



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Visucom Productions, Inc.
File: B-240847
Date: December 17, 1990

C. Eric Buonassisi for the protester.
Herbert F. Kelley, Jr., Esq., and Sophia L. Rafatjah, Esq.,
Department of the Army, for the agency.
Richard P. Burkard, Esq., Andrew T. Pogany, Esq., and
Michael R. Golden, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

1. Agency's decision to exclude a government official from technical evaluation board is reasonable where agency acted to avoid a potential conflict of interest.
2. Allegation that agency did not properly evaluate protester's personnel qualifications and performance history is denied where record shows that even assuming protester's proposal received perfect scores for these evaluation factors, it would not be entitled to award, since awardee's proposal would still be higher-rated technically and awardee's price was considerably lower than protester's.

DECISION

Visucom Productions, Inc. protests the award of a contract to Ecosafe Incorporated under request for proposals (RFP) No. DAKF24-90-R-0004, issued by the Department of the Army for a back injury prevention program at Fort Polk, Louisiana. The protester argues that the Army improperly excluded from its evaluation team the individual who was most knowledgeable about back injury reduction programs and the success of the protester's proposed system. Visucom also argues that the evaluation team failed to verify its credentials which would

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have demonstrated its past successes and superior qualifications.^{1/}

We deny the protest.

The RFP was issued on February 5, 1990, and six offers were received by the March 26 closing date. The RFP stated that award would be made to the offeror whose offer conforming to the solicitation was most advantageous to the government, cost or price and other factors considered. The RFP provided that proposals would be evaluated considering the following factors, in descending order of importance: (1) program design; (2) personnel qualifications; (3) historical data of program; (4) quality assurance plan; (5) materials; (6) follow-up; and (7) cost/price.

Offers were evaluated by a five-member technical evaluation board which assigned numerical scores to each proposal. The evaluation board determined that four offerors submitted proposals in the competitive range. The contracting officer conducted discussions with the four offerors and requested revised proposals. Ecosafe's revised proposal received the highest technical score of 915 out of 1,000, while Visucom received the next highest score of 830. By letter dated July 10, the contracting officer advised the offerors that discussions were concluded and that best and final offers were due by July 18. In response, the four offerors did not revise their technical proposals. Ecosafe lowered its price from \$48,440 to \$43,500; Visucom's price remained at \$54,200. On July 19, the evaluation board recommended to the contracting officer that award be made to Ecosafe. The agency conducted a pre-award survey and determined that Ecosafe was a responsible contractor. On August 1, the agency made award to Ecosafe. This protest followed.

The protester states that it invested considerable time and money in "preliminary marketing work" with the agency to bring the requirement to the RFP stage. Visucom describes a series of meetings between it and a Fort Polk Safety Officer regarding Visucom's back injury reduction program and contends that it was improper for the agency not to include the Safety

^{1/} In its initial protest, Visucom also argued that Ecosafe was not technically capable of performing the contract and that it was no longer in business under that name. The agency fully responded to these issues in its agency report. Since Visucom failed to rebut the response on these two points, we consider the issues to have been abandoned by the protester. Commercial Bldg. Serv., Inc., B-237865.2, B-237865.3, May 16, 1990, 90-1 CPD ¶ 473.

Officer on the evaluation board since he was most familiar with the protester's program. We disagree.

The composition of a source evaluation board is within the discretion of the contracting agency, and we will not object to the constitution of any evaluation panel absent a showing of fraud, bad faith, conflict of interest, or actual bias. Delta Ventures, B-238655, June 25, 1990, 90-1 CPD ¶ 588. Here, the record shows that the agency excluded the Safety Officer from the evaluation board to avoid a potential conflict of interest or a biased evaluation. Specifically, the Fort Polk Safety Officer had extensive personal contact with the protester previously and had repeatedly expressed interest in the protester's services. The record shows that the agency decided to exclude this individual from the evaluation panel to ensure impartiality. We find this action to be reasonable.

The protester also argues that the evaluation board did not evaluate its proposal thoroughly. It states that it has superior qualifications and a proven successful program which would have been evident to the evaluation board had it checked Visucom's credentials.

We will examine an agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. See New Dimensions in Exercise, Inc., B-238617, B-238618, June 14, 1990, 69 Comp. Gen. ____, 90-1 CPD ¶ 561. Here, we find that the evaluation of Visucom's qualifications and performance history had no impact on the award decision. The record shows that even if Visucom deserved a perfect score for the evaluation factors concerning personnel qualifications and historical data of program, Visucom's technical score would increase by only 60 points, for a total of 890. The protester does not now allege, nor is there evidence in the record to suggest, that Ecosafe's score of 910 is not justified. Since Ecosafe offered a technically higher-rated system at a significantly lower price than did the protester, we find the award to Ecosafe to be proper.

The protest is denied.

for 
James F. Hinchman
General Counsel