



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Ideal Electronic Security Company

File: B-279221; B-279221.2

Date: May 19, 1998

Kenneth Martin, Esq., Martin & Rylander, for the protester.
Joseph P. Hornyak, Esq., and Drew W. Marrocco, Esq., Sonnenschein, Nath & Rosenthal, for SCIENTECH, Inc., an intervenor.
Diane M. Canzano, Esq., Department of the Treasury, for the agency.
Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that contracting agency improperly failed to evaluate proposals reasonably and in accordance with the solicitation's evaluation criteria is denied where the record does not support the allegations; a protester's mere disagreement with the agency's conclusions does not render the evaluation unreasonable.
2. Allegation that agency misled protester to curtail price reduction in its best and final offer (BAFO) is denied where record shows that the protester was merely advised that its price was competitive and its escalation rates appeared reasonable and within anticipated increases; protester's determination as to what extent to lower its BAFO price reflects its own business judgment.

DECISION

Ideal Electronic Security Company protests the award of a contract to SCIENTECH, Inc. under request for proposals (RFP) No. BEP-98-05(N), issued by the Department of Treasury, Bureau of Engraving and Printing (BEP) for the acquisition of the BEP security system maintenance, installation, operation, and engineering support services. Ideal challenges the agency's evaluation of Ideal's proposal and asserts that the agency conducted misleading discussions which caused Ideal not to lower its final price to the full extent that it could have.

We deny the protest.

The BEP security system consists of a Monitor Dynamics Inc. (MDI) access control and intrusion detection security system (ACAMS), American Dynamics Closed Circuit Television System (CCTV) and an Imaging Technology Corporation (ITC)

video badging system. The MDI security system is an alarm monitor system which operates through a central computerized alarm monitor and a series of peripheral alarm devices. The CCTV system permits monitoring and recording through various stages of production, transportation and storage. The ITC system produces and maintains the integrity of BEP's selected access control security badges and interfaces with the MDI system to allow for the transfer of badge holder data to the MDI system where the badge holder will then be specifically and separately programmed for the required access rights.

The RFP, issued on October 27, 1997, contemplated the award of a fixed-price contract with labor hour and requirement line items for the operation and monitoring of the security system, including the MDI, CCTV, ITC and fire management system (FMS). The RFP stated that a minimum of 35 employees were required as security system operators and required offerors to submit resumes for key personnel that clearly demonstrated experience with security engineering design, installation maintenance, testing, training, and systems operation. Offerors were also required to provide minimum qualification statements for all other proposed personnel who would be performing under the contract. The RFP advised that award would be made on the basis of the proposal determined to be most advantageous to the government, price and technical factors considered.

The RFP provided for a two phase evaluation process. Under Phase I, proposals were evaluated on the following three factors: (a) experience of proposed personnel; (b) corporate experience; and (c) past performance. In order to be included in the competitive range for Phase I and proceed to Phase II, offerors had to receive a pass rating for criteria (a) and (b). Under Phase II, offerors were required to give an oral presentation and the proposals were evaluated on two factors, management plan (62.5 points) and organizational experience (37.5 points), each of which included several subfactors.

Proposals were received from four firms, all of which were included in the competitive range on the basis of the following Phase I evaluation results:

<u>Offeror</u>	<u>Technical Score</u>	<u>Price</u>
SCIEN TECH	Pass	\$15,610,344
Ideal	Pass	\$16,130,956
A	Pass	\$13,174,851
B	Pass	\$14,235,432

By letters dated December 5, offerors were notified of their inclusion in the competitive range and of the oral presentation dates. In its letter, Ideal was advised that it needed to address the minimum qualification statements for all proposed personnel. Among other things, Ideal was asked to provide information on personnel experience in maintenance and in operation of the MDI ACAMS, experience in the installation and the maintenance of the CCTV system and

corporate experience of the subcontractor in the operation of the MDI ACAMS. After the oral presentations, the proposals were reevaluated. The results of the Phase II evaluation were as follows:

<u>Offeror</u>	<u>Technical Score</u>	<u>Price</u>
SCIEN TECH	97.5/100	\$15,610,344
Ideal	85.1/100	\$16,130,956
A	77.0/100	\$13,174,851
B ¹	17.5/100	\$14,235,432

On December 22, further discussions were conducted with each offeror in the competitive range for Phase II. The agency reports that since all technical issues were resolved during oral presentations, no technical issues were addressed at this time. The agency also reports that during these discussions, offerors were provided the Department of Labor projected wage rate increases to ensure that each offeror would consider these projected increases in formulating its Best and Final Offer (BAFO). By letter dated December 22, each competitive range offeror was requested to submit its BAFO by January 5, 1998. The rankings after receipt of BAFOs were as follows:

<u>Offeror</u>	<u>Technical Score</u>	<u>BAFO Price</u>
SCIEN TECH	97.5	\$14,812,550
Ideal	85.1	\$15,596,912
A	77.0	\$13,298,570

In using these evaluation results to make the best value determination, the contracting officer states that because SCIEN TECH's proposal was higher technically rated than Ideal's and SCIEN TECH proposed a lower price, the proposal was viewed to be clearly superior to Ideal's and the best value analysis was focused on a comparison of the proposal of SCIEN TECH and the lower-priced one submitted by Offeror A. On January 29, award was made to SCIEN TECH as representing the best value to the government. On February 2, Ideal received a debriefing. On February 9, Ideal filed this protest with our Office, which it supplemented on February 12.

Ideal protests that the agency improperly evaluated its proposal because the method of evaluation overemphasized the need for site-specific experience with respect to the CCTV system and the ITC video badging system, thus Ideal's proposal was improperly downgraded based on an unstated evaluation requirement.

In reviewing protests concerning the evaluation of proposals, we will examine the agency's evaluation to ensure that it had a reasonable basis and was consistent with

¹This offeror's proposal was excluded from the Phase II competitive range.

the evaluation criteria listed in the RFP. Pemco Aeroplex Inc., B-239672.5, Apr. 12, 1991, 91-1 CPD ¶ 367 at 4. A protester's mere disagreement with the agency's evaluation is not itself sufficient to establish that the agency acted unreasonably. Correa Enters., Inc., B-241912, Mar. 5, 1991, 91-1 CPD ¶ 249 at 3. Here, the record establishes that the evaluation was reasonable and consistent with the RFP evaluation criteria.

Ideal's protest focuses on its belief that the BEP evaluators did not properly credit Ideal for the work it performed as the subcontractor responsible for installing the MDI system under a previous contract. Ideal also argues that BEP improperly downgraded its proposal for a lack of subcontractor experience. According to Ideal, the RFP did not require offerors to propose a subcontractor plan, but rather required offerors to demonstrate corporate experience of subcontractors only when the offeror proposed subcontractor performance of major portions of the specified work.

The record shows that the evaluators recognized that Ideal had installed MDI equipment at BEP and accorded Ideal appropriate credit for this effort. While Ideal demonstrated experience in the installation of the MDI system, Ideal did not demonstrate experience in the operation of the MDI system nor did it demonstrate experience with the CCTV system or the ITC video badging system. In this regard, section L-12 of the RFP stated that "BEP is specifically looking for contractors experienced with engineering design, development, procurement, installation, maintenance, testing, training, and systems operation of electronic/computerized security systems and equipment," (bold and underline font omitted) and provided for the evaluation of offeror experience on the basis of 3 to 5 contracts that most closely "match BEP's requirement for Security System Operation, Maintenance, Installation, and Technical Support Services." Ideal's argument that BEP improperly emphasized the importance of these other security systems in its evaluation is contradicted by these provisions and by the fact that the RFP scope of work specifically stated that the performance of work required operation/monitoring of the BEP's security systems which included the MDI, CCTV, ITC video badging and the FMS systems, all of which were listed as integral parts of the BEP security system. In this respect, offerors were required to provide proposed staffing plans and a description of resources needed to successfully operate and monitor BEP's total security system. Accordingly, it was appropriate for the agency to evaluate Ideal's experience with respect to the total security system, and Ideal's MDI equipment installation did not, by itself, evidence the full range of experience called for by the RFP.

Ideal also maintains that the agency improperly downgraded Ideal for a lack of subcontractor experience with providing security system operators when Ideal had made it clear to BEP it planned to perform most, if not all, of the specified work with Ideal personnel. The record shows that Ideal's proposal was downgraded in this respect mainly because of weakness concerning the security system operators

requirement, with respect to which the agency concluded that Ideal left unclear how and with what personnel Ideal would meet the operator requirement. Additionally, based on the contents of Ideal's technical proposal and its responses to questions posed during the oral presentation, the evaluators concluded that Ideal planned to subcontract the operator requirement to a company inexperienced in providing security system operators. In its proposal, under subcontractor management, Ideal named its proposed subcontractor and specifically stated that the subcontractor provides personnel for Ideal as a teaming partner/subcontractor. Moreover, under the scope of services Ideal stated it would perform, providing security system operators was not listed, and Ideal did not provide minimum qualifications statements for its proposed security system operators. In its letter to Ideal scheduling the oral presentation, BEP stated that Ideal needed to address the minimum qualification statements for all proposed personnel performing under the contract and provide information concerning experience in maintenance and in operation of the MDI, and the corporate experience of the subcontractor in the operation of the MDI. During its oral presentation, Ideal was asked about its subcontractor's specific experience in providing security system operators and Ideal responded that its subcontractor has not provided security operator personnel in the past and that Ideal would train the security operators.

The offeror has the burden of submitting an adequately written proposal, and an offeror's mere disagreement with the agency's judgment concerning the adequacy of the proposal is not sufficient to establish that the agency acted unreasonably. Caldwell Consulting Assocs., B-242767, B-242767.2, June 5, 1991, 91-1 CPD ¶ 530 at 6. Here, the record demonstrates that the agency's evaluation of Ideal's proposal was fair and consistent with the evaluation criteria. Ideal was given appropriate credit for its familiarity with the MDI system; however, Ideal did not have significant experience with the other parts of BEP's security system and failed to provide information showing how it would meet the system operators requirement. Moreover, notwithstanding these shortcomings, Ideal's proposal received a score of 85.1 out of a possible 100 points, including relatively high scores in the experience category based primarily on its experience installing the MDI system.²

²In its comments submitted in response to the agency report, Ideal argues that if BEP found informational inadequacies regarding Ideal's proposed personnel and subcontractor plan, BEP should have conducted further discussions. As noted above, the contracting officer's December 5, 1997 letter to Ideal advised that additional information was needed concerning the qualifications of the proposed personnel experience in maintenance and in operation of the MDI system and also concerning the corporate experience of the subcontractor in operation of the MDI. Additionally, during oral presentations, Ideal was again asked about its subcontractor's experience with providing security system operators. An agency is not required to "spoon-feed" offerors. Research Analysis and Maintenance, Inc.,

(continued...)

Ideal also argues that it was misled by the agency during discussions into lowering its price less than it otherwise would have in its BAFO. Ideal contends that, during discussions, BEP informed Ideal that its prices as proposed in its original offer appeared to fall within anticipated increases, which suggested to Ideal that it need not lower its price proposal. In this regard, the agency has submitted a declaration from the contract specialist who negotiated with Ideal, in which he states that he told Ideal that its price was competitive and was determined to be fair and reasonable, but did not advise Ideal not to lower its price. On the contrary, the contract specialist states that he reminded Ideal that a best value determination would be performed and recommended to Ideal that it try to be more competitive with respect to its price. Ideal's representative states that he does not recall the contract specialist's advice to try to be more competitive, but does not assert that the contract specialist told Ideal not to lower its price. Essentially, Ideal is merely arguing that the contracting agency's statement that Ideal's offer was reasonable and within the anticipated wage increases indicated that Ideal need not lower its price. We do not view this statement as a recommendation (much less a directive) that Ideal not lower its price; the record shows that Ideal did in fact lower its price

²(...continued)

B-242836.4, Oct. 29, 1991, 91-2 CPD ¶ 387 at 6. In evaluating whether there has been sufficient disclosure during discussions, the focus is not on whether the agency described its concerns in such detail that there could be no doubt as to their identification and nature, but whether the agency imparted enough information to the offeror to afford it a fair and reasonable opportunity in the context of the procurement to respond to the areas of weakness in its proposal. See Aydin Computer and Monitor Div., Aydin Corp., B-249539, Dec. 2, 1992, 93-1 CPD ¶ 135 at 11. While the agency appears to have satisfied its obligations under this standard, even if discussions had resulted in higher ratings under those factors concerning personnel qualifications and utilization, Ideal would have not been in line for award. If Ideal received the maximum possible points for these subfactors, the agency points out that Ideal's total technical score would have increased by 11.7 points to 96.8, which would remain below the score of 97.5 received by SCIENTECH for its lower-priced proposal. In its comments, Ideal does not dispute this rescoring of its proposal and does not argue that had more precise discussions occurred it would have been able to satisfy the agency's concerns in such a manner as to make its proposal sufficiently superior to the awardee's lower-priced proposal to warrant award. Because competitive prejudice is an essential element of a viable protest, Lithos Restoration, Ltd., B-247003.2, Apr. 22, 1992, 92-1 CPD ¶ 379 at 5, Ideal's allegation does not provide a valid basis to sustain its protest.

in its BAFO, and the extent to which Ideal lowered its price was a reflection of its own business judgment. See Crestmont Cleaning Serv. & Supply Co., Inc., et al., B-254486 et al., Dec. 22, 1993, 93-2 CPD ¶ 336 at 8. The record simply does not substantiate Ideal's position that its BAFO pricing resulted from misleading advice that had been provided by the agency.

The protest is denied.

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