



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Schleicher Community Corrections Center, Inc.—Reconsideration

File: B-270499.6

Date: August 15, 1996

Kent C. Dugmore, Esq., Parsons, Behle & Latimer, for the protester.
Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester does not show that prior decision denying its protest contained any errors of fact or law or present information not previously considered that warrants reversal or modification of our decision.

DECISION

Schleicher Community Corrections Center, Inc. (SCCC) requests that we reconsider our decision in Schleicher Community Corrections Center, Inc., B-270499.3 et al., Apr. 18, 1996, 96-1 CPD ¶ 192, in which we denied SCCC's protest of the award of a contract to Cornell Corrections of California, Inc. under request for proposals (RFP) No. 200-256-W. The RFP was issued by the Federal Bureau of Prisons for residential community corrections services. SCCC argued that the agency improperly evaluated its proposal with respect to the facility it offered and failed to conduct meaningful discussions with SCCC. In its request for reconsideration, SCCC contends that our decision contains errors warranting reversal.

We deny the request for reconsideration.

The RFP contemplated the award of a requirements-type, indefinite-delivery contract, for a 12-month base period, with up to three 1-year option periods. Section M of the RFP listed the following evaluation factors in descending order of relative importance (subfactors within each factor are shown in parenthesis): technical (reports/policy/procedure; facility; overall programs approach); cost; and management (personnel and staffing; experience and structure). Award was to be made to the offeror whose proposal was determined to be "in the best interest" of the government.

The protester's central contention was that the evaluation of its proposal under the "facility" subfactor was unreasonable. In this connection, the protester asserted that it offered the only operational facility accredited by the American Correctional Association, and thus its proposal should have been rated higher under that subfactor. SCCC also argued that the agency had failed to conduct meaningful discussions with the firm. We disagreed with the protester with respect to these allegations and denied the protest.

Under the "facility" subfactor, out of a maximum possible score of 150 points, SCCC's proposal received a total of 143 points--nearly a perfect score--earning the proposal a rating of "excellent" under this evaluation subfactor. In its protest, SCCC maintained that its proposal should have received a higher rating under this subfactor because it proposed an existing facility. As we pointed out in our decision, however, the RFP did not require offerors to propose an existing operational or accredited facility. The RFP required only that the contractor's facility be "fully operational and ready for performance to begin within 60 days after the date of contract award." In other words, contrary to the protester's understanding of the RFP, offerors were permitted to propose a facility which was not yet fully operational by the time initial proposals were due. The protester, essentially reiterating the arguments it made during consideration of the initial protest, has presented no evidence or arguments in its reconsideration request that warrant reversing our conclusion in this regard.¹

Also with respect to the "facility" subfactor, the protester challenged the evaluation of the awardee's proposal, specifically, the agency's decision to raise the awardee's proposal's score after discussions from 122.6 to 145 points. The record reasonably supported this change in score based on the evaluators' conclusion that the awardee had "addressed all major and minor elements under this factor." As with its challenge to the evaluation of its own proposal under this subfactor, SCCC's criticism of the evaluation in this area focused on the fact that the awardee did not

¹In its reconsideration request, the protester again complains that the agency improperly failed to provide SCCC with all of the documents concerning the evaluation of the proposals submitted by the other two unsuccessful offerors. The protester does not provide any convincing argument--and we see none--showing how the evaluation of the two unsuccessful offerors' proposals is relevant to SCCC's protest. To the extent that SCCC argues that the evaluation of the unsuccessful offerors' proposals was unreasonable or inconsistent with the RFP's evaluation scheme, SCCC is not an interested party to raise these allegations. See 4 C.F.R. § 21.0(a) (1996). The proper parties to raise these allegations are the other unsuccessful offerors, each of whom has a more direct interest in the outcome of such a challenge. See, e.g., Integrated Sys. Group, Inc., B-246446, Feb. 21, 1992, 92-1 CPD ¶ 213.

offer an existing facility. Although we did not address this rescoring issue in detail in our initial decision, we did review the protester's contentions and, as stated in our decision, concluded that they had no merit. Other than asserting that the evaluation was insufficiently documented in this regard, and urging us to reconsider our conclusion, the protester has presented no basis showing that our original conclusion was incorrect.

Regarding discussions, for each evaluation subfactor, the evaluators' individual worksheets listed several items which were categorized as either "major" or "minor" elements of the respective subfactor. For each item, evaluators were to indicate with a check mark whether that element had been satisfied, or enter some notation indicating a deficiency. In its protest, SCCC argued that the agency failed to conduct meaningful discussions with the firm because it did not apprise it of several items identified on these worksheets as deficient in SCCC's proposal, particularly under the "overall approach" subfactor, where the protester's proposal was significantly downgraded. We concluded based on our review of the record that the agency's discussion questions accurately reflected the TEP's concerns about SCCC's proposal, and adequately pointed out those areas of SCCC's proposal requiring further clarification or explanation. In its reconsideration request, SCCC asserts that we failed to fully address its contentions.

As SCCC correctly points out in its reconsideration request, our decision did not address whether the agency was required to raise deficiencies identified under the "overall approach" subfactor as separate discussion items, since the record shows that SCCC was not prejudiced by the agency's failure to do so. Specifically, as we stated in our decision, the record shows that even if SCCC had been able to correct the deficiencies the TEP identified under the "overall approach" subfactor concerning the organization and overall quality of its proposal, and earn the maximum number of points in this area, SCCC's proposal's overall technical score would have remained lower than the scores of the awardee's and another offeror's lower-priced proposals. Thus, the fact that the agency did not raise as separate discussion items the TEP's concerns with SCCC's proposal under the "overall approach" subfactor was immaterial to the relative standing of SCCC's proposal with respect to the awardee's or offeror B's proposal, and to the selection decision. Accordingly, the lack of separate discussions under this subfactor provides no basis to object to the award decision. See Lithos Restoration Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379 (competitive prejudice is an essential element of a viable protest). The protester does not dispute our conclusion in this regard, but merely repeats arguments it made during our consideration of its protest and generally disagrees with our conclusion that the agency's approach to discussions was reasonable.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.14(a). SCCC's repetition of arguments made during our consideration of the original protests and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.

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