

DECISION



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

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FILE: B-212274.2

DATE: August 15, 1984

MATTER OF: Troy State University

DIGEST:

1. In negotiated procurement, point scores are merely guides for intelligent decisionmaking by selecting officials, and unless a solicitation sets forth a precise numerical formula and provides that a contract will be awarded to the offeror whose proposal receives the highest number of points, award need not be made on that basis.
2. Whether the point spread between two competing proposals indicates a significant superiority of one over the other is principally within the discretion of the procuring agency.
3. Protester's mere disagreement with agency's assessment of strengths of competing proposals does not show that agency's selection is clearly unreasonable or provide a basis for GAO to question it.

Troy State University protests the award of a contract to provide graduate-level courses in business, business administration, and management to U.S. Air Force personnel stationed overseas. The firm alleges that the Air Force failed to consider its lower proposed costs and superior record, established over 10 years of providing such courses on a noncompetitive basis, in making an award to the University of Maryland.

We deny the protest.

Background:

Under solicitation No. F61546-83-R-0027, issued by Headquarters, U.S. Air Force Europe (USAFE), the agency sought proposals for lectures and laboratories for more than 20 programs, ranging from high school completion to

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graduate degrees in different subjects. The Air Force makes tuition payments for approximately 40,000 off-duty members who volunteer to enroll each year. According to the contracting officer, this type of education previously has been provided by academic institutions that were in Europe "at the Air Force's invitation," under contracts renewed periodically on a sole-source basis.

In accord with the current, competitive solicitation, which indicated that multiple awards would be made, the Air Force on January 5, 1984 awarded seven contracts for courses to begin this fall. The total value of all USAFE education contracts, expected to have 5-year terms, is estimated at between \$35 and \$40 million.

Solicitation Provisions:

At issue here is line item No. 15, covering "Post-Baccalaureate Courses in Business/Business Administration/Management." The only offerors were Troy State and the University of Maryland. Each of these institutions, it should be noted, received contracts to provide other courses covered by other line items.

The solicitation required offerors to meet certain threshold requirements concerning, for example, accreditation, library and other research facilities, and admission standards and grades, before their proposals would be considered. The subsequent evaluation was on the basis of four primary factors, which in descending order of importance were:

- understanding, approach, methods, and ability to provide total services to as many students as possible at the maximum number of Air Force locations in Europe;
- experience with programs with similar characteristics; and
- tuition structure, rates, or fees.

In addition, the solicitation listed a large number of subfactors (20 under the first primary factor alone) that the Air Force would consider before making award to offerors whose proposals were found to have the greatest potential, price and other factors considered.

Evaluation and Award:

In accord with Air Force regulations, evaluation was a three-stage process, first by a Source Selection Evaluation Board, then by an Advisory Committee, and finally by a Source Selection Authority.

Troy State's weighted point score for line item No. 15 was 32,157, compared with 30,467.5 for the University of Maryland; moreover, its proposed costs would have been lower than Maryland's \$144 a semester hour if it had been awarded a contract for the graduate business courses in addition to two others that it did receive. Under a combination offer, Troy State proposed a price of \$130 a semester hour each for international relations, public relations, and the graduate business courses.

The Source Selection Advisory Committee, however, found "no significant difference" indicated by the weighted scores of the two proposals. It recommended award to the University of Maryland because it required, as a prerequisite to the graduate business courses, one undergraduate course in economics and another in either psychology or sociology. In addition, the committee considered the University of Maryland's course offerings and degree options broader than Troy State's. It also noted that Maryland's proposal was ranked first for undergraduate business courses in which some of the faculty for the parallel graduate program also would teach.

Troy State's Protest:

Troy State disagrees with the determination that the weighted scores did not reflect a significant difference between proposals. It argues that the point spread is statistically significant and that the Air Force therefore improperly considered the strengths outlined above in selecting the University of Maryland. Troy State argues that the difference between its proposed price and the University of Maryland's also mandated an award to it.

In addition, Troy State disagrees with the Air Force's assessment of the University of Maryland's undergraduate prerequisites, arguing that they cannot affect the quality of graduate level courses and may be satisfied by courses that are totally unrelated to business. Troy State further asserts that the difference between the course offerings of the two universities is minimal.

Troy State also contends that the University of Maryland's ranking for the undergraduate business courses should not have been considered because "placement in other competitions" was not identified as an evaluation factor. Finally, Troy State alleges that the University of Maryland's capability is "unproven," because it does not currently offer a master of science in management at any Air Force installation, and it has offered graduate level programs in Europe only since 1983.

GAO Analysis:

Notwithstanding Troy State's assertion that its higher weighted score entitles it to award, we find that the Air Force's selection of the University of Maryland was reasonable and in accord with listed evaluation criteria. As we have stated in many decisions, point scores are merely guides for intelligent decisionmaking by selecting officials. Unless a solicitation sets forth a precise numerical formula and provides that a contract will be awarded to the offeror whose proposal receives the highest number of points, award need not be made on that basis. BDM Corp., B-211129, Aug. 23, 1983, 83-2 CPD ¶ 234, and cases cited therein.

Here, there was no such formula and no statement that the highest-scored offeror for each item would be awarded a contract. Offerors merely were advised of the four major evaluation factors and of the related subfactors on which they would be evaluated. As for lower costs, it is clear from the solicitation that proposed tuition fees were the least important factor, and such fees are reflected in the final, weighted scores.

The record indicates that for line item No. 8, covering graduate courses in international relations, two proposals also were considered without a significant difference. For this item, Boston University received a weighted score of 35,281, while Troy State received a weighted score of 33,307; however, Troy State was awarded the contract. As the Air Force implies, if Troy State's argument is legally correct, this award should have gone to Boston University--a possibility the protester does not address.

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In both cases, whether the point spread between two competing proposals indicated a significant superiority of one over the other was principally within the discretion of the Air Force. See Mitek Systems, Inc. - Request for Reconsideration, B-208786.3, May 10, 1983, 83-1 CPD ¶ 494. The agency's consideration of special strengths (and weaknesses) was, in effect, consideration of the significance of the point scores. For example, the Source Selection Advisory Committee found that prerequisites in psychology and sociology were highly desirable in view of the behavioral stresses of graduate study in management. While Troy State disagrees with this assessment, it has not shown that it was clearly unreasonable or provided a basis for our Office to question the evaluation. See Louis Berger & Associates, Inc., B-208502, March 1, 1983, 83-1 CPD ¶ 195.

The Air Force states that it considered the University of Maryland's first ranking in the undergraduate business courses to be a strength because it regards the programs as parallel and because some faculty will teach in both. Although "placement in other competitions" was indeed not an evaluation factor, the competition for the undergraduate business courses was closely related to that for the graduate business courses, and the Air Force's consideration of the University of Maryland's ranking for both was, in our opinion, reasonable.

As for the University of Maryland's experience, the solicitation listed experience in delivering programs on military installations, overseas, and off-campus as sub-factors. It did not, however, require experience in graduate-level courses at Air Force installations, either in this country or overseas. Any attempt to restrict the USAFE program in this manner would, in our opinion, perpetuate the sole source contracts that the Air Force, through this competitive procurement, was attempting to avoid.

The protest is denied.



Acting Comptroller General
of the United States