



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Farnham Security, Inc.

File: B-280959.5

Date: February 9, 1999

Christopher B. Ingram, Esq., Haas & Najarian, for the protester.
Chuck Coburn, Esq., United States Marshals Service, for the agency.
Andrew T. Pogany, Esq., and John M. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Evaluation was proper where, although agency applied detailed criteria not expressly stated in solicitation, there was sufficient correlation between stated factors and the detailed factors applied that prospective offerors were on notice of the evaluation criteria to be applied.

DECISION

Farnham Security, Inc. (FSI) protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. MS-98-R-0008, issued by the United States Marshals Service for security services at various Federal Circuits.¹ FSI contends that the exclusion of its proposal was based on the agency's improper application of undisclosed evaluation criteria that previously had been deleted by solicitation amendment.

We deny the protest.

The RFP, issued June 22, 1998, contemplated the award of an indefinite-quantity, indefinite-delivery, time-and-materials contract for each of the judicial circuits. RFP § L-6. The RFP stated that award for each circuit would be made to the offeror whose proposal provided the best value to the government, price and other factors

¹This protest concerns the Ninth Judicial Circuit.

considered. RFP § M-1(b). The RFP, as amended, contained the following evaluation criteria, listed in descending order of importance: (1) technical (with subfactors of corporate management, court security officer (CSO) turnover and disruption, and qualifications of key personnel); (2) price (including evaluation of options for a base year and four 1-year option periods); and (3) past performance. RFP §§ M-5 to M-7. Eight proposals were received by the September 3 due date and evaluated by the technical evaluation board (TEB). The agency used a point scoring system (with a 500-point maximum) for the rating under the technical factor; these scores correlated to adjectival ratings of outstanding, acceptable, conditionally acceptable, and unacceptable. The agency also prepared a table converting its scoring to show rankings based on a 100-point scale. The technical and price results were as follows (Agency Report (AR), Tab 6, Initial Competitive Range Determination, at 3-6):²

Firm	Total Score (Max. 100 pts.)	Raw Technical Score (Max. 500 pts.)	Adjectival Rating	Price (millions)
Offeror A	95	483	outstanding	\$145.5
Offeror B	N/A ³	430	acceptable	\$154.0
Offeror C	90	434	acceptable	\$144.9
Offeror D	86	432	acceptable	\$155.7
Offeror E	84	405	acceptable	\$157.4
Offeror F	79	358	conditionally acceptable	\$147.1
Offeror G	79	326	conditionally acceptable	\$146.5
FSI	71	275	unacceptable	\$157.8

By decision dated October 19, the agency excluded only FSI's proposal from the competitive range based on its technical and price ranking. AR, Tab 6, at 7. This protest followed.

FSI maintains that the agency misevaluated proposals by applying technical evaluation criteria that were part of an earlier (and far more detailed) iteration that had been significantly altered by amendment No. A003. FSI notes in this regard that the solicitation as initially issued contained more than two pages of text of the

²Amendment No. 0009 required offerors to submit a new business proposal based on the incorporation of revised wage determinations and collective bargaining agreements (CBA). These resubmitted prices, set forth in this table, were used by the agency in making its competitive range determination.

³ This offeror did not have a past performance score; the agency thus did not assign its proposal a total score.

detailed factors and subfactors of corporate management, Protester's Comments at 4, and that, after amendment No. A003, the RFP stated only as follows:

The Offeror shall prepare and submit for evaluation by the Government a management plan that indicates to the Government whether the offeror has a clear knowledge of the scope of the work to be performed. The management plan must address how the offeror will 1) provide a comprehensive security program, 2) address employee recruitment and selection process, 3) address methods of verifying employee's past record of performance and/or experience, 4) specify supervisory and corporate staffing levels for performance and administration, 5) provide a corporate management communication plan from transition through contract performance, 6) address proposed administrative controls for monitoring the contract, 7) assure CSO personnel are physically and mentally fit, 8) address procedures for personnel problems and discipline, and 9) guarantee weapons proficiency.

RFP, amend. A003, § L-2(e)(1).

FSI cites several areas of the evaluation that it believes were improperly affected by application of the original detailed evaluation elements. For example, in the area of "employee recruitment and selection process" (item 2 above), the protester states that the technical evaluation worksheets (TEW), provided as guidance to the evaluators during their evaluation, were virtually identical to the previously deleted detailed evaluation criteria and bear little relationship to the evaluation criteria of the amended RFP. The protester notes that the evaluators' comments show that FSI's proposal was downgraded in this area for not listing "specific requirements for [the] CSO position," one of the specified evaluation elements under the original evaluation scheme. Protester's Comments at 6. FSI concludes that its proposal was found deficient only when measured against "undisclosed subfactors." *Id.*

Where an agency evaluation is challenged, we will examine the evaluation to ensure that it was reasonable and consistent with the evaluation criteria. The determination of the relative merits of a proposal is primarily the responsibility of the agency, and we will not disturb that determination unless it is shown to be unreasonable. Systems & Processes Eng'g Corp., B-234142, May 10, 1989, 89-1 CPD ¶ 441 at 5. In evaluating a proposal, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by or related to the stated evaluation criteria. See id. at 10; Unidynamics/St. Louis, Inc., B-232295, Dec. 21, 1988, 88-2 CPD ¶ 609 at 16.

We find that the evaluation of FSI's proposal was reasonable and consistent with the RFP.⁴ We discuss two of the evaluation areas FSI challenges.

⁴We point out that, because the TEWs were part of the agency's internal evaluation plan, the manner in which they were applied is a matter for consideration within the (continued...)

The RFP, as amended, specifically stated the major factors to be considered during evaluation, as well as the weight assigned to each factor. Since the procurement was essentially for trained security guards, we think that the general criterion contained in the amended RFP ("address employee recruitment and selection process") is directly related to the question of whether an offeror has presented sufficient information on the specific requirements for the CSO position and any personnel standards and requirements for site supervisors and contract managers. The CSO position is, after all, the core of the employee recruitment and selection process, and the CSO position requirements thus could be expected to have an effect on both the recruiting approach used and the individuals selected for employment. We think a reasonable offeror should have understood that a discussion of the requirements for the CSO position was relevant to the explanation of its "employee recruitment and selection process."

As another example, the protester complains that under the area of "assur[ing] CSO personnel are physically and mentally fit" (item 7 above), its proposal was unreasonably downgraded for failure to discuss annual checkups and monitoring of weight restrictions for guards. As above, the protester notes that the TEW reflected the original, detailed RFP, which specifically stated that offerors should "[a]ssure that employees are physically and mentally fit to perform required duties and monitor weight restrictions and annual checkups." Protester's Comments at 10. The protester concludes that, following issuance of amendment No. A003, there was no requirement for offerors to set forth a weight restriction and annual checkup plan. Again, however, the relevant consideration is not what the RFP originally stated, but whether the evaluation was consistent with the RFP as amended. It clearly was. A plan for regular medical checkups and weight monitoring bears a clear and direct relationship to the evaluation of an offeror's plan to ensure the guards' physical and medical health; indeed, it is not clear how a contractor could ensure that its employees are in fact healthy without some sort of a plan providing for medical checkups. We conclude that the evaluation was consistent with the evaluation criteria as amended.

The protest is denied.

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(continued...)

agency itself, rather than through the bid protest process. Interaction Research Inst., Inc., B-234141.7, June 30, 1989, 89-2 CPD ¶ 15 at 7.