



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Si-Nor, Inc.

File: B-282064; B-282064.2

Date: May 25, 1999

Sam Z. Gdanski, Esq., and Jeffrey I. Gdanski, Esq., for the protester.
John E. Lariccia, Esq., and C. Gordon Jones, Esq., Department of the Air Force, for the agency.
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DIGEST

Determination that higher-priced proposal rated higher under past performance subfactor (compared to protester's) offered best value to government cannot be determined reasonable where price was approximately twice as important as past performance under solicitation's evaluation scheme, and documentation of tradeoff decision does not explain why agency considered awardee's evaluation advantage under past performance sufficient to offset protester's lower offered price.

DECISION

Si-Nor, Inc. protests the Department of the Air Force's award of a contract to U.S. Eagle, Inc. under request for proposals (RFP) No. F64605-98-R0032, for refuse collection and disposal services at Hickam Air Force Base, Hawaii.

We sustain the protest.

The RFP contemplated award of a fixed-price requirements contract for an 8-month base period, with four 1-year options. No technical proposals were required, but each offeror was required to submit financial references and at least three past performance references for service contracts exceeding \$100,000 in revenues annually on which it had performed as prime contractor during the period November 1, 1995 through October 31, 1998. Addendum to RFP ¶ 1(b), at 1; RFP, amend. 0003, Preproposal Conference Minutes § 7a and d; RFP, Performance Reference Information Sheet. Offers were to be evaluated based on (1) past performance/experience and (2) price/cost, which were to be approximately equal in

weight. Past performance and experience also were to be approximately equal in weight. Agency Report, Tab 7, Decision Document, Feb. 24, 1999, at 1st unnumbered page, and Decision Document (original), at 1st unnumbered page. Award was to be made on a best value basis. RFP § I(a), at 1. Past performance was to be assessed to determine offerors' relative capability and trustworthiness, and thus their relative reliability to perform the contract requirements, and experience was to be evaluated to assess offerors' experience in performing work on similar refuse collection and disposal services contracts. RFP § I(a)(1), at 1.

Five offers were received. Based on the evaluation, the source selection official determined that Eagle's proposal represented the best value to the government. Although Si-Nor's evaluated price (\$7,974,020) was slightly lower than Eagle's (\$8,029,688), and both proposals were rated low risk for experience, Si-Nor's proposal was rated only satisfactory for past performance, while Eagle's was rated outstanding. In comparing Eagle's proposal to Si-Nor's, the selection official stated as follows:

I have determined [Eagle]'s proposal to be of better value than [Si-Nor]'s proposal. [Eagle] received an outstanding past performance rating compared to the satisfactory rating given [Si-Nor]. [Eagle]'s quality control and business relations, in particular, received laudatory comments from customers. I believe that [Eagle]'s outstanding past performance outweighs the lower price offered by [Si-Nor], a difference of \$7,944 (Basic Period).

Agency Report, Tab 7, Decision Document (Original), at 2nd unnumbered page.

Upon learning of the resulting award to Eagle, Si-Nor first filed an agency-level protest, and then later filed a protest with our Office, arguing in part that the agency improperly had failed to apply a small disadvantaged business (SDB) evaluation adjustment to prices. The agency agreed, concluding that Federal Acquisition Regulation clause 52.219-23, which provides for addition of an evaluation factor to all non-SDB offers for evaluation purposes, erroneously had been omitted from the RFP. The agency then reevaluated prices, applying a 10-percent factor to the prices of offers from non-SDBs (that is, all offers other than Si-Nor's, since Si-Nor was the only SDB offeror). This increased Eagle's evaluated price to \$8,832,656.80, and increased the difference between its and Si-Nor's total price from \$55,668 to \$858,636.80. However, a new selection official determined that Eagle's proposal still represented the best value to the agency in light of its outstanding performance.

Si-Nor challenges the source selection decision on the basis that the agency failed to document why any advantage reflected in Eagle's higher past performance rating warranted payment of an \$858,636.80 premium. Si-Nor believes its lower evaluated price warranted a determination that its proposal represented the best value to the government.¹

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results. DynCorp, B-245289, B-245289.2, Dec. 23, 1991, 91-2 CPD ¶ 575 at 6. Price/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the established evaluation criteria. TRW, Inc., B-234558, June 21, 1989, 89-1 CPD ¶ 584 at 4. In deciding between competing proposals, the propriety of such a tradeoff turns not on the difference in technical scores or ratings per se, but on whether the selection official's judgment concerning the significance of that difference was reasonable and adequately justified in light of the RFP evaluation scheme. DynCorp, supra. In this regard, where a price/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any business judgments and tradeoffs made, including the benefits associated with additional costs. Federal Acquisition Regulation § 15.308; Opti-Lite Optical, B-281693, Mar. 22, 1999, 99-1 CPD ¶ 61 at 5.

Based on our review of the record, we conclude that the determination to award to Eagle was not adequately justified. The tradeoff rationale set forth in the new selection official's revised source selection decision stated as follows:

I have determined [Eagle]'s proposal to be of better value than [Si-Nor]'s proposal. Both offerors received a low risk rating for experience. However, [Eagle] received an outstanding past

¹ Si-Nor also argues that Eagle's proposal should have been rated moderate (rather than low) risk under the experience subfactor because Eagle has not had prior contracts in the waste disposal field of a scope similar to that under the contract here. The risk ratings are unobjectionable. The RFP requested information on contracts over \$100,000, thus indicating that such contracts could be considered relevant, and Eagle's proposal cited its performance of refuse disposal contracts at military and naval installations with approximate annual values of \$600,000, \$304,000, and \$185,072. (For the contract at issue in this protest, Eagle's proposed price was \$1,397,384 for the 8-month base period and \$1,658,076 for the first option year.) Although Si-Nor's proposal referenced a number of contracts with higher annual values (\$900,000, 850,000, \$800,000, and \$625,000), as well as some smaller contracts (\$488,172, \$300,000, \$259,620, \$209,676, \$86,808, and \$80,000), these values also were well below the value of the contract here. Si-Nor's argument thus provides no basis for questioning the risk ratings.

performance rating based on their past performance record, meeting all contract requirements and exceeding some of the contract requirements, compared to the satisfactory rating given [Si-Nor]. . . . I believe that [Eagle]'s outstanding past performance outweighs the lower price offered by [Si-Nor], a difference of \$858,636.80 for the total cost.

Agency Report, Tab 7, Decision Document, Feb. 24, 1999, at 3rd unnumbered page.

This determination--as well as the record as a whole—includes no explanation for the agency's conclusion as required by FAR § 15.308. While the record clearly sets forth the agency's conclusion that Eagle's past performance rating was worth an \$858,636.80 price premium, it includes no documentation, evidence or explanation of the benefits that the agency associated with Eagle's superior past performance rating which would outweigh the additional price. This lack of documentation is significant in light of the fact that price was to be essentially twice as important as past performance under the stated evaluation scheme.² Absent a more detailed rationale, there simply is no way to determine whether the agency in fact accorded price this substantially greater weight. Further, such a rationale would provide evidence that the second tradeoff was conducted using the price premium reflecting the SDB preference (\$858,636.80), rather than (as the protester alleges) continuing to use the premium without the SDB preference (\$55,668), which the agency used in the erroneous initial tradeoff.

We conclude that the record does not establish that the Air Force's tradeoff decision was reasonable, and sustain the protest on this basis. By letter of today to the Secretary, we are recommending that the agency perform and document a proper tradeoff analysis. If the Air Force determines that Eagle's proposal does not represent the best value to the government under the stated evaluation factors, the agency should terminate Eagle's contract for the convenience of the government and make award to Si-Nor. In addition, we recommend that the protester be reimbursed its costs of filing and pursuing the protest. 4 C.F.R. § 21.8(d)(1) (1998). The protester

² Since past performance/experience and price/cost were to be given approximately equal weight, each was worth approximately 50 percent of the overall rating; since, within past performance/experience, each of the two components was approximately equal, past performance was worth approximately 25 percent of the overall rating.

should submit its certified claim, detailing the time expended and costs incurred, directly to the contracting agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

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