



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: U.S. Defense Systems, Inc.

File: B-245563

Date: January 17, 1992

Thomas D. Boyatt for the protester.
Kathleen D. Martin, Esq., Department of State, for the agency.
Christine F. Bednarz, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's evaluation of best and final offers and subsequent award decision cannot be found reasonable where the record includes only technical point scores unaccompanied by any contemporaneous evaluation documentation or other explanation that would support the scores awarded to the protester and the awardee or the basis for the award.

DECISION

U.S. Defense Systems, Inc. (USDS) protests the Department of State's selection of Group 4 Securitas (Cyprus) Ltd. for award of a contract for security guard services to protect the United States Embassy in Nicosia, Cyprus. USDS alleges that the technical evaluation of its own and the Group 4 proposal were undocumented and unreasonable.

We sustain the protest.

The agency issued the request for proposals (RFP) on May 15, 1991, which contemplated the award of a firm, fixed-price contract for a base year and 2 option years, based upon estimated levels of effort for standard and emergency services. The RFP provided that award would be made to the offeror whose proposal afforded the best value to the government, as determined by the sum of total scores awarded the technical and price factors. The technical evaluation was worth 60 points and the price evaluation, 40 points.

Bednarz

1/15/92

The technical evaluation scheme stated factors and subfactors, listed in descending order of importance, as follows:

- (1) technical approach
 - (a) management plan
 - (b) knowledge and familiarity
- (2) technical personnel
 - (a) key personnel
 - (b) other personnel
- (3) experience and past performance

To derive the price score, the RFP provided that the lowest priced proposal would receive the maximum 40 points and the remaining proposals would receive a relative percentage of 40 points based upon the following formula:

$$\text{Price score} = \frac{\text{Lowest offeror's price}}{\text{Offeror's price}} \times [40]$$

Eight offerors submitted proposals. Following the agency's initial evaluation, three proposals, including USDS' and Group 4's, remained within the competitive range. The agency did not conduct discussions with any of the three offerors, but requested the submission of best and final offers (BAFO) by August 30, 1991, to which each firm responded. The scores received by USDS and Group 4 were:

<u>Offeror</u>	<u>Technical</u>	<u>Price Score</u>	<u>Total Score</u>
Group 4	56	40	96
USDS	52	29.75	81.75

The contracting officer selected Group 4 for award because it had the highest combined technical/price score and awarded it the contract on September 4, 1991. On September 9, 1991, USDS protested the evaluation.¹

According to USDS, the agency unreasonably found Group 4's proposal technically superior to its own when a reasonable evaluation would have shown that USDS' proposal was significantly technically superior to Group 4's proposal in all RFP evaluation areas so as to offset Group 4's price advantage. The protester also asserts that the record contains no evidence of the agency's reasoning supporting the evaluation process.

¹Pursuant to the Competition in Contracting Act of 1984, 31 U.S.C. § 3553(c)(2) (1988), the agency has proceeded with contract performance based upon a written determination that unusual and compelling circumstances will not permit waiting for our decision.

The agency responds that it reasonably determined that Group 4 offered the technically superior proposal and that award to this firm proceeded from a proper application of the stated evaluation criteria. In support of its claim, the agency has submitted each firm's final evaluation results, which consist of the numerical point scores earned by USDS and Group 4 in the various technical categories, and an affidavit of the contracting officer.

In reviewing protests against allegedly improper evaluations, our Office will examine the record to determine whether the agency's determination was reasonable and consistent with the evaluation criteria listed in the solicitation, Hattal & Assocs., 70 Comp. Gen. 632 (1991), 91-2 CPD ¶ 90; American President Lines, Ltd., B-236834.3, July 20, 1990, 90-2 CPD ¶ 53. Implicit in the foregoing is that the agency must document these judgments in sufficient detail to show that they are not arbitrary. American President Lines, Ltd., supra.

Federal Acquisition Regulation (FAR) § 15.608 requires documentation to support the evaluation of proposals, including the basis for evaluation and an analysis of the technically acceptable and unacceptable proposals, an assessment of each offeror's ability to accomplish the technical requirement, and a summary of findings. FAR § 15.612(d)(2) requires supporting documentation for the source selection decision, stating the basis and reasons for the decision and showing the relative differences among proposals and their strengths, weaknesses, and risks in terms of the evaluation criteria. Numerical point scores, while useful as guides to decision-making, do not of themselves supply the basis and reason for the award decision. S&M Prop. Mgmt., B-243051, June 28, 1991, 91-1 CPD ¶ 615. Where there is inadequate supporting documentation for an award decision, we cannot conclude that the agency had a reasonable basis for the decision. Hattal & Assocs., supra.

Here, the Department of State has provided only the final technical scores received by USDS and Group 4, unaccompanied by any contemporaneous evaluation documentation or narratives that would support these scores. The agency, in response to inquiries from our Office, has confirmed that no other documentation exists. Thus, the record does not indicate that the agency did anything other than arbitrarily award the scores without regard to the comparative merit of

the competing technical proposals.² Under the circumstances, the agency has not satisfied its obligation to document the evaluation and award selection decision adequately. See S&M Prop. Mgmt., supra; Universal Shipping Co., B-223905.2, Apr. 20, 1987, 87-1 CPD ¶ 424.

While we have at times accepted explanations in agency reports justifying a source selection in the absence of adequate, contemporaneous evaluation documentation, these later explanations must provide sufficient detail by which the rationality of the agency's evaluation decision can be judged.³ Hydraudyne Sys. and Eng'g B.V., B-241236; B-241236.2, Jan. 30, 1991, 91-1 CPD ¶ 88. In this case, the agency report fails to address with any specificity the reasons underlying its evaluation of Group 4's or USDS' proposals. Instead, the agency has defended its position in generalities and conclusory statements, which provide no basis to determine the reasonableness of the evaluation.

The agency has submitted an affidavit of the contracting officer, which supplies the following rationale for the evaluation:

"Group 4 Securitas is extremely experienced in the security industry, both in Cyprus and throughout the world. The [evaluation] panel checked references given by all three bidders and carefully studied all their proposals. Group 4 Securitas is an internationally known and respected Company whose personnel are experienced and professional."

This explanation is insufficient to support the award selection. In fact, the affidavit does not address the evaluation panel's application of the evaluation criteria, but rather relates the panel's satisfaction with Group 4's experience in the security industry following an investigation of references. Such a review does not constitute an evaluation of proposals in accordance with RFP evaluation criteria.

²Also, the score sheets designate the second highest rated factor, which should be "technical personnel" under the RFP, as "technical proposal." There is no indication whether the agency evaluated the technical proposal or the technical personnel in awarding the points for this subfactor.

³However, we accord greater weight to contemporaneous source selection materials rather than documents prepared in response to protest contentions. Dyncorp, B-245289; B-245289.2, Dec. 23, 1991, 71 Comp. Gen. ____, 91-2 CPD ¶ 575.

Because the record contains no adequate support for the agency's source selection decision, either in contemporaneous evaluation documentation or later report explanations, we cannot determine that the evaluation and award selection were reasonable and consistent with the stated criteria. Neither does our review of the proposals themselves disclose the basis for the source selection decision. See Hattal & Assocs., supra; S&M Prop. Mgmt., supra. Consequently, we sustain the protest on this basis.

USDS also correctly contends that the agency deprived its proposal of an evaluation preference for United States offerors as required by 22 U.S.C.A. § 4864 (West Supp. 1991). U.S. Def. Sys., Inc., B-244653.2, Dec. 23, 1991, 91-2 CPD ¶ ____. Here, the Department of State could not have accorded such a preference, as the RFP did not inform offerors that the preference would apply. U.S. Def. Sys., Inc., B-245006.2, Dec. 13, 1991, 91-2 CPD ¶ ____. We decline to sustain USDS' protest on the basis that the solicitation should have included such a domestic offeror preference, since USDS untimely protested this issue after the time set for receipt of initial proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1991); U.S. Def. Sys., Inc., B-245006.2, supra. If, in complying with the recommendation discussed below, the agency decides to request new BAFOs, it should incorporate a domestic offeror preference in the evaluation scheme and notify the offerors of this change.

We recommend that the Department of State reevaluate the BAFOs submitted consistent with the technical evaluation factors listed in the RFP⁴ and, if appropriate, reopen discussions and request an additional round of BAFOs. The agency should properly document its evaluations and award selection decision with contemporaneous narrative explanations for the scores awarded the offerors and the basis for the award selection. If the agency no longer considers Group 4's proposal to represent the best value to the government under the RFP, it should terminate Group 4's contract for the convenience of the government and award the

⁴We note that the agency did not point score the technical proposals as described in the evaluation criteria. The technical personnel factor and the experience and past performance factor were weighted the same in the actual scoring, instead of giving more points to the personnel factor.

contract to that firm whose proposal does represent the best value. USDS is also entitled to recover its costs of filing and pursuing this protest. The firm should submit its claim for such costs directly to the agency. 4 C.F.R. § 21.6(d)(1) (1991).



Acting Comptroller General
of the United States