



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: United International Investigative Services

File: B-265650

Date: December 18, 1995

William J. Guidice for the protester.

Valerie L. Veatch, The Kennedy Center, for the agency.

Wm. David Hasfurther, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's proposal was reasonably found technically unacceptable and excluded from the competitive range where the agency found that the key personnel proposed by the protester failed to meet the minimum solicitation requirements.

DECISION

United International Investigative Services protests the rejection of its proposal under request for proposals (RFP) No. IBKC-95-002, issued by The Kennedy Center for the Performing Arts for uniformed security guard services. United's proposal was rejected after it was determined not to be within the competitive range. United contests the validity of that determination.

We deny the protest.

The RFP required the submission of technical and cost proposals for providing a force of security officers including three shift supervisors and one project manager which would provide guard services 24 hours a day (three daily shifts), 7 days a week. Technical factors were more important than cost/price.

After the receipt and evaluation of proposals, three proposals were found to be within the competitive range and five (including United's) were rejected as technically unacceptable. By letter of August 3, the Center advised United—which had submitted the lowest price of all the offerors—of the rejection of its proposal and the reasons for the decision. Generally, the Center was concerned with United's ability to provide guard services as required by the RFP. Among several deficiencies, the evaluators found that (1) United's proposal did not support claims that the work force could be doubled in 2 hours without using personnel who had been on duty during the prior 24 hours and that no post would ever go unmanned; (2) most of United's proposed key personnel, including the proposed project manager and several proposed supervisors, did not meet minimum RFP

requirements; and (3) none of the proposed staff met the requirement that they be qualified as special police officers (SPO) with the authority to enforce the law and to detain suspects for questioning or to make arrests.

United contends that the areas of deficiency were all sufficiently addressed in its proposal and that any clarifications that might have been required could have been addressed during discussions. In particular, while United concedes that its proposed project manager did not have the required 4-year degree, it notes that he did have a 2-year degree and more than 25 years of relevant experience, and argues that the educational requirement should have been waived. It cites in this regard RFP section C.5.5.2, which states that "the contractor may request the approval of another employee without the required experience if the contractor can provide sufficient documentation to support his/her selection."

Generally, the evaluation of technical proposals is a matter within the contracting agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. Science Sys. and Applications, Inc., B-240311; B-240311.2, Nov. 9, 1990, 90-2 CPD ¶ 381. In reviewing an agency's technical evaluation, we will not reevaluate the proposal, but will examine the record of the evaluation to ensure that it was reasonable and in accord with stated evaluation criteria and procurement laws and regulations. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203.

The rejection of United's offer was reasonable in view of United's failure to offer key personnel who met the RFP requirements. The RFP required the project manager to have a degree from a 4-year accredited college or university. The person designated by United as project manager did not have this required degree. Further, United's proposal did not show that person to be qualified as a SPO as the RFP required. (It appears that it can take up to 6 months to obtain a SPO qualification from the District of Columbia.) Of the supervisory personnel proposed, only one met both the experience (number of years) and educational (2-year degree) requirements. Further, neither that person nor the others were shown to be qualified as SPOs. United does not deny this and, indeed, does not address in its protest the issue of the acceptability of the persons proposed as supervisors.

United's argument that the education requirement could have been waived is without merit. The provision relied upon refers to RFP section F, "Deliveries or Performance," which clearly relates to performance of the contract and, by its terms, allows the "contractor," not offerors, to request a waiver. The provision does not provide any basis for an agency to waive material RFP requirements during the evaluation of proposals.

In short, offerors had to propose staff which met RFP requirements, or risk rejection of their proposals as unacceptable. Based on our review of the record, the Center reasonably concluded that the key personnel proposed by United were unacceptable because they failed to meet the RFP requirements. On this basis alone--lack of personnel who met education or experience requirements--the agency reasonably could view the protester's proposal as unacceptable and exclude it from the competitive range, irrespective of its lower offered price. Electronics Sys. USA, Inc., B-246110, Feb. 14, 1992, 92-1 CPD ¶ 190; see Systematic Management Servs., Inc., B-250173, Jan. 14, 1993, 93-1 CPD ¶ 41.

The protest is denied.

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