



Comptroller General
of the United States

Washington, D.C. 20548

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Decision

Matter of: Consolidated Safety Services, Inc.

File: B-252305.2

Date: October 14, 1993

William H. Butterfield, Esq., and Charlotte Rothenberg Rosen, Esq., McGuire, Woods, Battle & Boothe, for the protester.

James. C. Hughes, Esq., J. Andrew Jackson, Esq., and Ferhan K. Doyle, Esq., Dickstein, Shapiro & Morin, for Stanley Associates, Inc., an interested party.

George W. Griffith, Esq., Department of the Army, for the agency.

Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Notwithstanding that awardee's cost to perform under the prior contract was significantly higher than costs proposed under the current solicitation, contracting officer reasonably concluded that awardee's proposed costs were realistic where current solicitation differed in material respects from prior contract, awardee's lower cost reflected its extensive prior experience and more efficient approach to work.

2. Despite protester's contention to the contrary, agency properly considered effect of cost reductions from initial offer incorporated into awardee's best and final offer and reasonably concluded that cost reductions did not affect awardee's superior ratings.

DECISION

Consolidated Safety Services, Inc. (CSSI) protests the award of a contract to Stanley Associates, Inc., the incumbent contractor, under request for proposals (RFP) No. MDA903-93-R-0005, issued by the Defense Supply Service-Washington (DSS-W) for Military Traffic Management Command's (MTMC) Transportation Safety and Security (TRANSS) services. CSSI essentially argues that the agency's cost realism analysis of Stanley's proposed costs was unreasonable.

We deny the protest.

The RFP was issued on August 10, 1992, as a total small business set-aside seeking offers to perform TRANSS for MTMC by conducting in-transit surveillance of Department of Defense (DOD) commercial carriers of arms, ammunition, and explosives and classified cargo to ensure carriers' compliance with DOD safety and security requirements. The RFP anticipated award of a cost-plus-fixed-fee contract, for a 9-month base period and 4 option years, to the most advantageous offeror.

The RFP advised potential offerors that technical was more important than proposed cost. Section M of the RFP listed, in descending order of importance, the following five principal technical evaluation factors for award, worth a total of 97 points: (1) adequacy of technical approach; (2) adequacy of training program; (3) organization experience; (4) qualifications of personnel; and (5) understanding of MTMC objectives. Concerning cost, the RFP provided that the contracting officer would perform a cost realism analysis.

The agency received three offers in response to the RFP, including the offers from CSSI and Stanley. Based on the evaluation, the agency included only the CSSI and Stanley proposals in the competitive range. The scores and initial proposed costs were as follows:

	<u>Technical Score</u>	<u>Proposed Costs</u>
Stanley	93.25	\$7,133,306
CSSI	74.75	\$6,608,683
Company A	18.00	\$5,082,610

The agency evaluators concluded that Stanley had the most complete and thorough proposal with outstanding, experienced personnel and a well coordinated approach to conducting nationwide in-transit surveillances. Specifically, the evaluators found the Stanley's proposed personnel had superior technical knowledge and expertise in transportation operations and security measures. They found that Stanley's proposal also showed exceptional administration of government contracts involving transportation and security. CSSI's proposal was rated "good". However, the evaluators believed that CSSI's proposed staff was insufficient to accomplish the mission, and that CSSI's in-transit surveillance plan lacked sufficient detail. CSSI's proposal also did not demonstrate evidence of inspection techniques and knowledge of existing transportation safety and security programs as related to sensitive shipments.

The agency subsequently held discussions on technical issues with CSSI and Stanley and each offeror submitted revised proposals on December 29. The agency evaluated the revised proposals and the results were as follows:

	<u>Technical Score</u>	<u>Proposed Costs</u>
Stanley	95	\$5,295,189
CSSI	81.75	\$6,359,969

The agency evaluators found Stanley's proposal to be technically superior based for the reasons previously identified and recommended award to Stanley. The contract specialist conducted a general review of the revised cost elements in the revised proposals, including a summary of the labor hours proposed by the offerors. She also reviewed clerical hours, travel and labor escalation. On January 22, 1993, the contract specialist clarified certain cost issues with Stanley and requested best and final offers (BAFO).

In their BAFOs, both offerors confirmed their revised proposals as unchanged. Based on the technical evaluator's recommendation and Stanley's lower cost, the contracting officer awarded the contract to Stanley on February 1. The award amount was \$726,048 for a 8-month base period with a total contract amount, including options, of \$5,295,189.

On February 10, CSSI filed a protest with our Office (B-252305), arguing that the agency failed to perform a proper cost realism analysis of Stanley's proposal because it did not consider the effect of Stanley's unrealistically low cost on Stanley's ability to perform the contract.

In response to the protest, the contracting officer decided to submit the proposals, including an alternate firm, fixed-priced proposal submitted by CSSI, to the Defense Contract Audit Agency (DCAA) to be audited, to perform new cost proposal evaluations, and to reopen negotiations and have another round of BAFOs. On the basis of this proposed corrective action, we dismissed the protest on March 1.

The agency submitted both offerors' BAFOs to DCAA for audit. DCAA found that Stanley based its proposed cost on individual employee hourly rates and labor hours experienced under the prior TRANSS contract and management estimates. DCAA's audit recommended a total upward adjustment of \$206,706 to the \$5,295,289 proposed by Stanley in its BAFO primarily due to an increase in the general and administrative rate. DCAA also reviewed the costs of Stanley's proposed subcontractor, Pinkerton Security and Investigation Services. The audit questioned \$71,174 of the \$2,265,953 proposed by Pinkerton.

DCAA reviewed both the cost-plus-fixed-fee and firm, fixed-price proposals submitted by CSSI. For both proposals, DCAA concluded that the proposed overhead rates of 49 percent were not in line with CSSI's audited rate of 82.3 percent and could be significantly understated.

The contracting officer incorporated the DCAA recommendations in part and determined that Stanley's proposed cost should be increased to \$5,431,394, which is an upward adjustment of \$135,205. In addition to the audit related adjustments, another cost adjustment was made because Stanley proposed fewer inspections for the 8-month base year period than the agency estimated would be necessary. The contracting officer adjusted the projected inspections cost for Stanley's proposal for the base period by \$63,748 to \$5,495,142. Technical proposals were not reevaluated. The final technical and cost evaluations were as follows:

	<u>Scores</u>	<u>Costs</u>
Stanley	95.00	\$5,495,142
CSSI	81.75	\$6,359,969

Based on Stanley's higher technical rating and its lower estimated cost, the contracting officer decided that there was no advantage in selecting CSSI for award. The contracting officer also concluded that even award of the fixed-price contract proposed by CSSI would not be in the best interest of the government based on Stanley's technical superiority.

By letter dated May 25, the contracting officer informed Stanley and CSSI that the original award to Stanley was proper. On June 7, CSSI filed this protest with our Office.

CSSI basically challenges the agency's cost realism analysis of Stanley's proposal on the grounds that there is ample cost/hour history relating to Stanley's prior performance which should have been examined in assessing whether Stanley's offer for the current contract was reasonable and realistic. In essence, CSSI alleges that the agency failed to conduct a proper cost realism analysis on Stanley because it failed to compare Stanley's price for this contract (\$5.295 million) to its actual cost experience under the predecessor contract (\$7.3 million).

We disagree with the protester. First, the current solicitation is different in some material respects from the solicitation for the former contract. This solicitation has a firmer, more precise statement of work which provides more details and guidance to offerors for pricing the requirement. For example, in the prior solicitation requirements for rail corporate inspection, pre-certification inspec-

tions, rail terminal inspection, rail in-transit surveillance, emergency responses, and freight boards were identified simply as work to be performed at the agency's direction. The current solicitation is not so open-ended; it places a ceiling on all tasks and more clearly defines the rail inspection requirements. The agency also points out that Stanley's technical proposal shows that it has acquired experience during its 5 years of performance which allowed Stanley to develop efficiencies in its technical approach which is reflected in its lower proposed cost. For example, its approach of using subcontractor staff located in the field to perform the inspections results in lower travel costs. Also, Stanley's costs are based on the addition of new technology such as satellite tracking, communications equipment, and computer services capability. Given the RFP differences, Stanley's experience, and Stanley's proposed approach to the work, we think the agency acted properly in not exclusively considering the actual cost of the prior contract in its cost analysis.

In its comments to the agency report, CSSI argues that the agency's award to Stanley based on Stanley's technical superiority was improper because Stanley made significant unexplained changes to its original proposal in its revised proposal. For example, CSSI notes that Stanley in its revised proposal reduced to 20 percent the hours of its proposed total quality management (TQM) specialist, safety specialist and security specialist. CSSI also notes that Stanley in its original proposal offered one full-time operations specialist (9,000 hours) but in its revised offer, without explanation, increased these hours to a total of 31,781 hours, which according to CSSI equates to 3.8 operations specialists. CSSI points out that Stanley offered only one operations specialist in its original technical proposal and that this proposal has never been revised.

In evaluating costs, the agency did examine whether the offeror's proposed cost reflected the offeror's understanding of the project and the offeror's ability to successfully organize and perform the contract. The agency also examined whether the cost was supported and realistic in terms of the offeror's proposed technical approach. The record shows that the contracting officer, with assistance from the technical evaluation panel, reviewed Stanley's revised proposal with respect to the labor hours proposed and technical approach. Specifically, the agency found that Stanley's hours were about the same as previously proposed, but that the management effort was streamlined. In fact, after the adjustments were made, Stanley/Pinkerton's proposed labor hour estimates were slightly higher than CSSI's. Further, a comparison of the management labor for Stanley and CSSI shows that the total management effort is very similar.

With respect to the specific reduction in labor hours for certain labor categories, the RFP specifically required only two labor categories, project manager and TRANSS inspector. Stanley offered a full-time project manager whose hours were not reduced by the subsequent proposal revisions. Several Stanley and Pinkerton personnel with TRANSS experience were identified for the TRANSS inspector position. Stanley, in its original proposal, further broke down its labor into more categories. In its revised offeror, Stanley simply decided to reduce the direct labor hours of these additional labor categories. The agency determined that the quality of Stanley's TRANSS Inspectors proposed to perform field work was excellent and the revised labor hour mix still gave the government access to the corporate management and special staff personnel. The agency viewed the increase in TRANSS inspector hours an advantage to the government.

Notwithstanding Stanley's reduction in proposed cost, the contracting officer believed that Stanley's plan of subcontracting with Pinkerton which listed 22 fully trained agents in place at 17 locations nationwide was a better approach than CSSI's which offered only 10 locations. It is clear that the agency did review the changes reflected in the revised proposal and reasonably concluded that, even with these changes, Stanley's proposal remained technically superior to CSSI's proposal.

The protest is denied.



for James F. Hinchman
General Counsel