



Comptroller General  
of the United States  
Washington, D.C. 20548

# Decision

**Matter of:** Checkpoint Systems, Inc.  
**File:** B-245834  
**Date:** February 3, 1992

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Douglas R. Duberstein, Esq., Hogan & Hartson, for the protester.  
Robert A. Lincoln, Esq., The Library of Congress, for the agency.  
Mary G. Curcio, Esq., and Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Agency did not improperly eliminate the protester's library security equipment from consideration on the basis of a pass/fail test where the agency found three major deficiencies in the protester's equipment in addition to the protester's failure to pass a required adhesive test.

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## DECISION

Checkpoint Systems, Inc. protests the rejection of the proposal it submitted in response to request for proposals (RFP) No. 91-17, issued by The Library of Congress for a theft detection system.

We deny the protest.

The solicitation was issued on March 29, 1991, to procure a theft detection system to protect the Library's extensive and unique research collection. The system was to be comprised of a target that would be placed in the items to be protected with a target adhesive, a target detection device, and a system of exit aisles for each entry/exit. Under the RFP, the Library intends to procure protection for 150,000 volumes of books as the first step in protecting its 10 million volume book collection. In future years, the Library plans to expand the system procured to protect its 98 million item research collection.

The RFP provided that the contract would be awarded to the firm whose proposal represented the best value to the government and not necessarily the lowest price. In addition, the RFP provided that technical proposals would be

worth more than the cost proposals. The RFP reserved to the Library the right to reject any and all proposals received based on "responsiveness" to the RFP and thoroughness and feasibility of the technical approach taken. The RFP listed the following evaluation factors: (1) the contractor's understanding of the Library's requirements and the adaptability of the product to the Library's needs; (2) reliability of the product and methodology; (3) research and development capability/flexibility of the system; (4) organizational experience; and (5) cost. The RFP indicated that factor No. 1 was more important than factor Nos. 2, 3, and 4 which were equal in importance. Evaluation subfactors also were listed.

The RFP provided detailed specifications for the targets concerning concealability, deactivation, resistance to compromise, and the target adhesive used to install the targets. The RFP also contained specifications concerning the design and width of the exit aisles which would also be tested. The RFP advised offerors that the target adhesive would be tested for 30 days at 90 degrees centigrade and 50 percent relative humidity to ensure that the adhesives did not fall off or become brittle and that failure to meet the testing requirement would be a cause for elimination of the proposal from further consideration.

The Library received four proposals by the April 29 closing date for the receipt of proposals. The Library evaluated these proposals and held discussions with all four offerors between May 16 and May 22. On May 22, the Library asked offerors to submit best and final offers (BAFO) by June 3. Between May 6 and June 5, the Library conducted the 30 day adhesive test by affixing two targets from each offeror to binding board and two targets to filter paper and placing the targets in an oven set at 90 degrees centigrade and 50 percent relative humidity.

By letter of August 7, 1991, the Library informed Checkpoint that its proposal was unacceptable and would no longer be considered because: (1) Checkpoint's proposed targets were large, making concealability a problem; (2) the activation/deactivation method used by Checkpoint's proposed radio signal system was significantly more labor intensive than the method required by systems using electromagnetic strip technology; (3) Checkpoint's proposed targets could be easily compromised through the use of aluminum foil and gum wrappers; and (4) Checkpoint's target adhesive failed the Library's adhesive test.

Checkpoint initially protested the Library's decision to eliminate the firm's proposal from consideration to the Library. After the Library denied the protest, Checkpoint filed this protest with our Office.

Checkpoint first protests that the Library did not have authority under the RFP to eliminate the firm's proposal from consideration for award. More specifically, Checkpoint argues that, with the exception of the testing requirement, the RFP did not establish mandatory requirements that an offeror had to meet to be acceptable. Checkpoint therefore reasons that while the agency could take deficiencies it found in the firm's proposal into consideration in the score it gave the proposal, it could not outright reject the proposal.

RFP section M.1.2 specifically reserved to the Library the right to reject any proposal received as well as the right to determine a competitive range<sup>1</sup> for negotiation based upon the technical and cost acceptability of proposals. Section M.1.3 indicated that the contracting officer would determine the proposals with which further discussions may be conducted. In addition, section M.2 stated that the evaluation criteria would be used by the technical evaluation panel to arrive at a score and to determine whether or not a proposal was technically acceptable. These sections clearly notified offerors that the Library would evaluate proposals and eliminate from consideration those which were considered technically unacceptable or those with no reasonable chance of receiving the award.

Checkpoint next protests that the Library improperly considered the results of the adhesive test on a pass/fail basis. In this regard, Checkpoint asserts that once the Library learned that Checkpoint failed the adhesive test, the Library was required to inform the firm and give it an opportunity to repeat the test. Checkpoint also challenges the Library's evaluation of the firm's proposal as unreasonable.

We disagree that the agency improperly conducted the adhesive test on a pass/fail basis. While we have criticized the strict application of pass/fail test criteria that lead to the automatic and final exclusion of a potentially acceptable proposal, these cases generally involve situations where the offeror has been unable to demonstrate compliance with only one of a number of mandatory requirements and is eliminated from the competition solely for that reason. Aydin Corp., B-224354, Sept. 8, 1986, 86-2 CPD ¶ 274. Here, in addition to the firm's failure to pass

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<sup>1</sup>The competitive range is comprised of those offerors that have a reasonable chance of receiving the contract award. While Checkpoint initially was determined to be in the competitive range, based on its responses to the BAFO, Checkpoint was, in effect, eliminated from the competitive range.

the adhesive test, the technical evaluation committee identified three deficiencies in the Checkpoint proposal and determined that those deficiencies rendered the proposal technically unacceptable. Under these circumstances, the Library did not improperly reject the protester's proposal based solely on a pass/fail test. See Id.

Concerning the Library's evaluation of Checkpoint's proposal, in reviewing an agency's assessment of the technical acceptability of a proposal, we will examine the agency's evaluation to ensure that it had a reasonable basis. Aydin Corp., supra.

Regarding concealability, the RFP required that "the system [uses] targets which are inconspicuous," and that "targets . . . be . . . designed to provide the ability to conceal the target, and do not interfere with the use of the Library materials." In addition, the solicitation informed offerors that under evaluation factor No. 1, contractor's understanding of the Library's requirements and the adaptability of the product to the Library of Congress's needs, the agency would consider the physical manifestations of the target, and the ability to conceal the target in items in a variety of formats.

The Library explains that there is inadequate surveillance in most areas of the Library and patrons may therefore remove the books to hidden areas and search for targets. Target concealability is of paramount importance to the Library so that ready identification of targets is as difficult as possible. After the initial evaluation of proposals, the evaluation committee found that Checkpoint's proposed targets were too large to conceal effectively in materials. During discussions, the agency pointed out to Checkpoint that its target was large and could not be concealed in the spine of a variety of materials in the Library. The record shows Checkpoint responded that it did not matter where the tags were placed because if people wanted to steal material from the Library, they would do so at any cost. In addition, in its BAFO, Checkpoint offered smaller targets but noted that these smaller targets would not meet the aisle requirement of the RFP. As a result, the Library did not change its conclusion that Checkpoint's targets were too large and therefore unacceptable.

Checkpoint argues that its targets are concealable and that to further enhance their unobtrusiveness, it proposed that the plates bear a legend indicating that each book was the property of the Library. Checkpoint further asserts that the Library admits that the targets are inconspicuous in that in evaluating the firm's proposal for target deactivation, it found that the proposal was deficient because the proposed method requires knowing the location of the target.

Checkpoint argues that because its target has activation/deactivation capability, it complies with the solicitation. Checkpoint asserts that in any case, the Library informed offerors that this capability would not be important because the systems would operate in a bypass configuration. (The books are passed around the detection system rather than the targets in the books being deactivated.)

We agree with Checkpoint that its system has deactivation capability. However, in evaluating proposals the Library reasonably could consider the ease with which targets could be deactivated and that Checkpoint's deactivation method is more labor intensive and difficult to use than the method proposed by two other offerors whereby a device is simply passed over the object to be deactivated.

Finally, the Library found that the targets used by Checkpoint easily could be compromised. The RFP required that "[t]he system will alarm even if the tagged book is enclosed in a metal or leather briefcase, any type of handbag, any type of backpack, or when an attempt is made to compromise the tag by common shielding techniques (body shielding) or materials commonly available." The RFP also specifically noted that the offers would be evaluated to assess the difficulty in masking targets or reduced reliability from objects such as briefcases, and gum wrappers. The Library explains that because patrons are permitted to bring overcoats, briefcases, and other things into the Library, and because they use the books with minimum, if any, surveillance, the system procured must be as difficult as possible to subvert.

Checkpoint acknowledges that its system can be compromised through the use of foil but argues that other systems also may be compromised. This, however, does not demonstrate that the Library's evaluation of its proposal was unreasonable given that Checkpoint's system easily can be compromised with foil.

Since the Library reasonably evaluated Checkpoint's proposal and found three major deficiencies in addition to Checkpoint's failure to pass the adhesive test, we find the Library properly eliminated Checkpoint's proposal from consideration for award.

The protest is denied.

  
James F. Hinchman  
General Counsel