

Gary



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Associates in Rural Development, Inc.

File: B-238402

Date: May 23, 1990

Joel R. Feidelman, Esq., and Richard D. Lieberman, Esq.,
Fried, Frank, Harris, Shriver & Jacobson, for the protester.
Mark F. Fittipaldi, Esq., Office of the General Counsel,
Agency for International Development, for the agency.
Stephen J. Gary, Esq., and David Ashen, Esq., Office of the
General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

1. Where solicitation indicates that cost will be evaluated but does not indicate its specific weight relative to technical factors, it is presumed that cost and technical factors will be considered to be approximately equal in importance.
2. Award to lower-cost offeror receiving lower technical score was proper where agency reasonably concluded that point scores overstated protester's technical advantage and any actual advantage did not justify the cost premium involved.

DECISION

Associates in Rural Development, Inc. (ARD), protests the award of a contract to Louis Berger International, Inc. (LBI), under request for proposals (RFP) No. 89-023, issued by the Agency for International Development (AID), for an agricultural development and assistance project in Guatemala. ARD asserts that AID's failure to give more weight to technical factors than to cost in the evaluation of proposals was an improper departure from the solicitation's evaluation scheme; it also challenges the cost/technical tradeoff and the assessment of the realism LBI's proposed costs.

We deny the protest.

0405901 141439

The RFP provided for award of a cost-plus-fixed-fee contract to provide technical assistance services--including advice on watershed management, marketing, credit and pest management--and support services in furtherance of AID's Highlands Agricultural Development Project in Guatemala. The solicitation indicated that proposals would be evaluated on the basis of the following technical evaluation factors: contractor personnel (60 points); technical criteria, including management approach, technical plan and understanding of the project (20 points); and corporate qualifications (20 points). With regard to cost, the solicitation stated that "while no points are shown for cost evaluation, offerors should assume that cost will be evaluated."

Five proposals were received in response to the solicitation. Following technical and cost discussions, three offerors were retained in a revised competitive range, and were requested to submit best and final offers (BAFOs). ARD's BAFC, proposing a cost of \$4,060,851, received the highest technical score, 87.0 points, while LBI's BAFO, proposing a cost of \$3,681,035, received a technical score of 78.8 points. AID determined that LBI, at agency direction, had failed to include in its proposed cost the cost of certain paid leave, thus resulting in a level of effort that appeared to be somewhat reduced from the level of effort set forth in the RFP. The agency concluded, however, that LBI in fact was proposing the level of effort in the solicitation, but charging paid leave to overhead rather than accounting for it as a direct charge; nevertheless, so as to avoid any question as to whether proposals were being evaluated on an equal basis, the agency adjusted LBI's proposed cost upward by \$144,277 to an evaluated cost of \$3,825,312. LBI's evaluated, final proposed cost, however, remained \$235,539 lower than ARD's. Assigning approximately equal weight to technical factors and cost, the agency determined that LBI's proposal was fully acceptable and essentially technically equal to ARD's; it concluded that any technical advantage to be gained from ARD's proposal was not justified by the substantial cost premium involved and therefore selected LBI for award.

In its protest, ARD first argues that AID acted improperly in weighing technical factors and cost equally. According to ARD, since the solicitation assigned no particular weight to cost, it was reasonable to assume that proposals would be evaluated in the same way that AID "historically" had evaluated proposals in similar procurements, where AID "frequently" had considered technical quality more important than cost. ARD maintains that therefore the agency's failure to accord more importance to technical factors here

amounted to a departure from the RFP, as interpreted in light of offerors' reasonable expectations.

We find no merit in ARD's contention. Where, as here, the solicitation clearly indicates that cost will be considered, but assigns it no specific weight relative to technical factors, it is well established that cost and technical considerations will be considered approximately equal in weight. See, e.g., Actus Corp./Michael O. Hubbard and L.S.C. Assocs., B-225455, Feb. 24, 1987, 87-1 CPD ¶ 209, and cases cited therein. Furthermore, as noted above, the language of the solicitation clearly put offerors on notice that cost would be an important part of the evaluation of proposals. Consequently, we find no basis for ARD's assertion that it was reasonable to assume that technical factors would be more important than cost. See Johns Hopkins Univ., B-233384, Mar. 6, 1989, 89-1 CPD ¶ 240.

ARD, however, further argues that even if the solicitation permitted AID to assign equal weight to cost and technical factors, the agency did not do so, but instead gave far more weight to cost than to technical merit. Specifically, ARD contends that since the percentage by which its technical point scores exceeded LBI's (10.4) was greater than the percentage by which ARD's evaluated cost exceeded LBI's (6.2 percent) the agency must have given more importance to cost when it selected LBI. ARD maintains, therefore, that even under the agency's own interpretation of the RFP's evaluation scheme, the evaluation lacked a rational basis. Again, we disagree.

Where, as here, the RFP provides for a cost/technical tradeoff based on approximately equal weights for cost and technical factors, selection officials retain considerable discretion in determining the significance of technical point score differentials when making cost/technical tradeoffs; their decision, the manner in which they use the results of technical and cost evaluations, and the extent, if any, of cost/technical tradeoffs, are governed only by the tests of rationality and consistency with established evaluation criteria. Actus Corp./Michael O. Hubbard and L.S.C. Assocs., B-225455, supra. Moreover, in conducting the cost/technical tradeoff, the determinative element is not the difference in technical scores per se, but the considered judgment of the selection officials concerning the significance of the difference. See Hardman Joint Venture, B-224551, Feb. 13, 1987, 87-1 CPD ¶ 162. The agency is not required to give equal weight to the percentage differential between technical scores and the

percentage differential between proposed costs. Ecology and Env't, Inc., B-209516, Aug. 23, 1983, 83-2 CPD ¶ 229. We therefore have upheld as reasonable an agency's determination that a cost differential was more significant than a somewhat greater percentage differential between technical scores, noting that there is no direct relationship between technical point score differentials and proposed cost differentials. Id.

Here, the record shows that agency selection officials considered the point difference between the proposals and reasonably determined that ARD's higher technical score did not reflect a technical advantage that warranted its significantly higher cost. Specifically, although AID found that ARD's initial proposal, overall, was the best prepared and most original, and was particularly strong with respect to the technical aspects of managing the project, the agency also determined that LBI had proposed a "strong" personnel team, with the "best team leader" proposed by an offeror, and "perhaps the best" pest management adviser. (AID initially viewed ARD's overall personnel team as only "acceptable," although it found some individuals to be "excellent," initially assigned ARD more points under this category and subsequently gave additional credit for further additions to the team.) In addition, the agency viewed LBI's organizational/management plan as innovative and assigned LBI's proposal a higher score under the factor for corporate qualifications. Thus, the agency clearly viewed LBI's proposal as offering unique strengths in significant areas. To the extent that ARD's proposal offered strengths relative to LBI's, the agency concluded that while such strengths warranted a higher technical point score, they were not required for adequate performance of the contract and did not justify the cost premium involved.

Based upon our review of the record, we find no basis to question the agency's determination that, for purposes of being able to perform the required scope of work, the two proposals were nearly technically equal, and that the strengths of LBI's proposal either were largely offset elsewhere or did not justify the cost premium involved. See Dayton T. Brown, Inc., B-229664, Mar. 30, 1988, 88-1 CPD ¶ 321 (agency reasonably determined that 28 percent difference between awardee's lower technical score and protester's perfect technical score exaggerated differences in actual capability to perform and that protester's actual technical advantage was not sufficient to justify cost premium involved).

Finally, ARD asserts that, based on the wide difference between its own and LBI's proposed costs, AID could not

reasonably have concluded that LBI's low proposed costs were realistic. It questions whether any cost realism analysis was conducted, and believes that the agency's cost evaluation was based only on cost estimates as submitted, without consideration of the realism of the discrete elements of those cost estimates. We find no support in the record for ARD's contentions.

Where a cost reimbursement contract is contemplated, the contracting agency must analyze each offeror's proposed costs for realism, since regardless of the cost proposed, the government will be bound to pay the contractor its actual and allowable costs. See Informatics Gen. Corp., B-224182, Feb. 2, 1987, 87-1 CPD ¶ 105. The evaluation of competing cost proposals requires the exercise of informed judgment by the contracting agency involved, since it is in the best position to assess the "realism" of cost and technical approaches and must bear the major criticism for the difficulty or expenses resulting from a defective cost analysis. Dayton T. Brown, Inc., B-229664, supra.

We have reviewed AID's evaluation of proposed costs and find that, contrary to ARD's assertions, the agency performed a cost realism analysis of all proposals, and that the analysis included an assessment of specific elements of the proposed costs. For example, in evaluating initial proposals, AID noted that LBI's insurance costs were excessive; as a result, after discussions, LBI reduced those costs in its final proposal. With respect to ARD's proposal, the agency noted that the initially proposed rate for general and administrative expenses appeared excessive; questioned ARD's proposed material handling charge and insurance costs; found that its proposed fixed fee was excessive; and advised ARD that salaries for several proposed consultants were extremely high.

Further, the record shows that AID's cost realism analysis reasonably determined that LBI's proposed cost was not, as ARD asserts, unrealistically low. In that regard, the agency made detailed comparisons of the proposed cost elements with the government's own estimates for those elements. Although the agency made an upward adjustment in LBI's overall proposed cost to account for omitted leave and adjustments to specific cost items such as salary, fringe benefits, overhead, and living quarters, we note that LBI's overall, final proposed salary costs exceeded both the

government estimate and ARD's proposed salary costs. LBI's proposed cost in another major area, overhead, also exceeded ARD's. Accordingly, we find no basis for ARD's assertion that LBI's proposed costs are unrealistically low.^{1/}

The protest is denied.



for
James F. Hinchman
General Counsel

^{1/} Both offerors' total proposed costs were well below the government estimate.