

SPANNING
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DECISION



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

FILE: B-221526.3; B-221526.4 **DATE:** July 3, 1986

MATTER OF: T.V. Travel, Inc.; World Travel Advisors,
Inc.

DIGEST:

Protest of agency reevaluation of proposals in response to GAO decisions which sustained protests on grounds that three areas of evaluation were improper is denied where agency reevaluation has not been shown to be unreasonable.

T.V. Travel, Inc., and World Travel Advisors, Inc., protest the reevaluation of proposals by the General Services Administration (GSA) under solicitation No. AT/TC 19791 for civilian agency travel management services for the Atlanta, Georgia, metropolitan area. We deny the protests.

This procurement has been the subject of three previous decisions of our Office. GSA awarded the contract to a Scheduled Airline Ticket Office (SATO) under this solicitation on February 8, 1985. In T.V. Travel, Inc., et al., B-218198 et al., June 25, 1985, 85-1 C.P.D. ¶ 720, we dismissed the protests because we concluded our Office had no jurisdiction over the selection.

We reversed this decision in T.V. Travel, Inc., et al.--Request for Reconsideration, B-218198.6 et al., Dec. 10, 1985, 65 Comp. Gen. _____, 85-2 C.P.D. ¶ 640, and sustained the protests of T.V. Travel and World Travel Advisors. The results of GSA's initial evaluation of these proposals were:

T.V. Travel	220.5 points
SATO	218 points
Corporate Travel International	210.75 points

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World Travel Advisors	205 points
Universal Travel	203.25 points

Discussions were then conducted and best and final offers submitted. In its initial selection statement, GSA stated that SATO improved its proposal such that its score was higher than T.V. Travel's score. GSA was unable to state SATO's final score, except to indicate that it was higher than T.V. Travel's score, which apparently was unchanged after best and final offers.

We found that the SATO's proposal was not properly evaluated by GSA in three areas, those being: (1) the number of travel agents proposed; (2) reconciliation of agencies' Diners Club accounts and (3) the electronic transmission of summary reports. We recommended that GSA reevaluate the proposals in the competitive range in these three areas and determine which offeror is the highest ranked.

GSA requested reconsideration of the portion of this decision regarding the number of travel agents. GSA did not contest the remainder of this decision. In T.V. Travel, Inc., et. al.--Reconsideration, B-221526.2, Feb. 18, 1986, 65 Comp. Gen. ____, 86-1 C.P.D. ¶ 171, we affirmed our previous decision.

Before this last decision was issued, GSA had acted upon the recommendation in our December 10 decision. Instead of just reevaluating the three designated areas of the proposals in the competitive range, GSA reevaluated all aspects of the five proposals in the competitive range using the identical rating plan as was used in the initial evaluation. The reevaluation resulted in the following scores:

SATO	207 points
Corporate Travel International	201 points
T.V. Travel	200 points
World Travel Advisors	191 points
Universal Travel	172 points

GSA further notes that, following the initial technical evaluation, site evaluations were conducted for each offeror in the competitive range to verify information in the proposals prior to the SATO selection in early 1985. GSA contends that the contracting officer, following these site evaluations, was more impressed with the SATO than T.V. Travel and World Travel Advisors because of its superior knowledge of federal travel regulations, the competence of its staff and superior qualifications. GSA states that, therefore, it found that the SATO was still the highest evaluated offeror even after the reevaluation so it planned to maintain its contract with the SATO. These protests followed.

GSA contends that the protests should be dismissed because the protesters are no longer interested parties under our Bid Protest Regulations to protest this selection, since their technical scores after reevaluation are lower than the score of Corporate Travel International, the second ranked offeror whose rating has not been protested. Corporate Travel International has expressed no interest in this protest.

We will not dismiss the protests on this basis, however, since at least one of the protesters was apparently the highest or second highest rated offeror before GSA completely reevaluated the proposals in response to our decision sustaining the protests and because the protesters contest the reevaluation in its entirety.

The protesters contend that we should not consider GSA's report on the protests because they did not receive a copy of the report within 25 days of filing of the protests. However, our Office did receive the agency report within the 25 days provided in our Bid Protest Regulations, 4 C.F.R. § 21.3(c) (1986). Since the protesters were provided 7 days from the date they received the report to submit their comments, they were not prejudiced by the Navy's failure to provide them with a copy of the report within 25 days. Under the circumstances, we will consider GSA's report in reaching our decision. Delcor International, B-221230, Feb. 13, 1986, 86-1 C.P.D. ¶ 160.

The protests concern all aspects of the reevaluation. The standard of our review of an agency's technical proposal evaluation is whether proposals were evaluated reasonably

and in accord with the solicitation criteria. Moorman Travel Service Inc.--Request for Reconsideration, B-219728.2, Dec. 10, 1985, 85-2 C.P.D. ¶ 643. If so, and if there are no other violations of the procurement statutes and regulations, an award is not legally objectionable. P-III Associates, B-213856, B-213856.2, July 31, 1984, 84-2 C.P.D. ¶ 136.

First, the protesters have made a number of allegations related to the propriety of the reevaluation because the copies of the summary score sheets of the reevaluation that they were supplied show that SATO only received 201 points and Corporate Travel International 207 points. GSA reports that this discrepancy was caused by a copying error in preparing the report on the protests. Our review indicates that SATO and Corporate Travel International were in fact awarded 207 and 201 points, respectively.

The protesters contend that the contracting officer was unduly influenced in the reevaluation by her superior's opinion that the SATO should not be replaced. GSA has supplied an affidavit of the contracting officer, who denies that this official has ever talked to her about this selection much less exercised any undue or improper influence. Nothing in the record contradicts the contracting officer's statement.

The protesters also contend that since the SATO will shortly change its joint venture status to a corporate status, it is not eligible to complete the contract. However, this is clearly a matter of contract administration not for consideration by our Office. 4 C.F.R. § 21.3(f)(1) (1986). In this regard, Federal Acquisition Regulation (FAR), 48 C.F.R. subpart 42.12 (1984), provides that novations of contracts for successor contractors are authorized in appropriate circumstances.

The protesters have listed a number of specific areas where they assert the SATO should have been downgraded and they should have received full credit. The allegations concerning the evaluation of SATO's proposal in the areas of the location of the offeror's headquarters and the direct interface of the system elements were considered and denied in a previous decision. Also, in the reevaluation of the criterion concerning the transmission of summary reports electronically, SATO received no points which is consistent with our prior decision.

The protesters contend that the SATO should have lost points for the two subcriteria of the rating plan concerning providing travelers with advance boarding passes. SATO's best and final offer promises this capability by the beginning of the contract. Although the protesters questioned SATO's ability to fulfill its proposal promises, we previously considered and dismissed this protest basis.

In our previous decision, we also concluded that the SATO's proposal should be downgraded because its proposal did not demonstrate a willingness and capability to perform automated reconciliation of accounts for agencies participating in the GSA's Diners Club contract. The solicitation did not require this capability, but indicated that additional credit would be given if the offeror had this capability. On the reevaluation, the evaluators gave the SATO three out of five possible points for this subcriterion. GSA states that "during the discussions between the SATO and contracting officer during presentation of best and final offers," this matter was discussed and the SATO promised to provide these services if required.

As GSA states, the SATO was granted partial points for this area because its original proposal stated that a summary report of all sales, "whether processed with a GTR [Government Travel Request], GSA credit card [Diners Club] or GTS [Government Travel Service] account," would be electronically generated each month. The proposal statement, together with the SATO's clarifying statement during discussions that it would provide reconciliation of Diners Club accounts as requested by GSA, convinced GSA that the SATO should be awarded some points for this job. We see no reason to object.

The protester contends that the SATO should have lost points for the subcriterion "the firm is organized by function; i.e., there are separate commercial and vacation sections." Since the SATO's proposal states the unofficial travel services will be segregated from official travel, we believe that GSA had a reasonable basis for giving SATO full credit for the subcriterion.

The protesters also contend that the SATO should not have received credit for the rating plan criteria under which it would receive five points if its commercial sales are at least 50 percent of total sales volume or at least

equal to the estimated government volume and 10 points if its commercial sales represent at least 70 percent of total sales volume or at least four times the estimated government volume. The protesters provided no elaboration on this protest basis. GSA reports that when the capabilities of the major scheduled air carriers, which are the partners in the SATO joint venture, e.g., Eastern Airlines, United Airlines,^{1/} are considered, the SATO is clearly entitled to full credit for these criteria. As contended by GSA, each of the separate qualifications of the joint venture partners can be reviewed in determining the joint venture's qualifications in these circumstances. See Parker-Kirlin, Joint Venture, B-213667, June 12, 1984, 84-1 C.P.D. ¶ 621; DDL Omni Engineering, B-220075, B-220075.2, Dec. 18, 1985, 85-2 C.P.D. ¶ 684. We find that such approach was reasonable and we deny this protest basis.

On the initial evaluation, T.V. Travel received 220.5 points and World Travel Advisors 205 points while on the reevaluation, T.V. Travel received 200 points and World Travel Advisors 191 points out of a possible 224 points. The protesters allege that their proposals were not properly evaluated and that World Travel should have only been downgraded three points and T.V. Travel 10 points. GSA has not communicated to the protesters the specific weaknesses/deficiencies found in their proposals. Since the reevaluation, which found additional weaknesses and deficiencies in these proposals, was performed in response to our Office's recommendation that certain limited areas of the proposals be reevaluated, the protesters' failure to request a formal debriefing on why their proposals were downgraded on the reevaluation is understandable and excusable. Under the circumstances, we have performed an in camera review of the technical evaluation of the protesters' proposals to ascertain whether this reevaluation has a reasonable basis. Professional Review of Florida Inc.; Florida Peer Review Organization, Inc., B-215303.3, B-215303.4, Apr. 5, 1985, 85-1 C.P.D. ¶ 394 at 9.

This review reveals that T.V. Travel lost points beyond those it has conceded because it does not propose multiple well-distributed offices in the Atlanta area; it did not indicate that its new staff will be hired at least 3 weeks prior to contract commencement; some of its proposed reservation agents did not have optimum additional relevant experience; its estimated annual volume of government travel

^{1/} See T. V. Travel, Inc., et al.--Request for Reconsideration, 65 Comp. Gen. ____, supra, at pgs. 9-10 for description of SATO joint venture arrangement.

represents more than 35 percent of T.V. Travel's total air sales; and T.V. Travel only names five regional cities where it guarantees lower hotel rates than GSA's government rates. World Travel Advisors lost points beyond those that it has conceded because its proposal did not address whether ticket printing or pulling is done by staff other than reservation agents; it does not sufficiently address customer "feedback" and the use of questionnaires in quality control; it did not demonstrate the use of programming superior in flexibility to standard "back office" software packages; its proposed manager does not have optimum supervisory and project management experience; it did not list all the reservation agents needed to perform the work; its quality control manager has no additional special qualifications; its estimated annual volume of government air travel is not less than 30 percent of its air sales; it did not provide verifiable guaranteed hotel rates that are lower than GSA's discounted rates; and it did provide adequate verifiable car rates lower than GSA's rates. Based on our review, we conclude that GSA had a reasonable basis to downgrade T.V. Travel's and World Travel Advisors' proposals on the reevaluation.

Finally, GSA continues to disagree with our prior decisions regarding the evaluation of the number of travel agents in the SATO proposal. We held that the SATO should not have received the maximum score for these subcriteria because it proposed fewer travel agents than the optimum staffing preference indicated in the solicitation evaluation criteria and the rating plan. However, since this rating plan criteria is worth only four points, even if the SATO received no credit, it would still receive the high score. Therefore, we need not consider GSA's reevaluation in this area.

Accordingly, the protests are denied.

Harry R. Van Cleve

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General Counsel