



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

Decision

Matter of: Professional Safety Consultants Co., Inc.--
Reconsideration

File: B-247331.2

Date: September 28, 1992

Ernest B. Jorgensen, Jr., for the protester,
Kathy M. Sachen-Gute, Esq., Department of the Treasury, for
the agency.
Barbara C. Coles, Esq., and Christine S. Melody, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Bid Protest Regulations require party requesting reconsideration of prior decision to show that decision contains errors of fact or law or to present information not previously considered that warrants reversal or modification of decision; repetition of arguments made during consideration of the original protest and mere disagreement with decision do not meet this standard

DECISION

Professional Safety Consultants Co., Inc. requests reconsideration of our decision in Professional Safety Consultants Co., Inc., B-247331, Apr. 29, 1992, 92-1 CPD ¶ 404. In that decision, we denied Professional's protest challenging the award of a contract based on initial proposals to Wackenhut Corporation under request for proposals (RFP) No. BEP-91-65 (TN), issued by the Bureau of Engraving and Printing (BEP), Department of the Treasury, for safety and health services for BEP employees during the second and third shifts.

We deny the request for reconsideration.

In our decision, we held that the agency reasonably evaluated the protester's and the awardee's proposals in accordance with the solicitation's evaluation criteria. We also found--contrary to the protester's suggestion--that the agency's request that Wackenhut verify its price after the closing date did not constitute discussions. Further, we concluded that there was nothing in the record to suggest that the awardee's post-award substitution of proposed personnel was predicated on the awardee's alleged attempt to

use "bait-and-switch" practices, but, rather, resulted from the unforeseen illness of one employee and the resignation of another employee that occurred after Wackenhut submitted its proposal.

In its request for reconsideration, Professional expresses disagreement with our decision and argues that we erred in finding that the award was proper. In this regard, the protester argues that the technical evaluation process was flawed and was conducted by a single government employee who may have been biased. While the protester does not seem to disagree with our conclusion that the agency's verification of the awardee's price did not constitute discussions, the protester does argue that the agency's verification of the awardee's business and contract references did constitute discussions. Finally, the protester contends that our decision contained a factual error to the extent that we stated that award to Wackenhut based on initial proposals was proper since it will result in the lowest overall cost to the government.

Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our decision contains either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1992). Repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

Here, Professional essentially reiterates its dissatisfaction with the agency's evaluation and resulting award decision; however, Professional's reconsideration request--like its original protest--lacks any evidence that the evaluation was unreasonable or based on a pattern of discrimination against Professional. In this regard, the protester generally argues as it did in its original protest that the evaluation may have been biased; however, the protester again relies on mere speculation to support its allegation rather than offering any evidence to prove that the evaluation was conducted in bad faith. As a result, Professional's continued unsupported allegation of bias does not warrant reversal or modification of our decision.

Professional's request for reconsideration--like its original protest--challenges the agency's evaluation and our conclusion that the agency properly awarded the awardee more points than the protester in the personnel qualification area. The protester maintains that we incorrectly found that the fact that the protester's personnel have more advanced degrees than the awardee's personnel does not, by itself, demonstrate that the protester's personnel are

superior, especially since the advanced degrees are in fields unrelated to safety, and the awardee's key personnel have degrees that are directly related to the services called for under the contract. Professional's mere disagreement with our assessment does not provide a basis for us to reconsider whether the evaluation was reasonable. Id.

To the extent that the protester argues that our decision was erroneous because we failed to address certain allegations raised in its initial protest, the protester again has failed to meet the standard warranting reversal or modification of our decision. In this regard, the protester argues that we failed to consider its allegation of improper conduct on the part of the contracting agency. To support its claim, the protester maintains that the awardee submitted documents to the contracting officer well after the closing date for receipt of proposals and that the contracting officer improperly accepted these late submissions; the protester refers to Standard Form (SF) 1411, "Contract Pricing Proposal Cover Sheet," and SF 33, "Solicitation, Offer and Award." Although the record contains copies of these forms which are dated approximately 2 months after the closing date, the record does not establish that the agency either requested these forms after the closing date or that the agency's determination to award to Wackenhut was influenced in any way by the submission of these forms. Absent such evidence, the mere fact that the protester submitted the forms after the closing date does not demonstrate any impropriety on the part of the contracting agency.¹

Similarly, the record does not support the protester's assertion that our decision is erroneous because we failed to address the protester's allegation that the contracting specialist improperly conducted discussions only with the awardee when he verified the awardee's business and contract references. The record shows that the contract specialist contacted three firms during his investigation of the awardee's responsibility. Because two of the individuals he spoke with are not listed specifically in the awardee's proposal, the protester assumes that the contract specialist received these names by contacting the awardee after the

¹Although it is not clear why these documents were submitted after the closing date, it is clear that Wackenhut had submitted a timely offer--the record contains an abstract of offers, signed and dated by the contracting officer on the closing date, that includes an entry for Wackenhut and its price. This price and the award price are the same.

submission of its proposal,² The protester's reliance on the verification of the awardee's business references is misplaced because, contrary to the protester's suggestion, even if--for the sake of argument--the contract specialist went outside the awardee's proposal in conducting this verification,³ contacts to assess responsibility do not constitute discussions that require that discussions be held with all offerors. Action Serv. Corp., B-246413; B-246413.2, Mar. 9, 1992, 92-1 CPD ¶ 267.

Professional also argues that we erred in applying the rule that we will not review an affirmative determination of responsibility by the contracting officer absent a showing of fraud or bad faith on the part of procuring officials or that definitive responsibility criteria in the solicitation were not met. Professional suggests that we should review its allegation that the responsibility determination was made as a result of "lethargic or incompetent" behavior on the part of the contracting officials. Professional's mere disagreement with our application of a long-standing rule does not provide a basis for us to modify or reverse our decision.

Professional also argues that our decision was based on the factual error that an award to the protester would result in the lowest cost to the government; however, the protester has failed to provide any evidence to support its blanket statement. As a result, we will not reconsider this issue.

²While we did not address this allegation in our decision, we did consider it in connection with the protester's other allegation of improper discussions. Since the crux of Professional's protest challenged the agency's verification of the awardee's proposed offer after the submission of its proposal, our decision focused on whether that verification constituted discussions. In its request for reconsideration, the protester does not discuss our finding with regard to the price verification.

³The awardee's proposal included a list of references of firms and particular individuals to contact in one section and also included a separate list of its clients in another section. The contract specialist contacted two individuals from the second list at locations at which the awardee has provided security services, namely, the Grand Gulf Nuclear Station and the Pilgrim Nuclear Power Station. Consequently, it does not appear--contrary to the protester's suggestion--that the contract specialist went outside the scope of the documents that the awardee provided in order to further assess the awardee's responsibility.

Finally, the protester argues that we erred in finding that the agency's allocation of 60 percent and 40 percent in its overall evaluation of technical quality and price respectively was proper in light of the fact that the RFP specifically stated that the agency would consider price secondary to technical quality in making its selection decision. The protester maintains that this allocation "allowed for an arbitrary ranking of the [offerors]" because it was not published in the solicitation. Again, the protester has ignored the specific language in our decision. As stated above, we found the allocation proper because the solicitation provided that price would be secondary. To the extent that the protester is now arguing that the agency was required to specifically advise the prospective offerors of the exact percentage that would be allocated to technical quality and price, the protester should have raised the absence of the precise allocation prior to the closing date for receipt of proposals. See 4 C.F.R. § 21.2(a)(1). In any event, we again fail to fully comprehend the significance the protester continues to attach to the allocation of points here since the awardee received more points than the protester in both the technical quality area and the price area.

The request for reconsideration is denied.



for James F. Hinchman
General Counsel