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DECISION



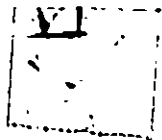
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190358 DATE: March 10, 1978
MATTER OF: X-MCC, Inc. Consultants
DEPARTMENT:

Protest that evaluation factors were unequally applied and that protester's proposal should have received higher numerical score is denied as review of technical evaluation shows award was not unreasonable or arbitrary and it is not GAO's function to make independent judgments as to technical merits of competing proposals.

K-MCC, Inc. Consultants (K-MCC) has protested the award of a contract to Development Associates, Inc. (DA), under request for proposals (RFP) No. 105-77-1032, issued by the Office of Human Development Services, Department of Health, Education, and Welfare (HEW).

Previously, K-MCC had protested this award to our Office on different grounds which we found to be untimely filed under our Bid Protest Procedures (4 C.F.R. Part 20 (1977)) in K-MCC, Inc. Consultants, B-190358, October 21, 1977, 77-2 CPD 317. This decision was affirmed on November 21, 1977. However, during the time the matter was pending on reconsideration, K-MCC, by letter of November 11, 1977, raised certain issues of protest based on information it had obtained under a Freedom of Information Act request on November 5, 1977. This decision, therefore, will only deal with those bases of protest first known on November 5, 1977, and raised in a timely manner under our Bid Protest Procedures.



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The RFP was for dissemination and utilization of a training course for residential child care workers. The following list shows the firms which submitted proposals by the closing date required in the RFP and their proposed cost and evaluated technical scores:

	<u>Cost</u>	<u>Technical</u>
Development Associates, Inc.	\$151,115.00	76
Group Child Care Consultants	157,431.00	74
Kirschner Associates, Inc.	141,822.00	67
K-MCC	139,954.00	34
Pacific Consultants	264,089.40	41
Roy Littlejohn Associates	229,007.00	32

The top three technically rated firms formed the competitive range and it was determined that the other three proposals, including K-MCC, contained such deficiencies that meaningful negotiations were not possible unless major rewrites of the proposals were made.

K-MCC, in its protest, contends that the evaluation factors listed in the RFP were applied unequally between itself and DA. K-MCC has cited many portions of its proposal which it argues were more responsive to the RFP requirements than the proposal of DA. K-MCC states that it possesses more corporate experience than DA but received a lower score for that factor during the evaluation.

With regard to the matter of corporate experience, the RFP's evaluation factors allocated 35 points to specific experience of corporation and proposed staff. DA and K-MCC received 26 and 16 points, respectively.

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The summary of the technical evaluations shows that DA's proposal was found to have as strengths good corporate experience in training and technical assistance in a variety of settings, to be well staffed and have unquestioned access to additional expertise, and as a weakness, no experience directly related to residential child care. K-MCC's proposal under the experience factor was found to have no strengths and weaknesses were listed as no corporate experience in residential child care and also only one staff member had relevant experience.

Our Office has reviewed the resumes and corporate experience summaries of both proposals and cannot say the above allocation of technical points was arbitrary or unreasonable. While K-MCC alleges that DA's staff cannot be considered leaders in the residential child care field, we find upon review that several of DA's proposed staff were employed on the prior project at the University of North Carolina where the course materials, which are to be promoted here, were developed. Also, a review of K-MCC's corporate experience does not reveal experience in residential child care but in day care, Head Start and Home Start programs.

Moreover, even if K-MCC was given the full 35 points in this evaluation factor, it still would have been lower rated by 14 points than the lowest rated firm in the competitive range.

What the remainder of the K-MCC protest reveals is a difference of opinion between K-MCC and the HEW evaluators as to the relative merits of the two competing proposals in areas of technical adequacy.

As we have often stated, it is not the function of this Office to evaluate proposals or to make independent judgments as to the precise numerical scores which should have been assigned to the proposals. Therefore, determinations by procuring agencies regarding the technical merits of proposals will be questioned by this Office only upon a clear showing of unreasonableness, abuse of discretion or a violation of the procurement statutes and regulations. Automatic Informational

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Retrieval Systems, Inc., B-188550, August 4, 1977, 77-2 CPD 80, and Joseph Legat Architects, B-187160, December 13, 1977, 77-2 CPD 458. The fact that the protester does not agree with the agency's evaluation does not render the evaluation arbitrary or illegal. Honeywell, Inc., B-181170, August 6, 1974, 74-2 CPD 87. After examining the proposals of K-MCC and DA, the RFP's evaluation factors, the evaluators' scoresheets and comments as well as all submittals by K-MCC with respect to its protest, we cannot conclude that the decision to make award to DA was unreasonable, arbitrary or in violation of statute or regulation.

Finally, K-MCC raises again the possibility that the printing of the training manuals by the contractor could be in conflict with regulations of the Joint Committee on Printing. This basis of protest was argued in K-MCC's initial protest to our Office and in our decision of October 21, 1977, found to be untimely raised. We affirm that finding and will not consider the argument on the merits.

Accordingly, the protest is denied.


Deputy Comptroller General
of the United States

