



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Eagle Design & Management, Inc.

File: B-275062

Date: January 21, 1997

David M. Nadler, Esq., and Karen Lau, Esq., Dickstein, Shapiro, Morin & Oshinsky LLP, for the protester.

Barbara S. Kinosky, Esq., Bean, Kinney & Korman, Leigh H. Turner, Esq., and James S. Phillips, P.C., for Herner & Company, an intervenor.

Terrence J. Tychan, Department of Health & Human Services, for the agency.

Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest concerning the evaluation of proposals is denied where the evaluation had a reasonable basis and was consistent with the solicitation evaluation criteria. The fact that the protester does not agree with the agency's evaluation does not render the evaluation unreasonable.

2. Protest of best value analysis is denied where the protest is predicated on the assumption that the underlying technical and price evaluations were erroneous, but the record shows that the evaluation results were reasonable.

DECISION

Eagle Design & Management, Inc. protests the award of a contract, on the basis of initial proposals, to Herner & Company under request for proposals (RFP) No. 263-96-P(AH)-0012, issued by the National Institutes of Health (NIH) as a total small business set-aside for the operation of a public clearinghouse for NIH's Office of Alternative Medicine (OAM), and the development of a scientific and research database for OAM. Eagle contends that the agency improperly evaluated its proposal by failing to evaluate Eagle's alternate proposal in accordance with the RFP and by applying undisclosed evaluation factors, and that the agency conducted a flawed best value analysis.

We deny the protest.

The OAM was created to facilitate the evaluation of alternative medical treatments such as homeopathic medicine, physical manipulation, and mind-body therapies. OAM's responsibilities include establishing an alternative medicine information clearinghouse and providing a database of information and resources that will be readily available to researchers, practitioners, and the general public.

The RFP, issued on April 12, 1996, sought proposals for the furnishing of services in two principal areas, the operation of a public clearinghouse for OAM and the development of a scientific and research database. The RFP contemplated the award of a fixed hourly price requirements contract for 1 year with four 1-year options. The RFP advised offerors that their technical proposals would be evaluated separately in the two main areas, and that their proposals should be severable in that regard since, although the agency stated that it preferred to make a single award, split awards might be made. Offerors were instructed to provide pricing based upon the assumption that a firm would receive award for only one section, but that an offeror also could provide a formula for alternate pricing in the event of award for both sections. Offerors were further advised that while the RFP contained an estimated staffing plan, they could present alternative staffing plans, but that if a firm did so the estimated hours set forth in the RFP would be used to normalize the proposals for price comparison purposes.

The RFP stated that the technical portion of the proposals was the most important consideration in making the award, and that award without discussions was contemplated. A best-buy analysis was to be performed that would take into consideration the results of the technical evaluation, cost analysis, and ability of the contractor to complete the work within the government's required schedule. Award was to be made on the basis of the proposal providing the best value to the government, all factors considered. The technical evaluation factors and subfactors (worth a total of 130 points) were listed in the RFP in descending order of importance, and are summarized as follows:

- | | |
|--|-------------|
| 1. Technical Approach | (45 points) |
| 2. Staffing and Personnel | (40 points) |
| 3. Corporate Experience/Past Performance | (35 points) |
| A. Relevant experience | (20 points) |
| B. Past performance | (15 points) |
| 4. Facilities | (10 points) |

Cost was worth 35 points.

Proposals were received from six firms by June 4, 1996. The technical proposals were evaluated by two separate technical evaluation committees, which determined that only the Eagle and Herner proposals were technically acceptable. The results of the evaluation were as follows:

CLEARINGHOUSE

FIRM	TECH PTS	PRICE	TOTAL
Eagle	[deleted]	[deleted]	[deleted]
Herner	[deleted]	[deleted]	[deleted]

PUBLICATION/DATABASE

FIRM	TECH PTS	PRICE	TOTAL
Eagle	[deleted]	[deleted]	[deleted]
Herner	[deleted]	[deleted]	[deleted]

Both firms provided pricing for a combined award; however, the assumptions regarding the total number of hours were vastly different. Eagle proposed approximately [deleted] fewer hours than did Herner, and both proposals were substantially below the government's estimate.¹ The proposals were normalized by developing average hourly prices for Eagle ([deleted]) and for Herner ([deleted]) and applying these prices to a number of hours close to that proposed by Herner.² This analysis resulted in the following total scores:

¹The government estimate for total number of hours was 171,600. Herner proposed [deleted] and Eagle proposed [deleted]. In this respect, the agency reports that "because these are new tasks with an uncertain future, the government viewed the staffing positions and estimates of hours as simply that, estimates. It is expected that with implementation, these estimates will probably need to be readjusted."

²The agency reports that it used Eagle's proposed number of hours in its normalization process. Our calculations, however, show that the agency actually used Herner's proposed hours in the price comparison.

	CLEARING HOUSE	PUBLICN	TECH	PRICE	TOTAL
Eagle	[deleted]	[deleted]	[deleted]	[deleted]	[deleted]
Herner	[deleted]	[deleted]	[deleted]	[deleted]	[deleted]

After reviewing the evaluation results, the project officer recommended that a single award be made to Herner on the basis that the strengths of the Herner proposal in addressing database and scientific publications components of the requirements exceeded those of Eagle's. Concerns about Eagle's staff turnover and lower employee pay contributed to the recommendation of award to Herner. The contracting officer determined that Herner offered the best combination of technical capability and appropriate pricing. On September 30, award was made to Herner. This protest followed.

Eagle protests that the agency improperly evaluated Eagle's proposal because it failed to evaluate Eagle's alternate combined proposal independently, arbitrarily combining the separate technical scores for the two sections of the basic proposal and comparing the results for Eagle and Herner. Eagle also argues that the agency evaluated Eagle's proposal improperly by arbitrarily normalizing Eagle's staffing plans and labor hours and by using an undisclosed method to adjust Eagle's proposed labor hours for comparison with Herner's. Lastly, Eagle contends that because the agency's best value analysis was based on the flawed evaluation, the best value analysis itself is without foundation and does not reasonably support a contract award to Herner.

In reviewing protests concerning the evaluation of proposals, we will examine the agency's evaluation to ensure that it had a reasonable basis and was consistent with the evaluation criteria listed in the RFP. Pemco Aeroplex Inc., B-239672.5, Apr. 12, 1991, 91-1 CPD ¶ 367. A protester's disagreement with the agency's evaluation is not itself sufficient to establish that the agency acted unreasonably. Correa Enters., Inc., B-241912, Mar. 5, 1991, 91-1 CPD ¶ 249. Here, after reviewing the record, we find that the evaluation was reasonable and in accordance with the RFP's stated evaluation criteria.

The essence of Eagle's protest is that a separate and distinct evaluation of the alternate combined proposals should have been performed by the agency in accordance with the listed evaluation factors. However, Eagle does not show that there is anything inherently improper in the agency's combining the two technical scores and then using a normalization process for evaluating alternate price proposals. As stated above, the RFP required the submission of separate proposals for the two separate requirements but indicated that the agency would prefer to

make a combined award. (Both offerors also indicated in their proposals that a single combined award was preferable to split awards.) The RFP also provided that offerors were to provide pricing based upon the assumption of award for only one section of the requirement, but that an offeror could provide a formula for alternate pricing in the event of award for both sections. Nowhere does the RFP provide that alternate proposals would be separately evaluated based on the technical evaluation factors. In this regard, Herner's alternate proposal also was not separately evaluated. Moreover, while Eagle maintains that if the agency had not normalized Eagle's price in the evaluation Herner would have received a price score of only [deleted], we note that Herner's combined total score would still be higher than Eagle's. In these circumstances, the agency properly evaluated both proposals similarly, and in a manner consistent with the RFP evaluation scheme.

The protester argues that the agency improperly and arbitrarily normalized costs by using an undisclosed method to adjust Eagle's proposed labor hours for comparison with Herner's. The RFP, however, advised offerors that while alternate staffing plans would be acceptable, prices would be normalized, but did not detail the normalization process to be used. The purpose of the normalization was to ensure a fair price comparison of offers that were founded on staffing bases different from those set out in the RFP, and was particularly necessary in view of the agency's expectation of changing requirements and related concerns about offerors' staffing assumptions. Given the RFP's provisions, we see no legal basis to object to the normalization decision or approach.

Eagle also challenges the propriety of the agency's best value analysis, maintaining that it was based on a flawed evaluation. As already discussed, we find nothing objectionable in the evaluation of the Eagle's proposal. Since Eagle does not challenge the evaluation of the awardee's proposal from either a cost or technical standpoint, it follows that the overall evaluation was reasonable. In making the award to Herner, the agency concluded that Herner demonstrated greater experience with abstracting in general and particularly in the "structured-type" approach. The agency recognized that both firms had recent experience with producing scientific journals; Herner was producing a publication, Alcohol Health and Research Work, that was more closely related to the envisioned OAM publication and Herner presented a much clearer process to develop a new scientific journal. The agency concluded that the Herner proposal demonstrated a better understanding and experience with structured abstracts, a scientific/medical database and scientific publications, which outweighed the apparent minor

difference in price and Eagle's technical advantage on the clearinghouse activity. We see no basis to object to the agency's methodology in evaluating the proposals and in selecting Herner as the awardee.

The protest is denied.

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