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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

# Decision

**Matter of:** Serco Inc.

**File:** B-404033; B-404033.2; B-404033.3; B-404033.4

**Date:** December 27, 2010

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William W. Goodrich, Jr., Esq., Richard J. Webber, Esq., and Patrick R. Quigley, Esq., Arent Fox LLP, for the protester.

Joan Kelley Fowler Gluys, Esq., John C. Dulske, Esq., and Brian L. Kost, Esq., Dulske & Gluys, PC, for the intervenor.

Vera Meza, Esq., Wade L. Brown, Esq., Leslie A. Nepper, Esq., and Joyce Conner-Gale, Esq., Department of the Army, for the agency.

Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that awardee and intervening offeror have an “impaired objectivity” type organizational conflict of interest (OCI) is denied where record shows that protester’s contention relies on an incorrect factual predicate relating to what work will be performed under the contract; given the actual work to be performed, there is no basis to conclude that there is an “impaired objectivity” type OCI on the part of either the awardee or intervening offeror.

2. Protest assertions relating to the agency’s evaluation of the awardee’s proposal are dismissed where record shows that protester is not an interested party to maintain its allegations.

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## DECISION

Serco, Inc, of Virginia Beach, Virginia, protests the award of a contract to Linc Government Services, LLC, of Hopkinsville, Kentucky, under request for proposals (RFP) No. W52P1J-10-R-0168, issued by the Department of the Army, Army Material Command, for base operating support integrator management support services. Serco asserts that the agency misevaluated the proposal of Linc, and that Linc and another offeror have an organizational conflict of interest (OCI).

We deny the protest.

The RFP contemplates the award of a fixed-price, indefinite-delivery, indefinite-quantity contract for a 12-month base period and three, 3-month option periods, to perform a variety of management support services<sup>1</sup> at 25 expeditionary base camps throughout Iraq. As part of the contract requirements, the successful offeror will provide management support services in connection with the closure of some of the installations. Firms were advised that the agency would evaluate technical proposals in several areas (not relevant to this decision) on a go/no-go basis, AR, exh. 6-1, at 86-88, and would make award to the low priced, technically acceptable offeror. Id.

In response to the RFP, the agency received a number of proposals. After performing an evaluation of the proposals received, engaging in discussions and obtaining and evaluating revised proposals, the agency concluded that there were three proposals that were technically acceptable; the protester's proposal, Linc's proposal and a proposal submitted by General Dynamics Information Technology (GDIT). AR, exh. 15, at 4. Linc's proposal offered the lowest price, GDIT offered the second lowest price and the protester offered the highest price among the technically acceptable offerors. Id. at 12. Consistent with the terms of the RFP, the agency made award to Linc as firm with the lowest priced, technically acceptable proposal. Id. at 13. After learning of the agency's award decision and receiving a debriefing, Serco filed this protest.

Serco challenges the agency's evaluation of Linc's proposal in several respects, and also alleges that Linc and GDIT have an OCI. With respect to the OCI allegation, Serco maintains that Linc and GDIT have an "impaired objectivity" OCI because, according to the protester, the RFP contemplates that the contractor will advise the agency concerning decisions about which installations to close. The protester maintains that, because Linc and GDIT have other contracts that they perform in Iraq, they cannot objectively advise the agency concerning which installations to close because their financial interests would be implicated in any such decision.

We find no merit to Serco's OCI allegations. An "impaired objectivity" OCI situation exists where, because of the nature of a firm's actual or potential work under one contract, it may be unable to provide objective judgments to the government in performing under another government contract. Gov't Scrap Sales, B-295585, Mar. 11, 2005, 2005 CPD ¶ 60 at 3. Here, the underlying premise of Serco's allegation--that the successful contractor will be unable to provide objective advice to the agency concerning which bases to close because of the potential financial

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<sup>1</sup> The services are divided into four principal tasks, information technology management services, terrain/land management operations, current operations technician services and base advisement and assessment team services. Agency Report (AR), exh. 6-9, Performance Work Statement (PWS), at 8-13.

implications of those decisions--is not borne out by the record. As explained by the contracting officer in her statement to our Office:

The Performance Work Statement (PWS) does not require or allow the contractor to recommend which bases will be scheduled for closure. The services outlined in the PWS include assessing the progress of the closure plan; providing guidance and expertise in order to successfully close bases in accordance with the base closure task list; maintaining documentation of the requirements to close the base; reporting the status of bases scheduled to close; providing operational and tactical skills and planning abilities; reporting any shortfalls in base life support requirements; planning and maintaining a base concept of support plan; providing inventory and container management support; recommending changes to the base closure process; collecting, compiling, and analyzing data to develop and maintain the progress of base closures; providing technical advice and recommendations for process improvements; and preparing an assessment of the base closure process. The decision to close or return a base to the Government of Iraq resides with the U.S. Forces--Iraq, not the contract awardee.

Contracting Officer's Statement at 5; see also, PWS at 11-13.

The protester has not refuted the agency's position regarding the contractor's obligations under the contract's PWS, but maintains only generally that the agency improperly failed to adequately evaluate GDIT's and Linc's OCI mitigation plans submitted with their proposals to determine whether or not the firms had an "impaired objectivity" OCI.<sup>2</sup> However, since, as discussed, the contractor will not be

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<sup>2</sup> The RFP required all offerors--including the protester--to submit either an OCI mitigation plan or a statement that the offeror did not intend to compete for any new work resulting from recommendations made under the current requirement. RFP at 4. As explained in the RFP, the purpose of these submissions was to ensure that the successful contractor would not, prospectively, have an improper OCI arising as a result of information gained or recommendations made during performance of the contract:

The Government is soliciting Base Operating Support-Integrator services in accordance with the attached Performance Work Statement (PWS). The objectivity of the contractor in providing recommendations to the Government could be impaired if the contractor were, also, attempting to obtain contracts to perform the work determined to be necessary. Further, it is anticipated that the support services provided under the resulting contract will require the contractor to have access to, and knowledge of, the proprietary

(continued...)

in a position to make recommendations to the agency concerning which bases to close, it follows that there can be no issue of an impairment of the contractor's objectivity. Gov't Scrap Sales, *supra*. In the absence of the factual predicate necessary to demonstrate a potential "impaired objectivity" OCI arising from pre-existing contracts being performed by Linc or GDIT, the agency was under no obligation to evaluate whether Linc or GDIT had such an OCI, or to decide whether it could be avoided, neutralized or mitigated, in accordance with applicable regulations. See Federal Acquisition Regulation § 9.504. We therefore have no basis to object to the agency's actions.

Serco also challenges various aspects of the agency's evaluation of the Linc proposal. We need not consider these assertions. As noted, we have no basis to find that GDIT has an "impaired objectivity" OCI, such that there would be any reason for us to conclude that it is ineligible for award. Consequently, and in accordance with the terms of the RFP, GDIT, not Serco would be next in line for award of the contract should we find merit to any of Serco's evaluation challenges. Since Serco would not be in line for award if its evaluation challenges were meritorious, it lacks the direct economic interest necessary to maintain these aspects of its protest. 4 C.F.R.

§§ 21.0(a)(1), 21.1(a) (2010). We therefore dismiss these aspects of Serco's protest.

The protest is denied.

Lynn H. Gibson  
Acting General Counsel

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information of contractors submitting proposals in response to solicitations for services in the CENTCOM AOR as well as non-public Government information and pre-solicitation information which could provide an unfair competitive advantage.

RFP at 4.