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Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** Wackenhut International, Inc.--Reconsideration  
**File:** B-241594.2  
**Date:** May 21, 1991

Richard J. Webber, Esq., and Dean L. Grayson, Esq., Arent, Fox, Kintner, Plotkin & Kahn, for the protester. Catherine M. Evans and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

Request for reconsideration of decision denying protest of agency's improper evaluation of proposals and failure to conduct adequate discussions is denied where request does not establish that decision was based on error of fact or law.

## DECISION

Wackenhut International, Inc. requests reconsideration of our decision, Wackenhut Int'l, Inc., B-241594, Feb. 14, 1991, 91-1 CPD ¶ 172, in which we denied Wackenhut's protest of the award of a contract to Factory Guards Limited under request for proposals (RFP) No. S-247-FA-366, issued by the Department of State for guard services at United States Embassy locations in Nairobi and Mombasa, Kenya.

We deny the request.

In its protest, Wackenhut primarily alleged that the agency improperly evaluated its proposal and failed to conduct meaningful discussions. At issue in the protest was the requirement of section C.1.5.6 of the RFP statement of work, entitled "Reaction Force," the relevant subsection of which provided as follows:

"C.1.5.6.1. In the event that any guard or occupant of a guarded facility or building requires assistance or reinforcements, the Contractor shall provide a Reaction Force which shall respond immediately. The minimum acceptable response time is five minutes. The force shall consist of at least three personnel. . . . In the event further assistance is required, then at least two similarly manned

vehicles shall be immediately available, capable of arriving within five minutes of a call for their assistance. . . . In an extreme emergency the Reaction Force may remove one or two guards from any post to assist the reaction force. . . ."

In its request for a best and final offer (BAFO), the agency asked Wackenhut to "address in more detail the operational approach for the requirements of paragraph C.1.5.6 of the solicitation." Wackenhut responded to the request by offering three detailed scenarios illustrating its proposed approach. However, the agency determined, and so advised Wackenhut in an award notification letter, that its "BAFO responses did not completely make us understand how you could meet the requirements of section C.1.5.6 for both Nairobi and Mombasa with the limited number of vehicles proposed, a fact which somewhat weakened your proposal."

Wackenhut argued in its protest that the agency's request for amplification of section C.1.5.6 did not give it sufficient notice so that it could respond to the agency's concern about the number of vehicles proposed. We held that the agency conducted adequate discussions with Wackenhut. First, noting that the RFP expressly required that the offeror provide three reaction force vehicles to respond to each incident in Nairobi and Mombasa, we held that the agency was not required to reiterate this clear requirement in further discussions in response to Wackenhut's proposal of a number of vehicles clearly inadequate to satisfy the requirement. See Industrial Maintenance Servs., Inc.; Logistical Support, Inc., B-235717; B-235717.2, Oct. 6, 1989, 89-2 CPD ¶ 324. Moreover, we found, given the specific RFP requirement for reaction force vehicles and Wackenhut's proposal of an inadequate number of vehicles, the agency's request for more detail about the protester's reaction force approach was sufficient to alert Wackenhut to the agency's concerns. See Wyle Laboratories, B-239671, Sept. 19, 1990, 90-2 CPD ¶ 231.

Under our Regulations, to obtain reconsideration the requesting party must show that our prior decision was based on errors of fact or law, or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1991).

In its request for reconsideration, Wackenhut contends that our decision was based upon an error of fact. Citing our finding that the record reflected the evaluation team's concern about the adequacy of Wackenhut's approach to the reaction force requirement, Wackenhut argues that, in fact, the record is totally devoid of any indication that the evaluators noticed such a deficiency. Thus, Wackenhut

concludes, the agency could not have addressed the deficiency in the BAFO request.

Wackenhut is incorrect. The record shows that one evaluator specifically noted the deficiency in Wackenhut's approach to the reaction force requirement, stating that he "failed to see . . . proposals for the roving (react) patrols."<sup>1/</sup> This is consistent with our prior finding that the agency did adequately advise Wackenhut of the deficiency; given the specific RFP requirement for reaction force vehicles and Wackenhut's proposal of an inadequate number of vehicles, the agency's request for more detail about Wackenhut's reaction force approach was sufficient to alert Wackenhut to the agency's concerns. See Wyle Laboratories, B-239671, supra.

Wackenhut argues that Wyle is inapposite to the instant situation. In that case, involving the procurement of a navigation system, the agency was concerned that the offeror did not understand that navigation sensors are a major function of navigation system performance. Therefore, the agency asked Wyle to further explain an area of its proposal in which it discussed system performance. Wyle complained that the question was insufficient to place it on notice of the deficiency because it failed to specifically address sensors. We disagreed, noting that the agency's concern was not with the sensors themselves, but with whether the offeror understood their importance to the system's performance; we found the agency's question adequate to put Wyle on notice of that concern. Here, as we noted in our decision, the agency was concerned not simply with the number of vehicles Wackenhut proposed, but, more importantly, the impact that the proposed number of vehicles would have on the effectiveness of the reaction force due to unique local conditions. Thus, the agency's request for a more detailed explanation of Wackenhut's approach to the reaction force requirement was sufficient to alert Wackenhut to the agency's concern.

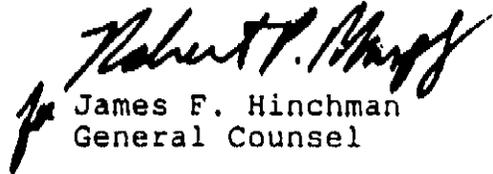
Wackenhut further argues that, even if its proposal properly was found deficient as to the reaction force requirement, the substantial reduction in its score was irrational. It is not our function to evaluate technical proposals, but rather to review the agency's evaluation to insure that it was reasonable and consistent with the stated solicitation criteria.

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<sup>1/</sup> Wackenhut also takes issue with our alternative finding that, even had discussions been inadequate, in view of the clear solicitation requirement concerning reaction force vehicles the agency was not required to reiterate the requirement in further discussions. Since discussions were adequate, this point is academic.

Maytag Aircraft Corp., B-237068.3, Apr. 26, 1990, 90-1 CPD ¶ 430. As we stated in our decision, we think the agency properly concluded that Wackenhut's shortage of vehicles indicated a lack of understanding of the reaction force requirement. Given this conclusion and the importance of the requirement, we do not find the agency's reduction of Wackenhut's technical score in this area unreasonable. See Reflectone Training Sys., Inc., B-240951, Dec. 10, 1990, 90-2 CPD ¶ 472.

We conclude that Wackenhut has failed to establish that our prior decision was based on any error of fact or law. Therefore, the request for reconsideration is denied.

  
James F. Hinchman  
General Counsel