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Comptroller General
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# Decision

**Matter of:** Allied Technology Group, Inc.

**File:** B-282739

**Date:** August 19, 1999

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## DIGEST

Protest is denied where the agency's evaluation of proposals was reasonable and consistent with the solicitation's evaluation scheme and where the agency reasonably selected for award a higher technically rated, 14 percent higher priced proposal consistent with the solicitation's terms which provided that technical evaluation factors were significantly more important than price/cost.

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## DECISION

Allied Technology Group, Inc. (ATG) protests the award of a contract to Environmental Chemical Corporation (ECC) under request for proposals (RFP) No. DACA05-99-R-0010, issued by the Department of the Army, Corps of Engineers, Sacramento District, for environmental abatement projects in its South Pacific Division (SPD). ATG asserts that the evaluation of proposals was neither reasonable nor consistent with the RFP's evaluation scheme and that the agency's tradeoff decision was unreasonable.

We deny the protest.

On January 15, 1999, the agency issued the RFP for indefinite-delivery/combination fixed-price and cost reimbursement task order Pre-Placed Remedial Action Contracts (PRAC). RFP at L-15. Under these contracts, contractors are to perform

hazardous, toxic, and radioactive waste (HTRW), ordnance and explosive (OE), and asbestos and lead-based paint abatement within the Corps' SPD, which includes all or portions of the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Texas, and Utah. RFP amend. 2, at C-1.

The RFP provided for the separate award of three contracts--one for award on an unrestricted basis, one set aside for a qualified small business, and a third for a qualified 8(a) contractor. RFP at M-1. This protest concerns only the small business award. The RFP provided for awards to the responsible offerors whose proposals were determined to be most advantageous to the Government. Id. at M-14. In making these determinations, the RFP stated that the technical evaluation factors, when combined, would be considered significantly more important than price/cost. Id. The RFP further stated that the Government was more concerned with obtaining superior technical, management, quality, and/or past performance features than with making awards at the lowest overall prices/costs. Id.

As relevant here, the RFP listed the following four technical evaluation factors: (1) oral presentation; (2) key personnel and organizational structure (offerors and subcontractors); (3) experience with HTRW remediation projects; and (4) past performance/quality. RFP amend. 1, at M-16-17. The first three factors were equally weighted; the fourth factor was approximately four-fifths the weight of the first factor. Id. at M-16.[1] Technical proposals would be evaluated by assigning points which corresponded to the following adjectival ratings: unsatisfactory, marginal, satisfactory, very good, and excellent. Points and adjectival ratings would be supported by narratives of the strengths and weaknesses in an offeror's proposal. Agency Report, Tab 3, Source Selection Evaluation Plan, at 3-4.

On February 23, the agency received proposals from ten offerors, including ATG and ECC, which were eligible for the small business award at issue here; these proposals were referred to the source selection evaluation board (SSEB). The SSEB compiled consensus scores for each of the evaluation factors and prepared a recommendation for the source selection authority (SSA). The SSEB determined that 6 of the 10 small business proposals were technically acceptable, with the proposals of ECC and ATG receiving the two highest technical scores--[Deleted] and [Deleted] points, respectively, out of a possible [Deleted]. Agency Report, Tab 7, Memorandum from the SSEB to the SSA 1 (Apr. 23, 1999). Of the technically acceptable small business proposals, ATG submitted the second low price and ECC submitted the highest price. Agency Report, Tab 8, Cost Proposal Evaluation Report, Mar. 26, 1999, at 2. The SSEB advised the SSA that three of the proposals, although technically

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[1]Offerors competing in the small business or 8(a) set-aside categories were not required to respond to the fifth technical evaluation factor involving small/disadvantaged/women-owned/minority business partnership compliance. The sixth technical evaluation factor was cost and schedule management. Id. at M-18.

acceptable, were lower in technical score and higher in price than ATG's; accordingly, these proposals were eliminated from the competition. Agency Report, Tab 9, SSEB Best Value Comparative Analysis, Apr. 30, 1999, at 2. The SSEB then compared ECC's highest technically rated, highest priced proposal with ATG's second highest technically rated, lower priced proposal. Id. at 4-6.[2]

More specifically, the SSEB noted that the proposals of ECC and ATG were considered very good overall and that both firms were well-qualified to perform the agency's requirements. Id. at 4-5. With respect to ECC, the SSEB noted that its proposal received [Deleted] ratings for experience with HTRW remediation projects; [Deleted] ratings for oral presentation (technical capability and experience), past performance/quality, and cost and schedule management; and a [Deleted] rating for key personnel and organizational structure. Id. at 4. The SSEB believed that ECC demonstrated above average geographic coverage in the SPD; that the firm provided a good discussion of expected simultaneous task order awards at different locations; and that the firm clearly defined its role as the prime contractor and the role of its subcontractors. Id. The SSEB further believed that ECC demonstrated very strong PRAC experience in the SPD as a prime contractor and that ECC had a good past performance record for relevant projects. Id. The SSEB noted some weaknesses in ECC's oral presentation and that many of ECC's proposed personnel, [Deleted], appeared to lack relevant experience. Id. at 4-5. Nevertheless, the SSEB concluded that the risk in awarding to ECC, even with these weaknesses, was low. Id. at 5.

With respect to ATG, the SSEB noted that its proposal received [Deleted] ratings for oral presentation (technical capability and experience) and cost and schedule management, and [Deleted] ratings for key personnel and organizational structure, experience with HTRW remediation projects, and past performance/ quality. Id. The SSEB believed that ATG defined team and key personnel responsibilities; provided a good organizational chart and well-organized resumes; demonstrated good experience for its proposed program and project managers; and demonstrated good experience in the SPD using innovative technologies. Id. The SSEB pointed out that ATG had some excellent past performance evaluations on file, including those for HTRW projects. Id. The SSEB noted some weaknesses in ATG's proposal. For example, ATG relied on a team subcontractor--Montgomery Watson--to provide geographic coverage in the SPD, but indicated that this subcontractor would only perform 8.5 percent of the work. Id. In addition, ATG did not clearly address construction execution and task order close-out or levels of effort required for different sized task orders. Id. The SSEB also believed that ATG did not demonstrate relevant experience for several key personnel and the experience provided for the proposed program and project mangers was limited to two states, not the entire SPD. Id. The SSEB noted that ATG did not demonstrate large scale

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[2]The SSEB also compared ECC's proposal to the lowest technically rated, lowest priced proposal of Offeror A, which is not relevant here. Id. at 2-4.

construction experience, but rather, demonstrated that its experience was limited to smaller, less complex projects for which ATG encountered field oversight and management problems (which were subsequently corrected). Id. The SSEB concluded that the risk in awarding to ATG, with these weaknesses, was moderately low. Id.

Based on these evaluations, the SSEB recommended to the SSA that payment of the approximate [Deleted] percent higher price associated with ECC's proposal was warranted because of that offeror's "technical capabilities, proven track record and experience." Id. at 6. The SSEB distinguished ECC's proposal from ATG's in the areas of technical capability, experience with HTRW remediation projects, and past performance/quality. Id. The SSEB noted that ECC's advantages in these technical areas would result in less of a performance risk than that associated with ATG. In this regard, the SSEB pointed out ATG's recent performance problems on some Sacramento District Corps projects which required additional agency oversight at increased project costs. Id. The SSEB further advised the SSA that while ATG had some excellent ratings and was technically qualified, its experience was with projects generally of smaller size and of less technical complexity than those with which ECC had experience. Id. The SSEB recognized that ECC's proposal presented a low risk, while ATG's presented a moderate to low risk. Id. The SSEB recommended award to ECC, an offeror submitting a higher technically rated, higher priced proposal. The SSA accepted the SSEB's recommendation, and by letter of May 6, advised ATG of the selection of ECC for the small business portion of the work. Protest exh. 1. This protest, challenging the reasonableness of the agency's evaluation of proposals and source selection decision, followed.

Evaluation of Proposals

In reviewing an agency's evaluation of proposals, we will only question the agency's evaluation where it lacks a reasonable basis or is inconsistent with the stated evaluation criteria for award. Suddath Van Lines, Inc.; The Pasha Group, B-274285.2, B-274285.3, May 19, 1997, 97-1 CPD ¶ 204 at 5. The offeror has the obligation to submit an adequately written proposal, and its failure to fulfill that obligation does not render the evaluation unreasonable. Pacifica Servs., Inc., B-280921, Dec. 7, 1998, 98-2 CPD ¶ 137 at 3. Nor does an offeror's mere disagreement with the agency render the evaluation unreasonable. McDonnell Douglas Corp., B-259694.2, B-259694.3, June 16, 1995, 95-2 CPD ¶ 51 at 18. We find the agency's evaluation here reasonable and consistent with the RFP's evaluation scheme.

Evaluation under the organizational structure evaluation subfactor

Under the organizational structure evaluation subfactor, for which ATG's proposal received [Deleted] out of a possible [Deleted] points,[3] the RFP provided, among other things, that an offeror's proposal would be evaluated to determine the firm's ability to respond to the contract requirements and the firm's understanding of the organizational coordination necessary for proper operation/management of the contract. RFP amend. 1, at M-16. The RFP stated that the offeror's ability to respond to varying geographic locations in a cost effective, expeditious, and responsive manner would be evaluated. Id. at M-16-17.

ATG, as the prime contractor, teamed with three subcontractors to perform the agency's requirements. In its proposal, ATG stated, "Collectively, Team ATG has 19 offices servicing all states within the SPD. Our team is comprised of 1,270 key personnel with the requisite licenses, registrations, certifications and training necessary to fulfill the contract requirements." Agency Report, Tab 4, ATG Technical Proposal, Feb. 23, 1999, Factor 2a, at 1. ATG has three office locations--two in California and one in New Mexico. Id. at 7. In addition, it appears from its proposal that ATG's own personnel comprise approximately 35 to 44 percent of its team. Id. In describing its teaming agreement with Montgomery Watson, ATG stated in its proposal that it "anticipate[d]" that this subcontractor, which was proposed for performing requirements involving chemical data quality management, engineering support, and investigations/studies/field activities, would "perform 8.5 [percent] of [the] contract efforts." Id. at 11. ATG's proposal indicated that Montgomery Watson has at least 13 (and possibly even 17) of the above-referenced 19 "team" offices in the 9 SPD states. Id. at 2, 13. Moreover, it appears from ATG's proposal that Montgomery Watson personnel comprise approximately 47 to 59 percent of ATG's team. Id. at 7.

ATG objects to the agency's downgrading of its proposal for the organizational structure evaluation subfactor because the evaluators concluded that ATG's significant use of Montgomery Watson's offices to provide geographic coverage over nine states in the SPD was not adequately explained with respect to ATG's representation in its proposal that it anticipated that this subcontractor would perform 8.5 percent of the work. More specifically, the evaluators did not understand how ATG and its other two team members would perform approximately 90 percent of the work in light of the fact that ATG appeared to be relying on Montgomery Watson to provide a significant portion of the geographic and personnel assets for this contract--namely, over two-thirds of the offices and approximately 50 percent of the personnel. We think the evaluators could reasonably conclude that ATG failed to adequately explain in its proposal how it

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[3]ECC's proposal received [Deleted] out of a possible [Deleted] points for this evaluation subfactor.

would coordinate the work effort with Montgomery Watson, given its significant reliance on this subcontractor for offices and personnel, while representing that Montgomery Watson would do only a relatively small percentage of the work.[4]

ATG also objects to the agency's downgrading of its proposal for the organizational structure evaluation subfactor based on the evaluators' concerns with how ATG, located in California, intended to access and to interface with its only ordnance and explosives (OE) subcontractor, located in North Carolina. The record shows that the agency did not question the capabilities of ATG's OE subcontractor, but rather, questioned how, in view of the geographic distance between them, ATG and this subcontractor would coordinate local OE contract performance efforts, for example, preparation of plans, reviews, and technical support; interface with installations; and interface with the prime contractor, agency, and state and/or local regulators. Other than basically describing its OE subcontractor's prior and current experience and providing a summary of its teaming agreement with this subcontractor, Agency Report, Tab 4, ATG Proposal, at 1-3, 11, ATG's proposal does not address how it, as the California-based prime contractor, would coordinate with its only OE subcontractor, which was located in North Carolina, to provide cost effective, expeditious, and responsive service in the nine states comprising the SPD as required by the RFP. On this record, the agency reasonably downgraded ATG's proposal because it did not contain enough information on how ATG planned to accomplish the necessary local coordination with an OE subcontractor from outside the area.

Evaluation under the past performance/quality evaluation factor

ATG next objects to the agency's evaluation of its and ECC's past performance.[5] Under the past performance/quality evaluation factor, the RFP stated that project examples would be evaluated as to their relevance and similarity to work under the PRAC. RFP amend. 1, at M-17. The RFP instructed offerors to provide a customer reference point of contact for 10 of the 30 HTRW remediation projects evaluated under the experience with HTRW remediation projects evaluation factor. Id. at M-6. The RFP also provided that the SSEB could consider ratings on file for previous

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[4]ATG argues that since Montgomery Watson received award under the full and open portion of the competition, it would be reasonable to assume that this firm would make its offices available to ATG, even if its services were not required by ATG. Protester's Comments at 11. We note that even if this were a viable option, ATG failed to address this type of an arrangement in its proposal and neither the agency nor ATG could have relied upon Montgomery Watson's selection to resolve an inadequately explained prime and subcontractor relationship in ATG's proposal.

[5]ATG's proposal received [Deleted] and ECC's proposal received [Deleted] out of a possible [Deleted] points for the past performance/quality evaluation factor.

service, architect-engineer, or construction contracts, and past performance information from sources other than those listed by an offeror. Id. at M-17.

ATG complains that the evaluators did not consider its response to negative past performance reports. [Deleted] The reference reported the need for extensive government oversight of ATG, but gave credit to the project manager for persevering despite the lack of qualified personnel. The reference recommended ATG for future work on small projects only. For the other task order, the reference reported problems with ATG's accounting office, which took 6 months to process final payment, and the performance of key personnel (program manager). The reference reported intensive government field oversight of ATG, but attributed the eventual successful completion of the work to the efforts of the project manager.

By letter dated April 19, ATG responded by discussing its implementation of changes in its document quality and control systems and with its personnel, promising that its proposed project manager would receive sufficient resources to perform under the PRAC. Protest exh. 4. ATG also indicated that it had implemented new control and oversight systems to accommodate the company's growth. ATG referenced its excellent and outstanding performance of a project for the Navy for the installation and removal of underground storage tanks as evidence of its successful implementation of quality improvements in its project execution since completion of the task orders for which negative past performance reports, as discussed above, were provided.

Contrary to ATG's assertion, the record clearly shows that the agency did consider the firm's responses to the negative past performance information. Specifically, the SSEB memorandum to the SSA stated, "[p]ast performance evaluations were primarily for smaller, less complex projects and indicated some problems with past projects in the area of field oversight and management, although the firm indicated corrective action to be taken in the future." Agency Report, Tab 9, at 5. The record also reflects that the evaluators listed as a strength of ATG's proposal under the past performance/quality evaluation factor the firm's "[e]xcellent . . . rating for Navy project, large [underground storage tanks]." Agency Report, Tab 7, ATG Narrative, at 8.

ATG further complains that the evaluators disparately rated it and ECC for the past performance evaluation factor. With respect to the overall past performance ratings, ATG was rated [Deleted] and ECC was rated [Deleted]. Agency Report, Tab 7, ATG Narrative at 7; ECC Narrative at 4. In reviewing the past performance evaluation record consisting of unequal numbers of completed past performance questionnaires and ratings on file with the agency for both ATG and ECC, ATG maintains that it had three "outstanding" and three "satisfactory" ratings, which should have merited a past performance rating higher than [Deleted], i.e., [Deleted]. Protester's Comments at 5-6. In contrast, ATG maintains that since ECC received ratings of [Deleted] on the majority of its contracts, including

PRAC contracts, it should have received a rating of "satisfactory," not [Deleted]. Id. at 4.

While it is not entirely clear from the record the exact number of particular adjectival ratings assigned to ATG and ECC for past performance, even using ATG's count of these ratings, thereby construing the record in the light most favorable to ATG, we believe the record provides no basis to question the reasonableness of the agency's past performance evaluation. In this regard, we see nothing unreasonable in the [Deleted] rating assigned to ATG in view of its previously discussed, recent performance problems at Tooele Army Depot or the fact that its work generally has been on smaller, less complex projects than typical for PRAC efforts. Moreover, we do not think it was unreasonable for the agency to assign a moderately favorable, or slightly higher, past performance rating to ECC, even though its past performance generally was reported to be [Deleted]. The record shows that ECC's past performance, unlike ATG's, involved PRAC and PRAC-type efforts which, consistent with the terms of the RFP, the agency could reasonably view as more relevant and similar to the requirements contemplated by the RFP, thus justifying a more favorable past performance rating. ATG's disagreement with this aspect of the evaluation does not mean that the evaluation was unreasonable.[6]

Tradeoff Decision

Finally, ATG, which received the second highest technical score and proposed a lower price than ECC, contends that the agency acted unreasonably in making its "best value" decision, arguing that the record contains no meaningful explanation of why the agency believed ECC's technical advantages justified the payment of a [Deleted] percent premium.

In a negotiated procurement, where the solicitation does not provide for award on the basis of the lowest priced, technically acceptable proposal, an agency has the discretion to make an award to an offeror with a higher technical score and a higher price where it reasonably determines that the price premium is justified and the result is consistent with the evaluation criteria. Systems Integration & Dev., Inc., B-271050, June 7, 1996, 96-1 CPD ¶ 273 at 6. In making the tradeoff decision

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[6]ATG, referencing a comment in the evaluation narrative for ECC that "[t]his firm has been selected for and is performing 6 other PRACs," Agency Report, Tab 7, ECC Narrative, at 4, complains that the evaluators inappropriately gave ECC credit under the past performance evaluation factor for information that should have been considered only under the experience evaluation factor. Protester's Comments at 10. We note that the referenced comment is one of five strengths listed for ECC for the past performance evaluation factor and, even if this comment were improperly listed as a past performance strength, this in no way affects the reasonableness of the agency's past performance evaluation.

resulting in an award to an offeror with a higher technically rated, higher priced proposal, there is no requirement that the agency provide an exact quantification of the dollar value to the agency of the proposal's technical superiority. Kay and Assocs., Inc., B-258243.7, Sept. 7, 1995, 96-1 CPD ¶ 266 at 6.

Here, in selecting ECC's highest technically rated, higher priced proposal for award, the agency did not exactly quantify the monetary value of the technical advantages associated with the firm's proposal. Rather, the record contains ample narrative documentation of the agency's rationale for paying a premium to ECC for its technically superior proposal. For example, while the proposals of ECC and ATG were considered very good overall and both firms were considered well-qualified to perform the PRAC requirements, the agency believed that ECC's experience with large scale PRAC and PRAC-type projects was more relevant and similar to the requirements of this RFP, as compared to ATG's experience on smaller, less complex construction projects for which ATG required more government oversight than generally might be necessary. The agency believed that ECC, when compared to ATG, provided a better explanation in its proposal of its geographic coverage and of its teaming arrangements with proposed subcontractors. The agency believed that ECC's proposal presented less risk to the government than ATG's proposal when considering the firms' technical capabilities, experience, and past performance. As explained above, the RFP provided that the technical evaluation factors would be considered significantly more important than price/cost in making the selection decision; furthermore, the RFP stated that the agency was more concerned with awarding to an offeror with a technically superior proposal, rather than making the award to the offeror with the lowest overall price/cost. Under these circumstances, we have no basis to question the agency's decision to award to ECC, a firm which submitted a technically superior, higher priced proposal.

The protest is denied.[7]

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[7]In its protest, ATG challenged the evaluation of its proposal for the oral presentation and experience with HTRW remediation projects evaluation factors. The agency addressed these matters in its administrative report. In its comments on the report, ATG did not rebut the agency's positions. Accordingly, we deem these two matters to be abandoned. See Heimann Sys. Co., B-238882, June 1, 1990, 90-1 CPD ¶ 520 at 4 n.2.