**Comptroller General**
**of the United States**

**Washington, D.C. 20548**

# Decision

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**Matter of:** Century Environmental Hygiene, Inc.

**File:** B-279378

**Date:** June 5, 1998

James E. Dennison for the protester.
Michael Colvin, Department of Health & Human Services, for the agency.
John Van Schaik, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

Source selection decision cannot be determined to be reasonable where the evaluation of the protester's proposal is inconsistent with the solicitation evaluation criteria, it is based on unsupported evaluation conclusions, and the agency fails to rebut protester's assertions that its proposal was misevaluated.

## DECISION

Century Environmental Hygiene, Inc. protests the award of a contract to MedTox Northwest under request for proposals (RFP) No. 240-BPHC-32(7) issued by the Health Resources and Services Administration (HRSA) of the Department of Health & Human Services for industrial hygiene and environmental health advisory services. Century argues that its proposal was improperly evaluated and scored.

We sustain the protest.

The purpose of the contract is to provide HRSA with industrial hygiene and environmental specialists to provide assistance to federal agencies throughout the western United States. The contractor is to consult, plan, implement, evaluate, and certify environmental health/industrial hygiene services for federal employees and managers. The RFP provided for the award of a fixed-price, indefinite-delivery, indefinite-quantity contract, with cost reimbursement elements for materials and travel expenses, for a base year and 4 option years.

The RFP, at section M.5, contemplated "award to the best advantage of the Government, cost and other factors considered." Section M.5 also stated that "[o]rganizations from among those determined to be technically best qualified will be reviewed with the lowest overall cost as the primary consideration for award,"

and that the determination of the organizations most qualified for award would include consideration of technical capabilities and past performance.

The RFP included the following technical evaluation criteria and assigned weights:

A. experience--maximum 50 points
B. education--maximum 15 points
C. professional development--maximum 15 points
D. organizational information--maximum 20 points

Under the first three factors, the RFP indicated that the evaluation would focus on the qualifications of proposed personnel for five technical positions: certified industrial hygienist (CIH), certified safety professional (CSP), professional engineer (PE), industrial hygienist (IH), and building inspector/management planner (BI/MP). Under these factors, evaluation points were to be assigned based on evidence in the proposals that the individual, or individuals, proposed for particular positions have certain types of experience under factor A, certain educational qualifications under factor B, and based on the number of continuing education units under factor C. For example, under the experience factor, the RFP stated that a certified industrial hygienist would be awarded 5 points for 5 years of experience in industrial hygiene and additional points would be awarded for experience in the various aspects of the field of industrial hygiene. Also under that factor, each individual proposed for a particular position could be awarded no more than 50 points and an offeror's total score for all certified industrial hygienists was to be determined by dividing the total points for all proposed certified industrial hygienists by the total number of individuals proposed for that position.

Under the fourth factor, organizational information, each offeror was to provide "an organizational chart and a description of how the various components will relate to staff who will perform services under this contract including lines of communication, authority and reporting relationships." RFP at § M.1.D. Offerors were to submit consultant agreements and other written agreements and were to provide a resume for the project director. The organizational information factor also stated that offerors should identify the relationship of their project director to their corporate structure and should include the following:

1. A narrative description on selection methods for subcontractors.
2. A narrative discussion of the methods the offeror plans to use to insure proper managerial control is exercised over the subcontractors.
3. The Project Director's assurance procedures that will be utilized to insure that each professional utilized under this contract is in full compliance with the specifications of the contract.

4. Methods to be employed if the performance of an individual staff member is determined to be unsatisfactory in the judgment of the [contracting officer's technical representative].
5. Methods to be employed in determining how tasks will be assigned.

Finally, under the organizational information factor, the RFP stated that offerors would be "evaluated on the adequacy of number and professional type of staff presented in the proposal. That is, does the offeror provide adequate resources to perform the scope of work."

Six proposals were received. Each proposal was separately evaluated and scored by each of three members of a technical evaluation committee. Two of the proposals were found to be technically unacceptable and the remaining four were included in the competitive range. Oral discussions were conducted and best and final offers (BAFO) were submitted. One of the four offerors withdrew from the competition, and the three remaining proposals were reviewed and rescored by the evaluators.

The average of the scores assigned by the three evaluators to the BAFOs and the total BAFO prices were as follows:

| Offeror | Average Score | Total Price |
|---|---|---|
| Century | 76.6 | $3,918,303 |
| MedTox | 85.3 | $4,364,928 |
| Third offeror | 84.2 | $4,509,412 |

Pursuant to section M.5 of the RFP, which called for the award selection to be based upon cost among those offerors considered "technically best qualified," the contracting officer reports that MedTox and the third remaining firm "scored substantially higher tha[n] Century . . . and were the only two offerors whose proposals were regarded as 'technically best qualified.' Therefore only the two highest ranked offerors were then examined for cost factors." Since MedTox proposed a lower price than the third offeror, award was made to MedTox.

Century challenges virtually every aspect of the technical evaluation of its proposal, focusing on the scores assigned to its proposal by each of the evaluators. Century argues, for example, that the evaluators made mathematical errors, they assigned points in a manner inconsistent with the evaluation criteria, the agency has not explained or provided documentation to support the scores assigned, and the agency failed to discuss matters that should have been discussed. According to Century, in the absence of these errors, its proposal would have received a higher

score, it would have been considered among the best qualified offerors, and it would have received the award based on its low price.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the RFP's stated evaluation criteria. Engineering and Computation, Inc., B-261658, Oct. 16, 1995, 95-2 CPD ¶ 176 at 2-3. In order for us to review an agency's selection determination, an agency must have adequate documentation to support that decision. Arco Management of Washington, D.C., Inc., B-248653, Sept. 11, 1992, 92-2 CPD ¶ 173 at 3. While adjectival ratings and point scores are useful as guides to decision-making, they generally are not controlling, but rather, must be supported by documentation of the relative differences between proposals, their weaknesses and risks, and the basis and reasons for the selection decision. Federal Acquisition Regulation (FAR) §§ 15.608(a)(iii), 15.612(d)(2) (June 1997); Engineering and Computation, Inc., supra, at 3.

Here, after reviewing all of the supporting documentation submitted by HRSA, we conclude that the technical evaluation is not adequately supported, not consistent with the stated evaluation criteria and is unreasonable. We also conclude that a proper award determination could not be made based on the documentation submitted by HRSA.

We focus our analysis on the evaluation under the organizational information factor since, based on the evaluation points assigned to the various proposals, under that factor Century's proposal was rated weakest in relation to the other two proposals remaining in the competition.[1] Under the other three technical factors, the scores were close; the organizational information factor accounted for most of the difference in the overall scores assigned to the proposals. Specifically, under the organizational information factor, out of 20 possible points, the three individual evaluators assigned Century's BAFO scores of 12, 10 and 7, compared to scores of 20, 11 and 18.5 for MedTox, and 20, 15 and 18.7 for the third offeror.

In addition to the scores assigned, each of the three evaluators' rating sheets included comments concerning Century's proposal under the organizational information factor. While some of the comments concerning Century's proposal were appropriate since they addressed matters reasonably encompassed by the organizational information factor, other criticisms on the rating sheets of two of the evaluators were not reasonably encompassed by the organizational information factor or were unsupported.

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[1]We address below other areas of the evaluation in which we conclude there were problems.

For example, the rating sheet of the evaluator who assigned the lowest score (a score of 7) to Century's proposal under the organizational information factor included the following comments as weaknesses:

> Resumes missing on all IH [industrial hygiene] technicians. Point awarded on resume present, therefore must assume that there is only one IH technician-Non responsive to RFP. At least four subcontractor.

Since these two criticisms--concerning the lack of industrial hygiene technician resumes and the number of subcontractors--are the only criticisms of Century's proposal in this evaluator's rating sheets, in the absence of any information to the contrary in the record, these criticisms appear to have had a substantial impact on Century's score under that factor. The problem, however, is that based on the record before us, neither of these issues provides a reasonable basis for the deduction of points.

Concerning the lack of industrial hygiene technician resumes, Century argues that this was improperly considered a weakness since the RFP did not require resumes for industrial hygiene technicians. In response to a question asked by our Office, HRSA concedes that the RFP required resumes only for professional personnel and that industrial hygiene technicians are not considered professional personnel. The evaluator that made this comment assigned only 7 points (out of 20) to Century's BAFO. The record includes no explanation of how many points this comment cost Century's proposal in this evaluator's scoring; since it was one of only two negative comments, it appears to have been a substantial number.

As noted above, this evaluator also considered it a weakness that Century had proposed "[a]t least four subcontractor[s]." While this appears to be an appropriate issue under the organizational information factor, in response to a question asked by our Office, HRSA explained that MedTox included 14 subcontractors in its initial proposal and 6 additional subcontractors in its BAFO, for a total of 20. Nonetheless, in spite of having five times as many subcontractors as Century, the record includes no criticism of the MedTox proposal for the number of subcontractors it proposed. Again, the record includes no explanation of how many points were lost as a result of this comment; since the awardee was not penalized for the number of subcontractors, and in fact received higher scores under this factor, the record does not support any deduction of points from Century's proposal on this basis.

The evaluator that assigned a score of 10 to Century's proposal under the organizational information factor listed the following as weaknesses:

> Individuals listed on the Project Team Organization diagram can not be found in the resume section. Too few CSPs, PEs, IHs, and BI-MPs.

Concerning the first of these two weaknesses, with one exception, all of the individuals listed on Century's Project Team Organization diagram for whom there were no resumes were industrial hygiene technicians. As noted above, the agency concedes that resumes were not required for these positions. Therefore, any deduction of points for the lack of resumes for the industrial hygiene technicians was inconsistent with the RFP.[2]

With respect to the second weakness--"[t]oo few CSPs, PEs, IHs, and BI-MPs"--this would be an appropriate issue under the organizational information factor, which called for an evaluation of "the adequacy of number and professional type of staff presented in the proposal." Nonetheless, the evaluator's scoring is not adequately documented in the record. This evaluator assigned 10 points to Century's initial proposal under the organizational information factor. The agency's Pre-Negotiation Plan memorandum for Century indicates that one of the questions to be asked of Century was: "Could you provide additional Certified Industrial Hygienists in Seattle, . . . Building Inspector/Management Planners in Denver, and Certified Industrial Hygienists in San Francisco?" Agency report, exhibit H. In its BAFO, Century stated that in response to the technical issues raised by the agency, it had added to its proposal two additional CIHs, one in Seattle and one in San Francisco, an additional BI-MP for Denver, and an additional PE. Although these additional personnel may not have completely satisfied the concerns of this evaluator--for instance, the evaluator may have been looking for a greater number of additional personnel--the evaluator's BAFO rating sheets include no acknowledgment of the additional personnel and include the same criticism. In addition, that evaluator assigned the same 10 points to Century's proposal under the organizational information factor and his BAFO rating sheets include the same weakness concerning "[t]oo few CSPs, PEs, IHs, and BI-MPs. " Based on this record, we are unable to determine whether this evaluator considered the additional personnel. For that reason, and since the criticism of the lack of industrial hygiene technician resumes is inconsistent with the RFP, the record does not support the score assigned by this evaluator.

The record indicates that the evaluators had concerns about Century's proposal that were appropriate under the organizational information factor. For example, the third evaluator's rating sheets listed as a weakness that Century's proposal included the potential for too much administrative oversight by the project director. In addition, a report prepared by the evaluation panel also noted that Century's proposal offered too much administrative involvement. However, these legitimate concerns do not overcome our reservations about the evaluation of Century's proposal under this factor. As explained above, the scores assigned by each of the

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[2]Century explains that the other listed individual for whom no resume was included also was not offered for one of the professional positions under the RFP. Thus, no resume was required for this individual either.

evaluators were based on the strengths and weaknesses noted by each of the evaluators on the individual rating sheets. In addition, regardless of whether there were legitimate reasons to criticize Century's proposal under the organizational information factor, the decision that Century's proposal was not among the "technically best qualified" was based on the scores assigned by the individual evaluators and we can only conclude that those scores were based in large part on the weaknesses listed by the evaluators. Since some of the listed weaknesses were inconsistent with the RFP evaluation criteria, or were simply unsupported, we do not find that the decision to exclude Century's proposal from the "technically best qualified" was reasonable.

As noted above, in addition to these problems under the organizational information factor, there were problems in the evaluation under other factors. For example, the evaluator that scored Century's proposal the lowest (a score of 70.1) made errors in his scoring--some of which he concedes--that should have resulted in the assignment of 6.5 additional points to that evaluator's score on Century's proposal. This evaluator concedes that he miscalculated the score for Century's industrial hygienists. This evaluator assigned a score of 40 for industrial hygienists but erroneously carried that score over to another page as 30 and then erroneously divided that score by two, instead of one, for the single industrial hygienist proposed by Century. The evaluator concedes that the overall score he assigned to Century's proposal would have been 5 points higher if not for these errors.

Our remaining 1.5 point correction to this evaluator's score, in addition to the 5 points he concedes, derives from two other issues. First, this evaluator agrees that he failed to recognize that two of Century's certified industrial hygienists have at least 1 year experience in federal contracting. The RFP called for 5 points to be assigned for each certified industrial hygienist that had such experience. The RFP called for averaging the scores assigned to all of the certified industrial hygienists, and Century proposed 9 certified industrial hygienists; according to our calculations, this error cost Century's proposal an additional .5 point on this evaluator's overall scoring.

Second, Century argues that this evaluator shortchanged Century's proposal for continuing education credits for certified industrial hygienists. Factor C, professional development, called for the award of 1 point for each continuing education unit awarded to a proposed individual in the past 5 years, up to 15 points per individual. As Century points out, two of its proposed certified industrial hygienists were assigned no points for continuing education units, in spite of the fact that their resumes stated that these individuals had 25 and 2.5 continuing education units over the last 5 years.

In response to this allegation, the evaluator in question states that "nearly all the proposals were submitted without adequate documentation. Most bidders just listed their [continuing education] courses without a certificate from the training

institution. This lack of documentation . . . made the task of awarding points difficult in this process."

Neither this evaluator nor HRSA argues that the RFP required any documentation for continuing education credits, and our review of the RFP reveals no such requirement. Thus, we conclude that this evaluator inappropriately denied points to Century's proposal due to a lack of certificates for continuing education credits. The impact of this error was approximately one additional point on the score assigned by this evaluator.[3]

With respect to numerous other allegations by Century, neither the contemporaneous record nor the agency's submissions in response to the protest provide a basis for determining whether points were assigned reasonably and consistent with the RFP. For example, one of the evaluators wrote on his rating sheets that Century's proposed CSP had "[w]ell documented experience." In response to Century's complaint that the 27 of 50 possible points assigned by this evaluator for that category was inconsistent with his positive comment, the evaluator merely stated that he considered the experience that was documented to be well documented. Nonetheless, neither in the contemporaneous evaluation record, nor in response to the protest, has this evaluator explained which projects listed in Century's proposal for the personnel in question were credited and which were not. Without further documentation of the evaluation under this category, and many others, it is impossible to know whether the evaluation was reasonable. With no further explanation, we conclude that the evaluation was not consistent with the RFP.[4]

If HRSA had concerns about insufficient documentation of training in the various proposals, or about the lack of resumes for industrial hygienist technicians, the

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[3]In another error, as Century points out, one of the evaluators erroneously totaled the points he awarded to Century's initial proposal for experience. That evaluator's overall initial score should have been 75.6, instead of 74.4.

[4]Century has raised two issues in an untimely manner. First, Century argues that epidemiology should not have been included in the evaluation criteria because it is not within the purview of industrial hygiene. Second, Century argues that the RFP scoring criteria for the professional engineer category improperly covered disparate engineering disciplines. Protests based upon alleged improprieties in a solicitation which are apparent prior to the closing time for receipt of initial proposals must be filed prior to that closing time. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1998). Here, it was apparent from the RFP that epidemiology would be considered in the evaluation and the terms of the evaluation and scoring under the professional engineer category also were apparent from the face of the RFP. Because these allegations were not timely raised, we do not consider them.

agency could have raised these matters in discussions. To the extent that HRSA continues to have these concerns, we recommend that the agency amend the solicitation and clarify its needs. In addition, we recommend that HRSA conduct appropriate discussions with all offerors in the competitive range, including Century, request and reevaluate BAFOs, and make a new source selection, including consideration of the acceptable cost and technical proposals. Also, we recommend that the protester be reimbursed its costs of filing and pursing the protest. 4 C.F.R. § 21.8(d)(1). The protester should submit its certified claim, detailing the time expended and costs incurred, directly to the contracting agency within 60 days of receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Comptroller General
of the United States