



Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: Calspan Corporation--Reconsideration

File: B-255268.2

Date: July 5, 1994

Joseph K. Wiener, Esq., Pettit & Martin, for the protester. Aldo A. Benajam, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration is denied where protester does not show that prior decision denying its protest contained any errors of fact or law or present information not previously considered that warrants reversal or modification of our prior decision.

DECISION

Calspan Corporation requests that we reconsider our decision in Calspan Corp., B-255268, Feb. 22, 1994, 94-1 CPD ¶ 136, denying its protest of the award of a contract to Orion International Technologies, Inc., under request for proposals (RFP) No. MDA903-93-R-0029, issued by the Department of the Army for countermeasures analyses support to the Precision Guided Weapons Countermeasures Test and Evaluation Directorate, White Sands Missile Range, New Mexico.

We deny the request for reconsideration.

The agency issued the RFP on March 31, 1993, seeking proposals to provide susceptibility/vulnerability countermeasures (CM) and counter-countermeasures (CCM) analyses of precision guided weapons systems. Calspan has been the incumbent providing these services for more than 20 years.

The RFP contemplated award of a cost-plus-fixed-fee contract for a 1-year base period, with up to four 1-year options. Offerors were required to submit separate technical and cost proposals. The RFP explained that cost would not be numerically rated and was subordinate to technical considerations. Award was to be made to the responsible offeror whose proposal conformed to the solicitation

requirements and was most advantageous to the government considering cost and technical factors.

As explained in detail in our initial decision, after evaluating the cost and technical proposals received, the technical evaluation board (TEB) recommended award to Calspan. After reviewing the TEB's report, the contracting officer concluded that the TEB had unduly emphasized Calspan's incumbency in its scoring and questioned the TEB's recommendation. In a second report, the TEB continued to recommend award to Calspan. When the contracting officer again questioned the recommendation and asked the TEB to identify specific strengths in Calspan's proposal besides the firm's incumbency that would justify its higher costs, the TEB was unable to identify specific advantages in Calspan's proposal and unanimously recommended award to Orion. The contracting officer then documented his reasons for concurring with the TEB's recommendation and awarded the contract to Orion. Calspan subsequently filed a protest in our Office.

In its protest, Calspan maintained that the TEB had improperly evaluated Orion's technical proposal by failing to downgrade Orion for not providing adequate letters of commitment from its proposed key personnel. Calspan also argued that Orion's failure to provide the required commitment from its proposed key personnel resulted in an unrealistic analysis of Orion's cost proposal. The protester further argued that the contracting officer improperly directed or otherwise influenced the TEB to recommend award to Orion.

With respect to the evaluation of Orion's technical proposal, we found that even if the TEB had concluded that the commitment documents submitted by Orion for the proposed key personnel were insufficient and awarded the firm no points in this area, the effect on Orion's overall final technical score was so minimal that we saw no basis to conclude that the award decision would change.

In its reconsideration request, Calspan relies on several decisions of our Office to argue that Orion's failure to supply letters of commitment for all of its proposed key personnel rendered its offer noncompliant. The decisions relied upon are distinguishable from the instant case. In

¹In support of its argument the protester cites Essex Corp., B-246536.3, June 25, 1992, 92-2 CPD ¶ 170; Corporate Am. Research Assocs., Inc., B-228579, Feb. 17, 1988, 88-1 CPD ¶ 160; Logistic Servs. Int'l, Inc., B-218570, Aug. 15, 1985, 85-2 CPD ¶ 173; and Management Servs., Inc., B-184606, Feb. 5, 1976, 76-1 CPD ¶ 74.

those cases, the required commitment document was material to the evaluation of proposals, and thus offerors that failed to meet the commitment requirement risked having their proposals rejected as unacceptable.

By contrast here, the commitment requirement was one subfactor out of four subfactors the agency considered (within the personnel/corporate experience evaluation factor), which had a combined maximum worth of 150 out of 1,800 points. The evaluation scheme thus gave limited weight to the letter of commitment requirement. Unlike in the cases cited by Calspan, any deficiencies in Orion's proposal in this area could not reasonably have a material effect on the overall results of the evaluation or the award decision, given its relatively minor weight in the evaluation scheme here.

Calspan also argues that the commitment requirement should have affected some 800 evaluation points beyond the 150 points allocated to this subfactor. As already explained, the letter of commitment requirement was specifically incorporated and evaluated only as one of four subfactors within the personnel qualifications area, all of which had a combined maximum worth of 150 points. Since the commitment requirement was worth only a fraction of 150 points, the protester's suggestion that this aspect of the evaluation should have affected 800 more points beyond the 150 points allocated to the entire evaluation factor, for a total of 950 points--or more than half of the total maximum of 1,800 evaluation points available--is inconsistent with the RFP's evaluation scheme.

With respect to the evaluation of Orion's cost proposal, Calspan merely repeats arguments made during our consideration of the initial protest, and argues that we failed to address any of the examples it provided with its protest. During our consideration of the initial protest, we reviewed Calspan's allegations, including the examples Calspan provided with respect to specific labor categories, the agency's response, and the protester's supplemental submissions during our consideration of the protest. Based on our detailed review of the record, we concluded that the agency reasonably decided it had no basis to question the awardee's ability to hire and retain its professional personnel at the rates proposed. The protester's mere disagreement in this regard does not warrant reversal of our decision.

Calspan also continues to argue that the contracting officer improperly directed the TEB to disregard any strengths in Calspan's proposal that derived from the firm's incumbency. Calspan's argument is not supported by the record. Rather, the record shows that, in view of the lack of supporting

details in the TEB's narrative assessment of proposals, the contracting officer reasonably concluded that the evaluation documents did not adequately support the TEB's view that Calspan's technical superiority was worth the cost premium. The contracting officer simply asked the TEB to go beyond the firm's incumbency and identify strengths in Calspan's proposal that would justify paying the premium.

As explained in our decision, we think that the contracting officer's request that the evaluation panel explain its decision and provide empirical support for its rationale was a reasonable exercise of his discretion, particularly within the context of a best value procurement. See, e.g., Wyle Labs., Inc.; Latecoere Int'l, Inc., 69 Comp. Gen. 648 (1990), 90-2 CPD ¶ 107; Latecoere Int'l, Inc.--Advisory Opinion, B-239113.3, Jan. 15, 1992, 92-1 CPD ¶ 70. Calspan did not provide in its original protest any basis for us to disagree with the agency's selection decision, and the protester has failed in its reconsideration request to persuade us otherwise.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must show that our prior decision may contain 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) (1994). Calspan's repetition of arguments made during our consideration of the original protest and its mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

The request for reconsideration is denied.

/s/ Robert H. Hunter
for Robert P. Murphy
Acting General Counsel