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**Comptroller General
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Decision

Matter of: Wyle Laboratories, Inc.

File: B-311123

Date: April 29, 2008

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Andre Long, Esq., and John McCollum, Esq., Department of the Navy, for the agency. Robert J. Symon, Esq., Douglas L. Patin, Esq., Michael S. Koplman, Esq., and Jeremy Becker-Welts, Esq., Bradley, Arent, Rose & White LLP, for the intervenor. Glenn G. Wolcott, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency source selection evaluation board's (SSEB) rejection of a lower-level evaluation team's assessment of risk regarding the awardee's proposal is reasonably supported by the record, and the source selection authority's (SSA) reliance on the SSEB rating, rather than the rating of the lower-level evaluation team, was reasonable.
2. Agency's cost realism evaluation reasonably relied on the agency's estimate of labor rates where that estimate reflected the protester's own proposed rates for the predecessor contract, escalated to account for the passage of time, and the protester's contract manager advised agency personnel that the government's estimate of labor rates were "still good."
3. Where SSA considered all of the evaluation record, including the reports of the various evaluation teams and the SSEB, which identified and described the various evaluated strengths and weaknesses of both offerors' proposals, the SSA's ultimate conclusion that the protester's higher-rated, higher-priced proposal did not represent the best value for the government was adequately documented and reasonably supported by the evaluation record.

DECISION

Wyle Laboratories, Inc. protests the Department of the Navy's award of a contract to Jacobs Technology, Inc. pursuant to request for proposals (RFP) No. N68936-07-R-0014 to provide various support services for the Naval Air Warfare Center, Weapons Division (NAWCWD).¹ Wyle challenges the agency's evaluation of proposals under the management and cost/price evaluation factors, and asserts that the basis for the agency's tradeoff of cost/price and non-cost/price factors was not adequately documented.

We deny the protest.

BACKGROUND

The Navy issued the solicitation in May 2007, seeking proposals to provide scientific, technical, administrative, research, development, test & evaluation services (STARS) for the NAWCWD at various locations.² The solicitation provided that award would be made on a "best value" basis and identified the following evaluation factors: management, technical, past performance, and cost/price.³ The solicitation further provided that, in evaluating proposals under the management and technical factors, the agency would assign both qualitative and risk ratings,⁴ and that, in evaluating past performance, offerors would be assigned risk ratings reflecting each offeror's potential to successfully perform the requirements.⁵

¹ The mission of the NAWCWD is to be the Navy's full-spectrum research, development, test, evaluation, and in-service engineering center for various weapons systems, and to maintain and operate the air, land, and sea Naval Western Test Range Complex. Agency Report (AR) exh., 2, RFP, at 12.

² The scope of the contemplated contract encompasses the analysis, design, development, test, integration, deployment, and operations of information technology systems and services. RFP at 12. Wyle was the incumbent contractor performing the predecessor STARS contract, which was awarded in 2003.

³ Regarding relative importance, the solicitation provided that the management and technical factors were of equal importance, were significantly more important than any other factor, and when combined with past performance were significantly more important than cost/price. RFP at 104.

⁴ The solicitation established quality ratings of "outstanding," "highly satisfactory," "satisfactory," "marginal," and "unsatisfactory," and proposal risk ratings of "low," "medium," and "high." *Id.* at 105.

⁵ The solicitation established past performance risk ratings of "very low," "low," "moderate," "high," "very high," and "unknown." *Id.* at 107.

With regard to the evaluation of cost/price, the solicitation identified various labor categories that would be required for contract performance, along with the estimated quantities of hours, by labor category and performance period, and advised offerors that proposals would be evaluated for cost realism.⁶ More specifically, the solicitation stated:

(ii) Pertinent cost information, including but not limited to DCAA recommended rates for such costs as direct labor, overhead, G&A, etc; historical data, in-house data for similar contracts, comparison to other proposals and information from other government sources will be used to arrive at the Government determination of realistic cost to be incurred in the performance of this contract. If proposed costs are considered to be unrealistic, including unrealistic labor rates and indirect rates, the offerors' proposed costs will be adjusted upward or downward to reflect more realistic costs. The Government will use the higher of proposed or evaluated rates for cost comparison purposes. . . .

(iii) Evaluation of Proposed Escalation Rates: To evaluate escalation of proposed labor cost, the Government will utilize the Global Insight's quarterly escalation rates for 2008 through 2013 (California, Average Annual Wage, Private Service Providing) current at the time of the evaluation.

Id. at 107.

Finally, the solicitation stated that the agency intended to award a contract on the basis of initial proposals without conducting discussions, and advised offerors that initial proposals should contain each offeror's best terms. Id. at 104.

On or before the July 16 closing date, proposals were submitted by seven offerors, including Wyle and Jacobs; the proposals were thereafter evaluated by the various evaluation teams.⁷ In evaluating proposals under the technical factor, the MTET

⁶ The solicitation explained that the agency's cost realism evaluation would assess whether each offeror's proposed costs were realistic for the work to be performed, reflected a clear understanding of the solicitation requirements, and were consistent with the approaches reflected in each offeror's management and technical proposals. Id. at 107.

⁷ The agency's management/technical evaluation team (MTET) evaluated proposals with regard to the management and technical factors; the past performance evaluation team (PPET) evaluated proposals with regard to the past performance factor; and the cost evaluation team (CET) evaluated proposals with regard to
(continued...)

rated Wyle's proposal [deleted], and rated Jacobs' proposal [deleted]. In evaluating proposals under the management factor, the MTET rated Wyle's proposal [deleted], and rated Jacobs' proposal [deleted]. AR exh. 5, MTET Report, at 15-18, 32-35. In evaluating the past performance factor, the PPET rated both Wyle's and Jacobs' proposal as reflecting [deleted]. AR exh. 11, PPET Report, at 3.

In evaluating cost/price, the agency prepared an independent government cost estimate (IGCE) which identified the various labor categories, along with applicable labor rates, that the agency projected would be necessary for successful contract performance. The IGCE labor rates reflected the rates Wyle had previously proposed pursuant to the predecessor contract awarded to Wyle in 2003, escalated to account for the passage of time. AR exh. 16, IGCE. In April 2007, in connection with its performance of the incumbent contract, Wyle verified the validity of the IGCE rates. AR exh. 15, at 1-2.

In performing its cost realism assessment, the agency compared each offeror's proposed labor rates to the IGCE rates. The agency found that, in some labor categories, both Wyle and Jacobs had proposed rates that were higher than the IGCE rates, and in some categories both offerors had proposed rates that were lower. Consistent with the provisions of the solicitation, in calculating each offeror's evaluated cost, the agency applied the offeror's proposed rates where those rates were higher than the IGCE rates, and applied the IGCE rates for labor categories where the offerors' proposed rates were lower than the IGCE rates. Contracting Officer's Statement at 14. Based on its cost realism evaluation, the agency concluded that Wyle's total proposed costs ([deleted]) were understated by [deleted] (approximately [deleted] percent), resulting in a total evaluated cost of [deleted], and that Jacobs' proposed costs ([deleted]) were understated by [deleted] (approximately [deleted] percent), resulting in total evaluated costs of \$202,531,852. AR exh. 3, Source Selection Evaluation Board (SSEB) Report, at 3.

Thereafter, each of the evaluation teams provided briefings and reports to the higher-level SSEB. The SSEB reviewed the proposals and the lower-level evaluation teams' ratings, concurring with most of the evaluation teams' assessments and conclusions. However, with regard to the evaluation of Jacobs' proposal under the management factor, the SSEB disagreed with the MTET assessment of [deleted], concluding that a rating of [deleted] was more appropriate. Following the SSEB's review and evaluation, the ratings were as follows:

(...continued)

cost/price. The proposals of offerors other than Wyle and Jacobs, and the agency's evaluation of those proposals, are not relevant to resolution of Wyle's protest and are not further discussed.

	Jacobs	Wyle
Management/Risk	[deleted]	[deleted]
Technical/Risk	[deleted]	[deleted]
Past Performance	[deleted]	[deleted]
Proposed Cost	[deleted]	[deleted]
Evaluated Cost	\$202,531,852	[deleted]

SSEB Report at 2-3.

In connection with its review and evaluation, the SSEB prepared a report for the source selection authority (SSA) in which the SSEB identified and described various strengths and weaknesses of each offeror’s proposal. Based on its evaluation and analysis, the SSEB recommended that the SSA award a contract to Jacobs, stating:

While Jacobs did not have the highest Management/Technical rating, their proposal was sound, demonstrating that they have good management processes and understand the challenges associated with this requirement. Their evaluated cost was [deleted] lower than Wyle’s evaluated cost and [deleted] [lower] than [another offeror’s] evaluated cost. The perceived benefits of the higher priced proposals do not merit their additional cost.

Id. at 4.

Thereafter, the SSA reviewed the SSEB report, along with the various lower-level evaluation teams’ reports, and concurred with the recommendation of the SSEB to make award to Jacobs, echoing the SSEB’s conclusion that while Jacobs’ management and technical proposals were not rated as high as Wyle’s, Jacobs offered a lower evaluated cost, and “the perceived benefits of [Wyle’s higher priced proposal] do not merit [its] additional cost.” AR exh. 14, Source Selection Decision, at 2. Thereafter, the agency awarded a contract to Jacobs; this protest followed.

DISCUSSION

Wyle first challenges the agency’s evaluation of Jacobs’ proposal under the management evaluation factor, complaining that, although the MTET initially assigned a risk rating of [deleted] to Jacobs’ proposal, the proposal was ultimately rated as [deleted] risk. Wyle asserts that the initial ratings should have taken precedence over the final rating, maintaining that the agency’s final risk assessment regarding Jacobs’ proposal was inadequately documented. We disagree.

The evaluation of technical and management proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and

identifying 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. Point scores and adjectival ratings are only guides to assist source selection officials in evaluating proposals, and information regarding particular strengths and weaknesses of proposals is the type of information such officials are bound to consider to determine whether, and to what extent, meaningful differences exist between proposals. See, e.g., TPL, Inc., B-297136.10, B-297136.11, June 29, 2006, 2006 CPD ¶ 104 at 17. 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 only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and with procurement statutes and regulations. Honolulu Marine, Inc., B-245329, Dec. 27, 1991, 91-2 CPD ¶ 586 at 3. Finally, source selection officials and higher-level agency evaluators may reasonably disagree with the evaluation ratings and results of lower-level evaluators. See, e.g., Verify, Inc., B-244401.2, Jan. 24, 1992, 92-1 CPD ¶ 107 at 6-8. In this regard, the issue is not whether the agency's final assessments are consistent with earlier assessments, but whether they reasonably reflect the relative merits of the proposals. KPMG Consulting LLP, B-290716, B-290716.2, Sept. 23, 2002, 2002 CPD ¶ 196 at 13-14; Brisk Waterproofing Co., Inc., B-276247, May 27, 1997, 97-1 CPD ¶ 195 at 2 n.1.

Here, Jacobs' proposal was initially considered by the lower-level MTET to have [deleted] risk, based on various MTET concerns. For example, the MTET expressed concern that "four of the seven key personnel proposed [by Jacobs] reside outside of the local area"; therefore, the MET "questioned the long term commitment of [those] personnel." MTET Report at 16. In contrast, the SSEB noted that Jacobs' proposal contained letters of commitment from its proposed key personnel and, therefore, found no basis to question those commitments. SSEB Report at 4. Additionally, the MTET expressed concern regarding Jacobs' plan to [deleted], questioning whether Jacobs could successfully [deleted] without creating "morale and/or retention problems."⁸ MTET Report at 15-16. The SSEB rejected the MTET's concern regarding an [deleted] on the basis that there was no objective support for this concern, and (echoing the MTET's assessment of a "strength" in this area) stated: [deleted]. SSEB Report at 5. Finally, although the MTET identified other "minor discrepancies" in Jacobs' proposal, the SSEB concluded that these matters would cause "no disruption in performance." Id. at 4. Overall, based on the SSEB's consideration of the solicitation requirements, the stated evaluation factors, and its

⁸ Inconsistent with its risk assessment, the MTET also identified Jacobs' proposed use of [deleted], stating: [deleted]. MTET Report at 16.

review of Jacobs' proposal, the SSEB concluded that a rating of [deleted] with regard to the management evaluation factor was more appropriate than the MTET's initial rating of [deleted]; thereafter, the SSA accepted the SSEB's assessment.

Based on our review of the record, we conclude that the SSEB's assessments are consistent with and supported by the record, and we find no basis to question the reasonableness of either the SSEB's judgments regarding risk, nor the SSA's reliance on the SSEB's judgments. While Wyle disagrees with the agency's final risk assessment, such disagreement does not provide a basis for sustaining the protest.

Next, Wyle asserts that the agency's cost realism evaluation was improper. Specifically, Wyle asserts that it was unreasonable for the agency to rely on the IGCE labor rates with regard to labor categories for which Wyle proposed lower rates. We disagree.

The purpose of an agency's cost realism evaluation for contracts where the agency will subsequently issue task orders for services to be performed by contractor personnel within various labor categories is to determine, among other things, the extent to which the offeror's proposed labor rates are reasonable and realistic. See, e.g., Koba Assocs., Inc., B-251356, Mar. 25, 1993, 93-1 CPD ¶ 267 at 5. In this regard, an agency is not required to verify each and every conceivable variable in performing its cost realism assessments; rather the evaluation requires the exercise of informed judgment by the agency. See, e.g., Abt Assocs., Inc., B-295449, B-295449.2, Mar. 2, 2005, 2005 CPD ¶ 54 at 8. Since the agency is clearly in the best position to make the necessary judgments, our Office will not disturb such determinations absent a showing that they were unreasonable. JWK Int'l Corp., B-237527, Feb. 21, 1990, 90-1 CPD ¶ 198 at 2.

Here, in evaluating both Wyle's and Jacobs' proposed rates, the agency applied the rates each offeror had proposed, except for labor categories where those rates were lower than the IGCE rates; in such cases, the agency applied the higher IGCE rates. As discussed above (and a matter which Wyle does not dispute), the IGCE labor rates were based on the rates Wyle had proposed for the predecessor STARS contract, escalated to reflect the passage of time. AR exh. 16, IGCE; Protester Comments on AR (Mar. 3, 2008) at 15. Further, Wyle acknowledges that its contract manager was requested to confirm the validity of the IGCE rates just prior to

submission of its proposal.⁹ Wyle's contract manager responded to the COTR's request, stating: "Yes, Linda the FY07 and FY08 IGCEs are still good."¹⁰ Finally, Wyle states that the lower rates it proposed for various labor categories reflected Wyle's practice of taking "the average labor rates" of "various employees" that had performed work within a given labor category, and proposing those rates for performance of the entire contract effort in those labor categories. Protester Comments (Mar. 3, 2008), attach. B ¶ 3.

Here, based on the record discussed above, it is clear that the agency's IGCE rates, which resulted in the upward adjustments to both Jacobs' and Wyle's cost proposals, were based on the very labor rates that Wyle had previously proposed in connection with the award of the predecessor contract, and which Wyle's own contract manager had confirmed were "still good." On this record, we find no basis to conclude that the agency's application of the IGCE rates in performing its cost realism analysis was unreasonable. Wyle's assertion that, rather than apply the IGCE rates, the agency was required to accept Wyle's lower proposed rates, is without merit.¹¹

⁹ Specifically, Wyle's contract manager states that she received an email from the contracting officer's technical representative (COTR) in April 2007, which stated:

Hi [deleted],

I'm working on the email to call for follow-on FY08 T.O.s [task orders] and mods needed to extend T.O.s that end in Jan 08 to 31 March. Please make sure the enclosed forms and rates are good for FY08 so I can send it out to the T.A.s [technical assistants].

I'm also going to ask T.A.s to request any mods now in FY07 that will be needed to get through 20 Sep 07 (increase in hours/dollars or significant PWS changes) to avoid those major changes at year end, so I've enclosed the latest FY07 IGCE I have in case those rates/numbers need to be revised/updated.

AR exh. 15, at 2.

¹⁰ Wyle asserts that its email response was given only as verification that the IGCE rates "could provide a reasonable estimate on which to base a budgeting allocation" and, therefore, asserts that the response is not relevant to this Office's assessment regarding the reasonableness of the agency's reliance on the IGCE rates. Protester's Comments (Mar. 3, 2008), attach. B ¶ 6. We reject Wyle's assertion regarding the relevance of Wyle's response.

¹¹ Wyle also complains that the agency did not reasonably evaluate Jacobs' cost proposal with regard to other cost elements, including fringe benefits. As noted above, an agency's cost realism evaluation is not required to account for each and every possible variable. Abt Assocs., Inc., supra.

Finally, Wyle maintains that the agency's documentation regarding its cost-technical tradeoff, which led to selection of Jacobs' lower-priced, lower-rated proposal for contract award, does not adequately explain the basis for the trade-off. Again, we disagree.

It is well settled that an agency may properly select a lower-rated, lower-priced proposal, even where price is a less important evaluation factor than technical merit, where the agency reasonably concludes that the price premium involved in selecting a higher-rated proposal is not justified in light of the acceptable level of technical competence available at a lower price. See, e.g., Bella Vista Landscaping, Inc., B-291310, Dec. 16, 2002, 2002 CPD ¶ 217 at 4. Further, the extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Best Temporaries, Inc., B-255677.3, May 13, 1994, 94-1 CPD ¶ 308 at 3. A protester's mere disagreement with the agency's determinations as to the relative merit of competing proposals and its judgment as to which proposal offers the best value to the agency, does not establish that the evaluation or source selection was unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

Here, as discussed above, the record contains substantial documentation regarding the evaluated strengths and weaknesses of both offerors' proposals. In addition to the various assessments of the lower-level evaluation teams, the SSEB report highlights the various strengths and weaknesses of both Wyle's and Jacobs' proposals. Based on our review of this substantial contemporaneous documentation, along with the SSA's statement that she reviewed and considered all of this documentation, we find nothing unreasonable in the SSA's determination that Jacobs' lower-priced proposal offered the best overall value to the agency. Wyle's dissatisfaction with the SSA's ultimate conclusion reflects mere disagreement with the source selection decision and, as such, provides no basis for sustaining the protest.

The protest is denied.¹²

Gary L. Kepplinger
General Counsel

¹² In its various submissions to this Office, Wyle has presented various arguments in addition to, or variations of, the arguments discussed above. We have considered all of Wyle's arguments, and find no basis for sustaining its protest.