found to be acceptable. KRI's technical proposal received 92.3 points (out of 100) while SH&G's received 67.7 points. The evaluation report stated that KRI was the best qualified and could be expected to perform in an outstanding manner. The evaluation report on SH&G stated that SH&G's experience was sufficient to complete the contract although its strong value engineering experience included only limited experience with transportation-related projects. KRI's best and final offer was \$322,623 and SH&G's best and final offer was \$6,499 lower at \$316,124. Because the proposal of SH&G met all of the technical requirements and offered the lowest overall price, the contracting officer determined that it was in the best interest of the government to make the award to SH&G.

As the agency and KRI agree, the selection of the evaluation factors and their relative importance in the evaluation of proposals are within the discretion of the contracting officials so long as the evaluation factors provide a rational method of selecting a contractor. Joint Action in Community Service, Inc., B-214564, Aug. 27, 1984, 84-2 CPD ¶ 228. Contracting officials, however, do not have the discretion to announce in the solicitation that a particular evaluation scheme will be used and then use another in the actual evaluation, unless the offerors are informed of the change and given the opportunity to revise their proposals with the new scheme in mind. Umpqua Research Company, B-199014, Apr. 3, 1981, 81-1 CPD ¶ 254. After the evaluations, the selection authority may make cost/technical tradeoffs, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the solicitation's evaluation scheme. Warren Management, Inc., B-217257, Apr. 8, 1985, 85-1 CPD ¶ 407.

Thus, the crucial issue in this protest is whether the agency's selection of SH&G because its price was slightly below that of KRI's, whose technical proposal was found to be substantially superior, was rational in the light of the solicitation's expressed evaluation scheme. Battelle Memorial Institute, B-218538, June 26, 1985, 85-1 CPD ¶ 726. Based on the record, we think that it was not.

The agency contends that the stated evaluation scheme indicates that "relative costs are not simply an evaluation factor of equal or lesser weight than the other evaluation factors." The agency then cites our decision in Timberland-McCulloch, Inc., B-202662, Mar. 10, 1982, 82-1 CPD ¶ 222, to support its position that when the RFP

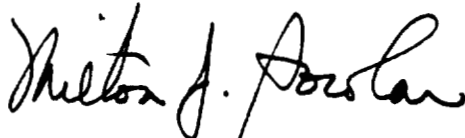
gives equal weight to price and technical factors, the fact that a proposal receives a superior technical score does not itself justify its acceptance without regard to price.

We agree that in this case, price and technical factors should be given equal weight because the evaluation factors in the RFP did not explicitly indicate the relative importance of price to technical competence. In such cases, it is our view that technical and cost considerations will be given equal weight in making an award. The reason for this view is simply that when the RFP does not specify which factors predominate, the inference to be drawn is that they are weighted equally. See Petro-Engineering, Inc., B-218255.2, June 12, 1985, 85-1 CPD ¶ 677. We do not agree that the agency gave equal weight to technical factors and price in this case when it selected SH&G for award. In our view, the agency made its award decision as though the RFP had provided for award to be made to the offeror with the lowest priced, technically acceptable proposal. Such a result deprecates KRI's 25-percent technical superiority to something less than the 2-percent price advantage of SH&G. This is not consistent with the stated evaluation factors.

In the Timberland case, supra, where the award also went to the lower scored, lower priced offeror, we held that with technical and price factors being weighted equally, award could not have gone to the offeror with the higher ranked technical proposal unless the agency made a determination in writing that the technical superiority offset the additional costs it would require. The Timberland case involved relatively minor differences in technical points (140-132), price points (140-135) and an agency regulation that precluded award to a higher priced offeror without a written justification. This is not the case here. Since the price differential was so minor and the technical difference of the competing proposals so great, we believe that the award should have been made to the higher technically ranked offeror under any reasonable technical/price trade-off analysis. To find otherwise, would give no meaning whatever to the equal weight both technical and price considerations were to have under the RFP.

Therefore, by separate letter of today, we are recommending to the Secretary of the Department of Transportation that the contract with SH&G be terminated for the convenience of the government and that the contract be awarded to KRI, if found to be otherwise eligible.

The protest is sustained.

for 
Comptroller General
of the United States