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**Comptroller General
of the United States**

**United States Government Accountability Office
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Decision

Matter of: Native Resource-Rowe Joint Venture

File: B-406880

Date: September 13, 2012

Ruth E. Ganister, Esq., Rosenthal and Ganister, LLC, for the protester.
Mark Ezersky, Esq., General Services Administration, for the agency.
Jacqueline Maeder, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Price/technical tradeoff was reasonable where agency determined that protester's minor technical advantage was not worth the associated additional cost.

DECISION

Native Resource-Rowe Joint Venture (NR-RJV), of Bernalillo, New Mexico, protests the General Services Administration's (GSA) award of a contract to Allied National Services, Inc., of Minneapolis, Minnesota, under request for proposals (RFP) No. GS09P-12-KSD-0018, for janitorial, grounds maintenance and related maintenance services for the North Los Angeles Federal Building and the Huntington Park Social Security Administration Federal Building in Los Angeles, California. The protester contends that the agency failed to properly apply the solicitation's stated evaluation factors and conducted a flawed source selection.

We deny the protest.

The solicitation, issued February 10, 2012 as an 8(a) small business set-aside, contemplated the award of a fixed price contract for a base year with four 1-year options. Award was to be made to the responsible offeror whose proposal was determined to be the most advantageous to the government considering three evaluation factors: experience, past performance and price. RFP at 111. Experience was more important than past performance, and, when combined, the two technical factors were more important than price. Id. at 111-12. The solicitation further provided that as technical proposals became more equal in their technical merit, price would become more important. Id. at 126.

The solicitation established “standards” for both the experience and past performance factors. As relevant here, the experience standard would be met when the offeror provided three projects performed within the past 3 years, and two of the three projects demonstrated that the offeror had performed work similar to that described in the solicitation. RFP at 112. “Similar work” was defined as “janitorial, grounds maintenance and related services,” performed “in a building consisting of commercial office, executive, and public meeting spaces with a gross square footage of 250,000 square feet or more.” Id.

The agency received 20 proposals, including proposals from NR-RJV and Allied, by the extended March 12 due date. The proposals were evaluated by a three member technical evaluation board (TEB), which scored and contemporaneously documented in narrative form their analysis of the strengths and weaknesses of each proposal. While NR-RJV’s resulting overall technical score of 8.2 was higher than Allied’s score of 6.8, NR-RJV’s fourth low price of \$6,047,737 was 16.7% higher than Allied’s evaluated low price of \$5,181,000. AR, Tab 23, Evaluation of Proposals and Source Selection Determination, at 2-5.

Further, the agency concluded that, in spite of the point score differential between the two offerors, the actual technical differences in fact were minor. AR, Tab 23, Evaluation of Proposals and Source Selection Determination, at 6. As an initial matter, not only did both offerors each receive 4 strengths, but in addition, Allied received only 2 weaknesses while NR-RJV received 3. Further, the agency determined that NR-RJV’s overall technical evaluation score was higher than Allied’s because NR-RJV had provided 3 references that met the “similar work” definition while Allied provided only 2 references meeting the “similar work” definition. Id. at 5. However, the agency noted that while all of Allied’s references were positive, one of NR-RJV’s references provided negative feedback, indicating that she would not use the protester to perform work in the future. Id. at 6; AR, Tab 17, Source Selection Evaluation Report, at 16; AR at 4. The agency also was concerned that only one of the three NR-RJV references was for Native Resource, the 8(a) member of the joint venture. AR, Tab 23, Evaluation of Proposals and Source Selection Determination, at 5-6; AR, Tab 17, Source Selection Evaluation Report, at 16.

The agency ultimately determined that the minor technical differences between the two proposals did not warrant payment of NR-RJV’s significant price premium. The agency thereupon concluded that Allied’s proposal represented the best value to the government. Upon learning of the consequent award to Allied, and after being debriefed, NR-RJV filed this protest with our Office challenging the source selection decision.

NR-RJV does not challenge the technical evaluations, but instead simply relies on its higher overall technical point score to argue that, contrary to the agency’s position, the difference between the overall technical merits of the two proposals was significant. According to the protester, given the solicitation’s emphasis on the

importance of technical considerations relative to price, and in light of the higher technical point score for its proposal, the selection of Allied's lower-rated proposal was improper.

In conducting cost/technical tradeoffs, selection officials retain considerable discretion in determining the significance of technical point score differentials. 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. IBP, Inc., B-289296, February 7, 2002, 2002 CPD ¶ 39 at 5. Further, the business judgment of a source selection official in determining how much additional cost an agency is willing to incur to obtain the benefit of a higher rated proposal is governed only by the tests of rationality and consistency with established evaluation criteria. Id.

We see nothing unreasonable in the agency's award decision here. NR-RJV's argument that it should have been selected for award is based entirely on its point score relative to Allied's point score. However, contrary to the protester's assertion, there is no basis to conclude that the 1.4-point difference in the overall technical scores assigned the two proposals represented a finding by the TEB of NR-RJV's technical superiority. While it appears that NR-RJV's point score was higher than Allied's as a result of the protester having an additional reference for a similar contract effort, the agency determined that this advantage was largely offset by the fact that one of NR-RJV's references indicated that she would not use the protester to perform work in the future (while all of Allied's references were positive), and by Native Resource's own limited experience. Given these concerns, and the similar number of strengths and weaknesses for the two firms, we see no basis to question the agency's conclusion that the technical difference between the proposals was minor. Nor do we see a basis to question the agency's conclusion that this minor technical difference did not warrant payment of an 16.7% price premium.

The protest is denied.

Lynn H. Gibson
General Counsel