

Lebowitz



Comptroller General
of the United States

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Washington, D.C. 20548

Decision

Matter of: US Defense Systems, Inc.; Securiguard/Group 4
Joint Venture

File: B-260702; B-260702.2; B-260702.3

Date: July 17, 1995

Thomas D. Boyatt for US Defense Systems, Inc., and Joseph J. Petrillo, Esq., and William E. Conner, Esq., Petrillo & Associates, for Securiguard/Group 4 Joint Venture, the protesters.

J. Barbara Arko, Arko Executive Services, Inc., an interested party.

Kathleen D. Martin, Esq., Department of State, for the agency.

Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the agency reasonably evaluated proposals in accordance with the evaluation methodology stated in the solicitation, and where the awardee had the highest combined score for the technical evaluation factors, price, and an evaluation preference, the agency reasonably awarded the contract to this firm since its proposal represented the best value to the government.

DECISION

US Defense Systems, Inc. (USDS) and Securiguard/Group 4 Joint Venture (S/G4) protest the award of a contract to Arko Executive Services, Inc., under request for proposals (RFP) No. S-CY600-94-R-0053, issued by the Department of State for guard services at the American Embassy, Nicosia, Cyprus. The protesters basically challenge the reasonableness of the agency's evaluation of proposals.

We deny the protests.

The RFP, as initially issued, contemplated the award of a firm, fixed-price/time-and-materials contract for a 12-month base period with 4 option years for standard and emergency services. For each period of performance, the RFP included estimated levels of effort for the two types of required services. On the pricing schedules for each performance period, offerors were required to insert a monthly fixed

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price for the required services and a total price for the full performance period. An offeror's total contract price would be the sum of the total prices for each performance period. The RFP, as subsequently amended, stated that the base period would be for 6 months. The amendment did not change the estimated levels of effort included in the RFP for the initially contemplated 12-month base period.

The RFP stated that an award would be made to the responsible offeror whose proposal was determined to represent the best value to the government, based on the sum total of scores assigned for the technical evaluation factors, price, and an evaluation preference for domestic firms. Specifically, the RFP assigned 60 possible points to the technical evaluation factors and 40 possible points to price; for offerors qualifying as United States firms, an additional 5 points reflecting an evaluation preference for domestic firms was available. Accordingly, an offeror's proposal could receive a maximum score of 105 points.

Concerning the evaluation of an offeror's technical proposal, the RFP included the following equally weighted (20 points each) technical evaluation factors:

(1) technical approach (management plan and knowledge and familiarity in performing the required services, including the use of contractor furnished materials and government furnished equipment); (2) technical personnel (key personnel and other personnel); and (3) experience/past performance. Regarding experience/past performance, the RFP required that an offeror "[l]ist all contracts and subcontracts [the] company has held over the past 3 years for the same or similar work." An offeror was required to provide, among other things, a brief description of the same or similar work and address the comparability of this work to the services required under the RFP.

Concerning the evaluation of an offeror's price, the RFP stated that proposals would be evaluated on the basis of an offeror's total contract price for the estimated levels of effort included in the RFP pricing schedules for the base and option periods. The RFP provided that the proposal of the lowest-priced offeror would receive 40 points and the proposals of the other higher-priced offerors would receive a proportionate share of 40 points in accordance with a mathematical formula disclosed in the RFP.

Eight firms, including the protesters and Arko, submitted initial technical and price proposals. Based on the evaluation of initial proposals, six offerors, including the protesters and Arko, were included in the competitive range. Following written discussions, which focused on the weaknesses and/or deficiencies in the proposals of these offerors, each offeror submitted a best and final offer

(BAFO). As relevant to these protests, the protesters and Arko received the following scores¹:

¹USDS and Arko calculated their total contract prices based on 4-1/2 years of performance, while S/G4 calculated its total contract price based on 5 years of performance. The record shows that the agency evaluated all prices for 4-1/2 years of performance--the actual performance period contemplated under the amended RFP, thereby evaluating all offerors on an equal basis. Contrary to S/G4's unsupported assertion, there is no evidence in the record which suggests that Arko, by submitting a price for the agency's actually contemplated 4-1/2 years of performance, took exception to any of the terms of the RFP. We also note that under either a 5-year or a 4-1/2-year performance scenario, Arko's price is less than S/G4's price.

Furthermore, in response to these protests, the agency concedes that it made a conversion error (from Cypriot pounds to American dollars) in the calculation of S/G4's 6-month base period price. As a result, it corrected its calculation error and rescored price proposals. The scores, as shown, reflect the correction of the agency's error. While S/G4's price score and total score increase, its total score remains less than Arko's total score. USDS's price score and total score decrease.

Finally, S/G4 states that the agency "chose the wrong 4-1/2 year period" to evaluate. S/G4 states that it offered prices which were valid for a full 12 months for each of the specific performance periods and that its prices increased somewhat from one period to the next. Accordingly, S/G4 states that the government would not have to pay the higher price until it had received the benefit of paying for a full 12 months of performance at the lower price. In other words, while the agency calculated S/G4's price using its price for 6 months of the base period and its prices for each of the option periods (total--\$3,066,479), S/G4 believes that the agency should have used its total price for the base period, its prices for the first 3 option periods, and its price for 6 months of the last option period (total--\$2,987,513). The record shows that if the agency had used S/G4's preferred price evaluation methodology, its evaluated price would have been lower, and its corresponding price score would have been 36.57 points. However, the record also shows that S/G4's price still would be higher than Arko's price by \$255,441, and that its total score still would have been less than Arko's total score by .43 points.

	<u>Technical</u>	<u>Price</u>	<u>Preference</u>	<u>Total</u>
USDS	43.45	33.81	5.00	82.26
S/G4	52.95	35.64	5.00	93.59
Arko	49.95	40.00	5.00	94.95

The numerical scores for the technical evaluation factors were supported by narratives of the strengths and weaknesses in each offeror's proposal.

The agency determined that since Arko had the highest combined total score for the technical evaluation factors, price, and the evaluation preference, its proposal represented the best value to the government. In this regard, the agency determined that Arko submitted an excellent technical proposal which met or exceeded the RFP requirements. The agency believed that Arko's technical proposal reflected an impressive level of overall quality and that its management plan was thorough. In addition, the agency considered as strengths in Arko's proposal its approach for responding to embassy requirements, its detailed description of administrative and logistical support, its organization of the security guard force, and its delineation of security guard responsibilities. The agency also concluded that Arko provided a good inspection system and a thorough maintenance plan; that it had excellent familiarity in performing security guard services; that it had an excellent technical and administrative support staff; and that it had a good experience/past performance history. Accordingly, the agency awarded the contract to Arko.

The protesters challenge the reasonableness of the agency's evaluation of proposals. Specifically, for the experience/past performance evaluation factor, out of a possible 20 points, USDS and Arko each received 18 points, and S/G4 received 19 points. The protesters, each of which has significant experience in providing guard and security services at overseas embassies and at federal facilities, contend that the agency assigned too high a numerical score to Arko's proposal for the experience/past performance evaluation factor. In this regard, the protesters state that Arko has no previous experience/past performance in providing guard and security services at overseas embassies and only limited experience in providing these services at federal facilities.² In addition, S/G4 contends that it

²In its protest, USDS raised a number of general allegations concerning the evaluation of its proposal (e.g., improper technical and price evaluation and alleged agency bias). The agency rebutted these allegations in its agency report.

(continued...)

offered technical enhancements which exceeded the RFP requirements, yet it received no credit for these enhancements.³

The evaluation of technical proposals is primarily a matter within the contracting agency's discretion since it must bear the burden of any difficulties incurred because of a defective evaluation. Thus, we will question the evaluation only if the record demonstrates that it was unreasonable or inconsistent with the RFP's evaluation criteria. Sherikon, Inc.; Technology Management & Analysis Corp., B-256306 et al., June 7, 1994, 94-1 CPD ¶ 358.

Concerning the experience/past performance technical evaluation factor, the RFP required that an offeror describe its experience/past performance in performing "the same or similar work," i.e., guard and security services. The record shows that the evaluators determined that USDS's experience/past performance was excellent, noting that the firm has provided identical guard and security services for several overseas United States and foreign embassies and for several private entities (e.g., international banks and oil

²(...continued)

In its comments to the agency report, USDS did not address these matters, but rather focused on the evaluation of its experience/past performance vis-a-vis the evaluation of Arko's experience/past performance, suggesting that the entire evaluation process was flawed. Accordingly, we deem USDS's general allegations to be abandoned. See Heimann Sys. Co., B-238882, June 1, 1990, 90-1 CPD ¶ 520.

³In its supplemental comments to the agency's supplemental report, S/G4 specifically withdrew its argument concerning Arko's alleged contingent fee arrangement, which it raised in its supplemental protest and in its comments to the agency's initial report.

In addition, in its initial and supplemental protests and in its comments to the agency's initial report, S/G4 also stated that as part of its written debriefing, it was advised of remaining weaknesses in its technical proposal. S/G4 maintained that the evaluation record did not support the information communicated as part of the debriefing, and argued that a proper evaluation would have "revealed that these weaknesses were rectified" and should have resulted in a higher technical score for S/G4's proposal. In its supplemental report, the agency pointed out, as confirmed by the record, that even for the two technical areas in S/G4's proposal still considered weak due to a lack of proposal detail, S/G4's technical score was increased based on information included in its BAFO.

companies, airlines, and tobacco companies). The record also shows that the evaluators determined that S/G4's experience/past performance was excellent, noting that the parties to the joint venture have provided identical and similar guard and security services for a significant number of overseas embassies, for federal facilities, and for several private entities (e.g., banks, import companies, a university, oil companies, and hotels). In addition, Group 4, the minority member of the joint venture, has provided the required services as the incumbent contractor at the American Embassy in Nicosia, Cyprus. Finally, the record shows that the evaluators determined that Arko's experience/past performance was good, recognizing that although the firm has not provided guard and security services at any embassies, the firm has provided comparable services for a presidential library and for several private entities (e.g., hospitals, a convention center, an international airport, private corporations, banks, and a museum complex).

Since the RFP did not require an offeror to have specific experience/past performance in providing guard and security services at overseas embassies and at federal facilities, we believe the agency's assessment that Arko has provided comparable guard and security services for a presidential library and for several private entities was reasonable in light of the RFP requirement that an offeror's experience/past performance be for "the same or similar work." On this record, we have no basis to object to this aspect of the agency's evaluation of Arko's technical proposal. See DOD Contracts, Inc., B-240590.3, Oct. 22, 1991, 91-2 CPD ¶ 354.

S/G4 also argues that it proposed three items--radio communications, a guard/sniffer dog, and a special monitoring service--which were not required by the terms of the RFP, but which it maintains represented substantial additional value for which it was not given credit as part of the technical evaluation.

S/G4's argument is not supported by the evaluation record. Specifically, the record shows that the agency concluded that S/G4's technical proposal was excellent and that its proposal met or exceeded the RFP requirements. Further, the record shows that the evaluators noted as strengths in S/G4's initial proposal that it "demonstrated its knowledge and familiarity with [contractor furnished equipment]"; that it provided "good detail on company-furnished equipment"; and that it "offers a free alarm service to all [American] residences." Because of the strength of S/G4's initial proposal regarding contractor furnished equipment, this technical area was not the subject of discussions. Therefore, based on the agency's overall assessment of S/G4's technical proposal, and in light of the specific

evaluation comments, it is clear from the record that the agency did, in fact, recognize and reward S/G4 for its offered enhancements in the area of contractor furnished equipment. To the extent S/G4 believes that it should have been given more credit for its offered enhancements, we think this argument reflects the protester's mere disagreement with the agency's evaluation. See ESCO, Inc., 66 Comp. Gen. 404 (1987), 87-1 CPD ¶ 450.

Based on our review of the record, we conclude that the agency reasonably evaluated proposals in accordance with the evaluation methodology stated in the RFP. Since Arko had the highest combined score for the technical evaluation factors, price, and the evaluation preference, and because Arko submitted an excellent proposal meeting or exceeding the RFP requirements, we think the agency reasonably awarded the contract to Arko as the offeror submitting the proposal representing the best value to the government.

The protests are denied.

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for Robert P. Murphy
General Counsel