

Morrow



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Amtech Reliable Elevator Company
File: B-237670
Date: March 8, 1990

Kevin P. Duthoy, Esq., Bewley, Lassleben & Miller, for the protester.
Justin P. Patterson, Esq., Office of the Solicitor, Department of the Interior, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably selected technically superior, higher priced proposal on elevator maintenance contract where agency found the awardee's strengths in personnel and quality control and its fair and reasonable price would provide best opportunity for efficient and economical performance of the contract.

DECISION

Amtech Reliable Elevator Company protests the award of a firm-fixed price contract to Consolidated Standard Elevator Company under request for proposals (RFP) No. RFP-3-9-33, issued by the National Park Service (NPS), Department of the Interior, for elevator maintenance at the John F. Kennedy Center. Amtech contends that NPS did not properly evaluate proposals.

We deny the protest.

The RFP was issued on August 8, 1989, to obtain safe and continuous operation of 20 passenger elevators, 3 freight elevators, and 6 escalators at the Kennedy Center. The contractor was required to ensure operation of the

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elevators at their initial level of efficiency, safety, capacity, and speed by performing preventive maintenance, inspections, repairs and tests.

The RFP advised that award was to be made to the responsible offeror whose offer, conforming to the solicitation, would be most advantageous to the government, price and other factors considered. Technical factors were said to be more important than price. The RFP also advised that the award would not necessarily be made to the offeror submitting the lowest price and that as proposals became more equal in technical merit, the price factor would become more important. Technical proposals were to be evaluated for technical approach, qualifications of personnel, and effective performance of similar projects.

The five proposals received on the closing date for the receipt of proposals were evaluated by a technical evaluation panel. The panel determined each proposal to be within the competitive range. Discussions were held with each offeror on September 26 and best and final offers were received on October 3. Consolidated received the highest technical score of 712.50 out of 1,000 points and proposed the third lowest price (including options) of \$493,201.28. Amtech's proposal was ranked fourth technically with a point score of 508.33 and proposed the lowest price \$393,838.64. Based on the evaluation, NPS selected Consolidated on the grounds that its proposal was technically superior and it offered a fair and reasonable price. Award was made to Consolidated on October 11.

Amtech protests that NPS was not justified in selecting Consolidated's technically superior, higher priced proposal. Amtech also contends that Consolidated should not have been rated significantly higher.

The government is not required to make award to the firm offering the lowest price unless the RFP specifies that price will be the determinative factor. Unidynamics/St. Louis, Inc., B-232295, Dec. 21, 1988, 88-2 CPD ¶ 609. Thus, in the present case, the contracting officer had the discretion to determine whether the technical advantage associated with Consolidated's proposal was worth its higher price. ADT Facilities Mgmt., Inc., B-236122.2, Dec. 12, 1989, 89-2 CPD ¶ 541. Award to a technically superior, higher priced offeror is proper where the record shows that such an offeror's price premium was justified in light of its technical superiority. Unidynamics/St. Louis, Inc., B-232295, supra.

As indicated by the point scores, Consolidated was considered significantly superior to the other offerors, including Amtech. In making the source selection, the contracting officer noted that technical factors were most important and that the selection of Consolidated would provide the best opportunity for efficient and economical performance in view of Consolidated's specific strengths in accomplishing preventive maintenance and its fair and reasonable price. The noted strengths in Consolidated's proposal included its (1) experienced on-site mechanic, (2) superior quality control program, (3) effective and expert repair teams, and (4) up-to-date and well supported in-house training and assistance programs. Since all these strengths are related to the RFP evaluation criteria, we find reasonable the contracting officer's decision to select Consolidated's significantly technically superior, higher priced proposal.

Amtech complains that Consolidated should not have been rated significantly higher than Amtech because there are no actual documented differences between the proposals. However, our review confirms that the agency reasonably found technical differences which justified Consolidated's significant higher technical rating.

Specifically, the panel rated Consolidated's proposal technically superior because the proposal contained a thorough outline of how Consolidated intended to execute preventive maintenance which was based upon a proactive quality control program. Also, the panel found that Consolidated possessed superior personnel qualifications and experience which included an impressive list of contracts that demonstrated their experience in executing preventive maintenance programs at similar high use buildings.

On the other hand, the panel rated Amtech's proposal lower than Consolidated's proposal because Amtech proposed a quality control program that the panel considered to be more reactive and dependent upon the Kennedy Center for diagnosing mechanical problems in the elevator/escalator system. The panel believed that Amtech's program relied too heavily on the Kennedy Center to monitor performance instead of focusing on preventing problems or improving performance through its own inspections. Further, the panel found that Amtech's previous experience did not clearly indicate that it had executed similar preventive maintenance contracts in high use buildings with numerous elevators and escalators.

Based upon our review, we find reasonable the evaluation and source selection decision. Accordingly, the protest is denied.

for 
James F. Hinchman
General Counsel