



Comptroller General
of the United States

10242510

Washington, D.C. 20548

Decision

Matter of: Integrity Private Security Services, Inc.

File: B-254513

Date: October 25, 1993

R.O. Rivera for the protester.

Karin K. Fangman, Esq., General Accounting Office, for the agency.

Aldo A. Benejam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Technical evaluation panel (TEP) reasonably downgraded protester's proposal in the area of key personnel under request for proposals (RFP) for security guard services where the RFP required that contractor's employees not work more than 12 hours within a 24-hour period; the resumes of protester's proposed shift supervisors indicated that all held more than one job; and protester's response to discussion question specifically addressing that area did not alleviate the TEP's concerns that proposed supervisors could exceed the RFP's 12-hour duty provision, potentially leading to poor performance.

2. Award to a higher-priced, higher-rated offeror is unobjectionable under request for proposals for security guard services that stated that technical areas were more important than price, where agency reasonably found higher-priced proposal to be technically superior compared with the protester's lower-priced, lower-scored proposal and reasonably concluded that the protester's price advantage was outweighed by the risk of performance problems associated with the protester's proposal.

DECISION

Integrity Private Security Services, Inc. (IPSSI) protests the award of a contract to Wackenhut Security Systems and Services under request for proposals (RFP) No. OAM-93-N-0030, issued by the General Accounting Office (GAO) for building security and fire safety services. The protester contends that GAO improperly evaluated its proposal.

We deny the protest.

BACKGROUND

The RFP, issued on March 15, 1993, contemplated the award of a firm, fixed-price contract for a base year with up to four 1-year options. The RFP required the successful offeror to provide all management, supervision, personnel, equipment, and supplies to provide the guard and security services described in the statement of work (SOW). Offerors were required to submit separate technical and price proposals. Section M of the RFP listed the following technical evaluation criteria and the points each would be worth in the evaluation: technical ability (30 points); key technical personnel (30 points); and firm experience, capability and past performance (40 points), for a total of 100 possible points. The RFP stated that the technical areas were more important than price, and that award was to be made to the responsible offeror whose offer was most advantageous to the government.

Eight firms responded to the RFP by the time set for receipt of initial proposals. A five-member technical evaluation panel (TEP) rated technical proposals by assigning numerical scores under each evaluation factor announced in the RFP; the TEP then computed a total average score for each proposal. Price was not numerically scored. As a result of that initial evaluation, the GAO eliminated two proposals as unacceptable, retaining six proposals, including the protester's and the awardee's, within the competitive range. The agency then held written discussions and requested best and final offers (BAFO) from all six firms remaining in the competition. The TEP rescored technical proposals based on BAFOs, with the following final results:

<u>Offeror</u>	<u>Tech. Ability</u>	<u>Key Pers.</u>	<u>Past Perf.</u>	<u>Total Score</u>	<u>Total Price</u>
A	28.8	28.8	40.0	97.6	\$7,875,585
Wackenhut	29.0	28.2	40.0	97.2	7,282,713
B	29.8	28.6	38.8	97.2	8,382,440
IPSSI	28.4	26.4	39.4	94.2	7,182,209
C	28.0	27.6	28.0	83.6	7,144,343
D	26.6	20.6	34.6	82.8	7,099,104

Based on IPSSI's and Wackenhut's final technical scores and prices offered, the contract specialist concluded that award would likely be to one of those two firms. Before making her award recommendation, however, the contract specialist asked the TEP chairman what significance, if any, the TEP gave to the difference in technical scores between IPSSI and Wackenhut. The TEP chairman responded that while the TEP considered those two offerors essentially equal in the technical ability and past performance areas, they differed in the key personnel area. Specifically, the TEP chairman stated that the protester had failed to adequately address the TEP's concern over the possibility that IPSSI's proposed shift supervisors would violate a solicitation provision

limiting the maximum number of hours an employee is permitted to work to 12 hours during a 24-hour period. The TEP believed that IPSSI's approach could lead to tired security officers or increased absenteeism, possibly causing poor contract performance. Based on the TEP chairman's response and the results of the final evaluation, the contract specialist concluded that IPSSI's lower price did not outweigh this concern. On August 12, GAO awarded the contract to Wackenhut. This protest to our Office followed.

The protester contends that the agency failed to properly evaluate its proposal under the key personnel criterion. IPSSI asserts that since a shift supervisor would typically work an 8-hour shift under the contract, it is conceivable that a supervisor could also hold another part-time job without exceeding the RFP's 12-hour duty limit. The protester states that its policy precludes employees from working for another security firm; that it requires its employees to be alert and rested on duty; and that it is the firm's policy to dismiss any employee whose performance is deficient due to lack of rest. IPSSI argues that since the individuals it proposed as supervisors are currently working for another contractor which apparently permits its employees to work for other security firms, the TEP unreasonably penalized IPSSI for another employer's unacceptable practices.

DISCUSSION

In considering protests against an agency's evaluation of proposals, we will examine the record to determine whether the agency's judgment was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450. A protester's disagreement with the agency's judgment, without more, does not show the agency's judgment was unreasonable. Id. Here, we have examined the record, including the individual evaluators' scoring sheets, and conclude that the evaluation of IPSSI's proposal was reasonable.

Section II.D of the SOW required offerors to provide experienced supervisors for each of three 8-hour shifts on a 24-hour basis. The RFP described various tasks assigned to the shift supervisor, and stated that the supervisor would coordinate and direct the functions of all security officers under the contract. The solicitation required offerors to provide with their proposals a detailed resume for all proposed supervisors covering the last 5 years of employment.

In its proposal, the protester included the resumes of three individuals IPSSI proposed as shift supervisors.

The resumes indicate that all three individuals currently work for the incumbent GAO security contractor as supervisors. The resumes of two proposed supervisors indicated that both concurrently held another position (one as a guard, the other as a sergeant) with a different security firm. The resume of the third individual indicated that he concurrently held a second position as a supervisor with a different security firm, and a third position described as a "senior security analyst" with the Office of Naval Intelligence.

The evaluation documents show that the TEP was concerned that by holding more than one job, the proposed shift supervisors might exceed the RFP's 12-hour duty limit. In view of those concerns, the agency included the following as item No. 7 in the discussion questions submitted to IPSSI:

"Are some of the proposed supervisors working two jobs? If so, how will you assure GAO that they will not work more than 12 hours a day without a 12-hour break? Please clarify."

In its response, IPSSI stated that all proposed supervisors would work only in a supervisory capacity (i.e., no guard duty); that except for emergency situations, all employees allocated to perform the GAO contract would work primarily on that contract; that if an emergency arose, IPSSI would ensure that no guard would work more than 12 hours without a 12-hour break; and that effective scheduling would allow the program manager to determine at any time the number of hours each employee had worked, precluding guards from working more hours than allowed under the contract. The protester also stated that under its standard operating procedures, no IPSSI employee is allowed to work for another security firm.

The TEP reevaluated IPSSI's proposal based on its responses to the discussion questions, including its response to item No. 7. The record shows that IPSSI's response did not overcome the TEP's concern that its supervisors might work more than 12 hours within a 24-hour period. Specifically, the evaluators' notes show concern that an IPSSI supervisor, while not permitted to work for another security firm, could nevertheless hold other non-security related job(s), and thus exceed the 12-hour duty limitation. The TEP chairman believed that there was a risk of poor performance under IPSSI's proposal due to tired or overworked supervisors, and that IPSSI's lower price did not overcome such risk.

We think the agency's concerns are reasonable. Next to the program manager, the shift supervisors, identified as "key personnel" under the RFP, are clearly the single most important positions with the greatest degree of

responsibility under the RFP. For instance, exhibit No. 3 to the SOW listed various duties and responsibilities for supervisors, including obtaining all necessary equipment and ensuring its proper working condition; conducting personnel orientations and briefing all security employees on their assigned duties; verifying post orders and ensuring they are properly carried out; responding to police and medical emergencies; covering all sensitive building areas such as the Comptroller General's offices; and supervising the safe loading and unloading of weapons, and ensuring that firearms are handled safely and properly maintained. Under the terms of the RFP, the supervisor must have the authority to act on behalf of the contractor, a further indication of the significance and importance accorded that position.

Our review of IPSSI's response to item No. 7 shows that the protester, while addressing the TEP's concerns regarding its guards in general, did not specifically address the TEP's main concern--whether supervisors would be permitted to work more than 12 hours within a 24-period. While IPSSI stated that its policy precluded its employees from holding simultaneous positions with another security firm, IPSSI's response did not alleviate the TEP's concern that a supervisor could exceed the 12-hour duty limitation imposed by the RFP by working for other than a security firm. Given the significant responsibilities assigned an individual in that capacity, we think that the TEP's concern with not having rested and alert shift supervisors from IPSSI because of the possibility that IPSSI's supervisors would exceed the RFP's duty hours limitations was reasonable. Accordingly, we have no basis to object to the downgrading of the protester's proposal in the key personnel area.

The protester suggests that it understood discussion item No. 7 to refer to the proposed employees' then current job status. IPSSI contends that since the resumes it submitted were of proposed employees (who then held more than one position), not current IPSSI employees (who are presumably not permitted to work for another security firm), it was unreasonable for the agency to assume that those individuals would continue to hold more than one job if IPSSI were awarded the contract. The protester also claims that it responded to item No. 7 assuming that GAO was concerned that IPSSI's supervisors would be performing dual functions under the contract (i.e., supervisors and guards).

We do not see how item No. 7 could have misled the protester or failed to adequately articulate the TEP's concern with respect to proposed supervisors. Based on that item alone, IPSSI should have concluded that the agency was specifically concerned that its proposed supervisors were then committed to working more than one job ("Are some of the proposed supervisors working two jobs?"); at a minimum, it was clear

that GAO was concerned that those individuals would continue to hold outside positions if IPSSI were awarded the contract ("how will you assure GAO that they will not work more than 12 hours a day . . . ?") and, thus, exceed the RFP's duty hours limits clause. Contrary to the protester's contention, nothing about that discussion item suggests that GAO was concerned that supervisors would be performing dual functions as guards and supervisors under the contract, an approach clearly prohibited by the RFP.

In sum, discussion question No. 7 reasonably pointed out the specific weakness identified by the TEP during the initial evaluation of IPSSI's proposal. See TM Sys., Inc., B-228220, Dec. 10, 1987, 87-2 CPD ¶ 573 (agencies are not required to afford offerors all-encompassing discussions; they need only lead offerors generally into the areas of their proposals that require amplification). If, as IPSSI argues, it misunderstood the discussion question, it was not due to poor draftsmanship on the part of the agency; the discussion question was clear. IPSSI's response simply failed to adequately address the TEP's concern that its proposed supervisors might be committed to working more than one job, reasonably leaving some doubt in the evaluators' minds that IPSSI's proposed supervisors would not comply with the RFP's 12-hour limitation clause.

IPSSI also contends that the 3-point difference between its and the awardee's final technical scores does not justify award at Wackenhut's higher price.² There is no merit to this contention. When technical proposals are point-scored, the closeness of the scores does not necessarily indicate that the proposals are essentially equal. See Training and Mgmt. Resources, Inc., B-220965, Mar. 12, 1986, 86-1 CPD ¶ 244; Moorman's Travel Serv., Inc. - Recon., B-219728.2, Dec. 10, 1985, 85-2 CPD ¶ 643 (proposals were not considered equal despite difference of only .5 points on a 100-point scale). In other words, we do not rely on a mechanistic view of the numbers themselves. See JJH, Inc., B-247535.2, Sept. 17, 1992, 92-2 CPD ¶ 185.

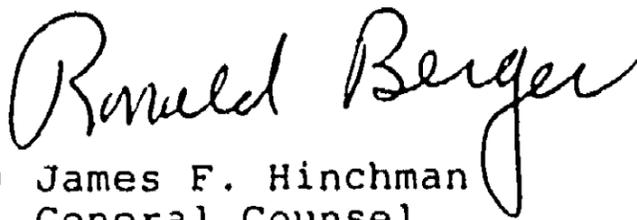
¹IPSSI also argues that neither it nor the government can control the amount of rest an employee has while not on duty, implying that the RFP's duty hours limitation is unrealistic or unenforceable. These objections concern alleged deficiencies apparent on the face of the RFP, and thus, should have been raised prior to the time set for receipt of initial proposals. See 4 C.F.R. § 21.2(a)(1) (1993).

²Wackenhut's price was approximately \$100,000 higher than IPSSI's over the entire 5-year term (base year and 4 option years) of the contract.

Rather, point scores are only guides to intelligent decision-making by source selection officials. What matters is the actual significance of the scores, that is, the actual differences between the proposals. The significance of the difference in the technical merit of proposals is essentially a matter for the judgment of the agency evaluators to which we will object only if there is no reasonable basis for it. See Systran Corp., B-228562; B-228562.2, Feb. 29, 1988, 88-1 CPD ¶ 206.

The TEP here reasonably concluded that the protester's proposed supervisors could exceed the RFP's duty hour limitation provision. The TEP considered that a significant difference between the awardee's and IPSSI's proposal, and the agency concluded that this difference was not outweighed by the lower cost associated with the protester's proposal. This is the type of cost/technical tradeoff agencies are expected to make, and since we see nothing in this tradeoff decision that is irrational or inconsistent with the evaluation criteria, we have no basis to object to the award of the contract to Wackenhut.

The protest is denied.

for 
James F. Hinchman
General Counsel