



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Correa Enterprises, Inc.

File: B-277874.4

Date: May 13, 1998

Lisa B. Horowitz, Esq., and Joseph D. West, Esq., Arnold & Porter, for the protester. Philip M. Dearborn, Esq., and Andrew P. Hallowell, Esq., Piliero, Mazza & Pargament, for Systems Engineering and Security, Inc., an intervenor. David G. Gherlein, Esq., General Services Administration, for the agency. C. Douglas McArthur, Esq., and Christine Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest generally challenging agency's evaluation and conduct of discussions is denied where record indicates that the protester and the awardee were advised of significant weaknesses in their proposals and were treated equally during discussions, and that the evaluation of proposals was reasonable and consistent with factors stated in the solicitation.

DECISION

Correa Enterprises, Inc. protests the award of a contract to Systems Engineering and Security, Inc. (SES) under request for proposals (RFP) No. GS01K-97-M-0002, issued by the General Services Administration (GSA) for facilities management. Correa contends that SES received preferential treatment from the agency.

We deny the protest.

On January 31, 1997, the agency issued the RFP for a fixed-labor-rate, indefinite-quantity contract for facilities management services, primarily in support of information processing facilities in the New England region and upstate New York. RFP §§ C.1, L.5. The RFP provided a catalog of anticipated services and indicated that the agency would issue task orders with specifically defined scopes and schedules, as needed, to the successful offeror. RFP §§ C.1, C.2.

The agency advised potential offerors that it would select for award the responsible offeror whose proposal was most advantageous to the government, considering price and other factors including, in order of importance, past performance, hiring and retention (with subfactors compensation plans and critical vacancies), and

performance management.¹ RFP §§ M.2, M.2.1. These technical factors would be more important than price in the selection decision; the agency would evaluate price for realism and reasonableness. RFP §§ M.2, M.2.3.

The agency received 11 proposals on April 28 and referred them to a technical evaluation panel (TEP). The TEP evaluated the proposals for technical merit--Correa and SES received the two highest ratings--and recommended a competitive range of six offers in the event that the contracting officer decided to hold discussions. TEP Report on Initial Offers, July 24, 1997 at 2. The contracting officer decided to make award without discussions, and selected Correa, whose proposal had received the highest technical score overall, for award. The agency provided notices to unsuccessful offerors, including SES, on August 12 and written notice of award to Correa on August 18.

On August 26, The Centech Group, informed that the agency had eliminated its proposal from the competitive range prior to the selection decision, filed a protest with our Office, asserting that GSA had not fully evaluated its proposal. As a consequence, the agency decided to reevaluate the proposals of Centech and another offeror and terminated Correa's contract for the convenience of the government. The agency subsequently established a new competitive range of eight offers and decided to hold discussions.

The agency conducted discussions by telephone, requested and received best and final offers (BAFO), and referred the revised proposals to the TEP. The evaluators considered additional information from Correa regarding its past performance and increased the protester's score under the past performance factor from 37.3 points (of 50 points available) to 40.2 points, raising the protester's total score from 82.1 points (of 100 points available) to 85 points.² TEP BAFO Report, Dec. 28, 1997 at 32-34. SES's initial proposal had received a nearly perfect past performance score of [DELETED]. Based on information provided with the BAFO, however, SES's score increased significantly [DELETED], for a total score of [DELETED].³

¹Section M.2.2 of the RFP also indicated that the agency would consider certain other factors, not relevant here, on a pass/fail basis.

²Total points available were as follows: past performance, 50 points; hiring and retention, 44 points (38 points of which were for one subfactor, the compensation plan); and performance management, 6 points. Correa's BAFO scored as follows: past performance, 40.2 points; hiring and retention, 38.8 points (33.8 points for the compensation plan); and performance management, 6 points.

³SES's initial score was [DELETED]; the [DELETED] accounted for virtually the entire increase in its BAFO score to [DELETED], and reflected a [DELETED]-point
(continued...)

TEP Report on Initial Offers at 4-11, 32; TEP BAFO Report at 17-18, 34. Since SES had also proposed a lower estimated price, and since the TEP found both offerors were proposing realistic, reasonable labor rates, the contracting officer selected SES for award. By letter dated January 16, 1998, the contracting officer notified Correa of her selection.

In this protest filed after receiving a debriefing from GSA, Correa contended that GSA did not treat the parties equally during discussions.⁴ Protest at 5. Correa noted that the "dramatic" increase in SES's score between the initial proposal and the BAFO resulted almost completely from SES's ability to improve its compensation package, which Correa notes was relevant to only one subfactor of a factor--hiring and retention--that itself ranked second in importance overall to past performance. Protest at 6-7; RFP § M.2.1. From this, Correa speculates that the agency must have treated SES more favorably during discussions than other offerors, or applied different evaluation criteria to SES's proposal.

Correa has not, in fact, produced any specific allegations of impropriety in the evaluation process. Although the agency report in response to the protest contained material and documents setting forth and supporting the agency's position that discussions and the evaluation did accord with applicable statute and regulation, as well as the evaluation factors listed in the solicitation, Correa elected not to file a response. In accordance with our Bid Protest Regulations, 4 C.F.R. § 21.3(i) (protest will be dismissed unless the protester timely files comments or a written statement requesting that the case be decided on the existing record), Correa has requested that our Office consider its protest on the basis of the existing record--the materials supplied by the agency and Correa's initial protest.

To the extent that Correa challenges the agency's evaluation of proposals, we have reviewed the record to ensure that the evaluation was reasonable and consistent with the stated evaluation criteria. Litton Sys., Inc., B-239123, Aug. 7, 1990, 90-2 CPD ¶ 114 at 9. Similarly, to the extent that Correa contends that the agency

³(...continued)
increase under [DELETED]. The improvement in SES's overall score also reflected a [DELETED] increase, from [DELETED] factor.

⁴Correa filed its initial protest prior to receiving a debriefing, and our Office dismissed the protest after the agency agreed to provide Correa with a formal debriefing. See B-277874.2, Feb. 12, 1998, unpublished; 4 C.F.R. § 21.2(a)(2) (1997) (a protest shall not be filed prior to the debriefing date offered to the protester, in the case of protests challenging a procurement conducted on the basis of competitive proposals). In the instant protest, Correa acknowledges that, at the debriefing, the agency satisfactorily addressed the issues raised in Correa's initial protest. Protest at 5.

treated the awardee more favorably than Correa, we have reviewed the record to determine whether there was unfair treatment. See CBIS Fed. Inc., B-245844.2, Mar. 27, 1992, 92-1 CPD ¶ 308 at 7-8. Based upon our review of the record--Correa's initial, general allegations of improper discussions and evaluation and the agency's response to the protest--we find nothing improper in the discussions and evaluation process here.

The evaluation documents indicate that under the most heavily weighted factor, past performance, the agency concluded that SES had a superior record and gave the proposal a nearly perfect score of [DELETED] of 50 points. TEP Report on Initial Offers at 4-6, 32. Under the hiring and retention factor, however, the evaluators initially found that [DELETED]. TEP Report on Initial Offers at 7.

After the initial award to Correa, and before the Centech protest, SES received a detailed debriefing that specifically laid these points out. During discussions, SES informed agency personnel that it had provided incorrect information on its [DELETED], which would be corrected in the BAFO, and that it had [DELETED]. Record of Discussions at 6-7. The BAFO did in fact include these enhancements, among others; once SES and [DELETED] were offering a competitive compensation package, SES's high score for past performance ensured that SES would receive a top score--the highest score, in fact, among the proposals evaluated here. TEP BAFO Report at 17-18, 34.

With respect to the discussions held with Correa, the record, which Correa does not attempt to refute, shows that the agency reminded Correa that there was potential for other offerors to substantially improve their technical proposals during negotiations. Record of Discussions at 1-2. While, with regard to the hiring and retention factor, the agency conceded that the protester had provided a "strong" benefits package, the agency also advised Correa that its most significant weakness came in the area of past performance, specifically, that the scope and size of the referenced projects were small. The record indicates that there was some discussion of what Correa could do to strengthen its proposal in the past performance area and that the agency advised the protester that it could substitute other projects for those evaluated, so long as the project met the 9-month time frame required by the RFP, § L.22.1.2. Id. Further, while Correa suggested that its personnel were more experienced than its corporation record of past performance indicated, the agency specifically reminded the protester that it was considering the past performance of the firm, rather than of the employees and subcontractors. Id. As a result of these discussions, Correa chose to present further information on four contracts, which resulted in some enhancement of its score, as noted above. However, the evaluators found that the projects and contracts generally were not large or comprehensive enough to warrant a significant increase in score. See TEP Report on Initial Offers at 28-29, 32; TEP BAFO Report at 32-34.

From the record before our Office, it appears that both offerors were advised of the significant weaknesses in their proposals and were treated equally during discussions. SES, with its more comprehensive experience and somewhat better record of past performance, was simply better able to raise its technical score, by revising its compensation package, than Correa could, given that the weakness in Correa's past performance record was principally historical in nature. Despite Correa's attempt to minimize the importance of an offeror's compensation package in the evaluation, in fact the compensation plans subfactor was worth 38 of the 100 total points available. Further, it is clear from the record that it was the substantial increase in SES's score under this subfactor [DELETED] which resulted in SES's receiving a higher total score than Correa's--a result completely consistent with the evaluation scheme in the RFP.

In sum, we see no grounds for concluding that discussions were improper or that the evaluation was either unreasonable or inconsistent with the stated evaluation factors.

We deny the protest.

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