



The Comptroller General
of the United States

Washington, D.C. 20548

Van Schaik

Decision

Matter of: Kastle Systems, Inc.

File: B-231990

Date: October 31, 1988

DIGEST

1. Protest that solicitation for design and installation of security systems should be amended is denied where contested provisions of solicitation affect all offerors equally and protester merely disagrees with the agency's determination of its minimum needs and has not shown that that determination is unreasonable.
2. Protest that requirement that security systems interface with agency's computer is restrictive of competition is denied even though, as a result of requirement, contractors will be required to purchase interface equipment from a single company, since computer system is already in place, agency has decided to monitor all individual building security systems on the computer and, in the agency's judgment, remote monitoring proposed by protester would result in additional expense and duplication of effort.
3. Statutory provision which requires that solicitation specify importance of technical quality relative to other evaluation factors is satisfied by solicitation which specifies that award will be made to lowest priced technically acceptable offeror.

DECISION

Kastle Systems, Inc., protests the terms of request for proposals (RFP) No. GS-11P88MJC0073, issued by the General Services Administration (GSA) for surveying, design and installation of security systems in 15 federal buildings located in the Washington, D.C., metropolitan area. Generally, Kastle contends that the specification of the solicitation are ambiguous, misleading and otherwise deficient and will impede full and open competition.

We deny the protest.

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The overall purpose of the solicitation is to allow replacement of a portion of the current perimeter security guards with a range of security devices to provide equal or greater perimeter security at less cost in 15 federal buildings that are occupied by various "tenant" agencies. Under the resulting contracts, the awardee or awardees will conduct surveys of the buildings, design a "security system concept" for each building and, for each tenant agency that approves, market, or present, that concept to the tenant agency and install the proposed security system. Only the survey and design work is guaranteed to be ordered by GSA while marketing and installation work is to be ordered at the discretion of the tenant agency in each building.

The solicitation includes three groups of five buildings each and calls for offerors to include separate fixed-prices for the survey, the security system design and the marketing of the design for each building. Installation work is solicited separately on a requirements basis for each of the three groups of five buildings. To determine installation prices, the solicitation includes a parts list of 176 items typically used in security systems and quantities of those items which GSA estimates will be required. Offerors are required to provide, for each item on the list, a unit price (which includes installation costs and the cost of maintenance for 1 year), an extended price based on the estimated quantity and the make and model of each offered item. Under the RFP, offerors can submit separate price lists for each of the three groups of buildings (but not separate lists for individual buildings) so that an offeror's price for the items, including installation, can reflect differences in the conditions of the three building groups.^{1/}

Award of the survey and design work is to be made by building group to the responsible offeror submitting the lowest priced technically acceptable proposal; separate awards can be made for each group. In order to be considered technically acceptable, proposals must meet minimum requirements for management and plan of operation; experience and qualifications and key personnel. Under the solicitation, the government is to review the technical proposals and then evaluate the technically acceptable proposals to determine the lowest price. For evaluation

^{1/} The original solicitation required a single price list that applied to all three groups. By amendment No. 0006, issued on September 29, 1988, after the protest was filed, GSA amended the solicitation to allow a separate price list for each of the three building groups.

purposes, total price will include, by building group, listed prices for the survey, the system design and marketing and the total of the extended prices on the parts list for that group which, as explained, includes installation and maintenance charges.

As part of the survey, contractors will be required to evaluate the existing guard force of the building and collect information on the tenant agency's security requirements, historical preservation requirements where applicable, and other factors which affect security or the installation of a security system. Twelve of the 15 buildings are designated as historical buildings and the solicitation indicates that contractors are prohibited from mounting security equipment on many interior and exterior surfaces of those buildings. Solicitation amendment No. 0005, issued on September 9, after the protest was filed, includes criteria for installation of security equipment and states generally that no exterior or interior above grade masonry, woodwork, ornamental metal surfaces or ornamental plaster surfaces shall be cut, drilled or anchored in order to install a security system. The amendment also states that deviations from these restrictions can be sought in writing from the Historical Preservation Office but written approval is necessary before installation.

Based on information collected from the tenant agency and on the survey, the contractor is to prepare a narrative operational description of the proposed security system concept which compares a building's present security arrangements with various alternatives which minimize the use of contract guard services while providing equal or enhanced security. The operational description is to be supported by a cost analysis which compares the cost of the current security program to the proposed security system concept over a 5-year period including consideration of installation costs, maintenance, monitoring, training, decreased use of contract guard services and other issues.

The solicitation also requires that all proposed security system concepts must be designed to be monitored in GSA's Regional Communications Center (RCC) and must interface with GSA's already in use Communications Manufacturing Company (CMC) 4000 computer in the RCC.

The security system concepts developed by the awardee or awardees will be presented to GSA for approval. The concepts are then to be presented to the tenant agencies and, if approved, a purchase request will be issued to the contractor for installation of the security system based on

the unit prices included in the contractor's price list submitted with its proposal.

Kastle and other firms submitted proposals on or before the closing date for receipt of proposals. According to GSA, the technical proposals are currently being evaluated. Kastle filed its protest at our Office on the proposal due date but before the closing time for receipt of proposals.

Kastle's principal complaint relates to the agency's approach to soliciting its requirements. Kastle believes that GSA should solicit its requirements in a manner more closely resembling that used in the private sector, i.e., detailed site surveys, done at the expense of each offeror before proposals are submitted, with security systems designed, priced and proposed to the government based on the preproposal survey. In particular, Kastle maintains that although the solicitation advises offerors to visit all 15 buildings, the solicitation indicates that detailed site surveys will only occur after the contract is awarded. According to the protester, in commercial contracting for security systems, offerors conduct "threat analyses" of buildings at their own expense prior to contract award so that they can closely inspect the site and determine security needs before submitting prices. Kastle maintains that without a detailed survey before proposals are submitted, offerors cannot submit accurate and meaningful unit prices on the items listed in the RFP and for this reason, offerors cannot compete on an equal bases.

In this regard, Kastle maintains that the parts list should be eliminated from the solicitation since it is impossible, without the benefit of a detailed site survey, to arrive at accurate installation prices for all of the listed items. Kastle argues that the quality of the items required and the installation costs of the items will vary substantially from building to building since the price for a particular item, including installation and maintenance, depends on the conditions under which the item is to be used. Kastle notes that 12 of the 15 buildings listed in the RFP have historical significance so that the installation contractor will be limited as to where it can run wire and mount equipment in many of the buildings. Kastle maintains that the wide variation among the 15 buildings and in the conditions under which the security systems are to be installed will require offerors to assume a worst case scenario with respect to each item on the RFP parts list and thus to propose high prices.

In a number of related allegations, Kastle also contends that the solicitation's work requirements misstate the

agency's minimum needs. According to Kastle, the security system concept called for by the RFP is unreasonably rigid and does not meet the agency's minimum needs since it only calls for "access control" or perimeter security for the listed buildings which will not provide the security needed by the tenant agencies. In this respect, Kastle maintains that GSA's position, which is to allow each tenant agency to handle their own security needs, is a primary cause of excess cost and poor security in government buildings and that GSA should use an integrated system similar to that used by most commercial buildings. Kastle also challenges GSA's requirement that security systems designed for the buildings interface with GSA's currently in place CMC 4000 computer.

The contracting agency, not our Office or the protester is responsible for determining its needs and the best means of meeting those needs since the agency is most familiar with the conditions under which supplies or services are to be used. Professional Pension Termination Assocs., B-230007.2, May 25, 1988, 88-1 CPD ¶ 498. Even burdensome requirements are not objectionable, provided they reflect the government's minimum needs. PTI Services, Inc., B-225712, May 1, 1987, 87-1 CPD ¶ 459. Our Office will not question an agency's assessment of its needs unless the protester shows that the agency's determination is unreasonable. Id.

In response to Kastle's allegations regarding the procurement format, GSA argues that the solicitation permitted offerors to visit all 15 buildings prior to submitting proposals and that it would not be practical to allow all offerors to perform detailed site surveys and to evaluate proposals based on all these different site surveys. GSA also maintains that, based on the site visits, offerors had sufficient information to prepare proposals. With respect to the requirement that offerors submit installation prices based on the parts list, GSA maintains that the approach set forth in the amended solicitation, allowing a separate price list for each of the three building groups, allows sufficient flexibility for differing building conditions.

We do not think that Kastle has shown that the scheme for proposals in the solicitation is unreasonable. For obvious practical reasons, GSA declined to require all potential offerors to survey all 15 buildings in detail before preparing proposals; in this respect, over 20 firms attended the preproposal conference or otherwise expressed interest in the solicitation. Nonetheless, offerors were encouraged to visit each of the 15 buildings before submitting

proposals. Although there clearly is some risk involved in this solicitation format, there is no requirement that an agency eliminate all uncertainty or risk from a solicitation. A.J. Fowler Corp., B-227955, et al., Nov. 13, 1987, 87-2 CPD ¶ 482. To the extent that there are uncertainties as to what exactly is required, offerors can take those uncertainties into account in computing their offers. Newport News Shipbuilding and Drydock Co., B-221888, July 2, 1986, 86-2 CPD ¶ 23. Moreover, we think that the amount of risk here is tempered by the fact that offerors can visit each of the buildings and by the fact that parts and installation prices are based on three separate building groups rather than on all 15 buildings together. Offerors can submit a price list for each building group and, by tailoring each price list to the buildings in that group, allow considerable flexibility to cover the expense of installation.^{2/} The provisions contested here affect all offerors equally and none of the other offerors questioned the solicitation format. Further, the fact that offerors may respond differently in calculating their prices does not preclude a fair competition. American Contract Services, Inc., B-219852, et al., Oct. 30, 1985, 85-2 CPD ¶ 492.

We also reject Kastle's position relating to the work requirements under the solicitation. Although Kastle argues that the "perimeter security" or "access control" sought under the RFP will not provide the security which the tenant agencies need, other than to state that GSA should use an "integrated system," the protester does not clearly explain what it believes the tenant agencies need. Further, although Kastle advocates an integrated system which includes centralized monitoring of the various buildings, Kastle objects to GSA's plan to centrally monitor the 15 buildings under this solicitation along with numerous other federal buildings at GSA's RCC.

Moreover, Kastle's protest grounds essentially challenge the agency's determination of its minimum needs. These arguments are not based on the premise that the solicitation's requirements are ambiguous or that it cannot comply with those requirements, but on the ground that, in its judgment,

^{2/} The protester insists that amendment No. 0005 does not clarify the agency's requirements regarding the historical buildings. We believe that the solicitation as amended provided adequate information to offerors on installation of equipment in historical buildings. In this respect, offerors were informed that they will be prohibited from mounting equipment on certain types of surfaces unless an exception to that prohibition is granted.

there are better methods of accomplishing the agency's objectives. As stated earlier, it is, however, the contracting agency not our Office or the protester that must determine its needs and the methods of best accommodating those needs. A&C Building and Industrial Maintenance Corp., B-230270, May 12, 1988, 88-1 CPD ¶ 451.

Kastle also argues that the CMC interface requirement is unduly restrictive of competition since the solicitation does not include sufficient information for offerors to create their own interface and thus requires that firms price their offers based on the use of CMC equipment to accomplish the interface. Although GSA released an installation and maintenance manual for the CMC computer, Kastle argues that the electrical inputs and outputs that it needs to create an interface are not in the manual. Further, in this connection, Kastle argues that the CMC computer is out of date and states that it would be more effective and less expensive to allow a contractor to create security systems which are monitored from the contractor's central station with remote terminals located in GSA's RCC.

GSA reports that it has released to offerors all of the information that it has available on the CMC computer and that offerors should be able to create their own interface or can purchase interface equipment from CMC. GSA also maintains that the cost of these CMC components is minimal compared to the cost of installation of a total security system.

We need not decide whether offerors have been given sufficient information to create their own interface with the CMC computer since, as GSA explains, it has released all of the information it has on the computer. What is most important here is that GSA maintains that it needs to have the security systems interface with its central CMC computer at the RCC. The protester's position in this regard is that the interface with this particular computer is not necessary to accomplish GSA's objectives and therefore it is restrictive of competition. Where, as here, a protester alleges that a specification requirement unduly restricts competition, the procuring agency bears the burden of presenting prima facie support for its position that the restriction is necessary to meet its actual minimum needs. Ralph Construction, Inc., B-222162, June 25, 1986, 86-1 CPD ¶ 592. Once the agency establishes support for the challenged requirement, the burden shifts to the protester to show that the requirement in dispute is clearly unreasonable.

A requirement based upon a particular manufacturer's product is not improper in and of itself, and is not unduly restrictive where the agency establishes that the requirement is reasonably related to its minimum needs. Amray, Inc., B-208308, Jan. 17, 1983, 83-1 CPD ¶ 43. One such recognized agency need is to standardize the equipment used by the agency. Libby Corp.; et al., B-220392, et al., Mar. 7, 1986, 86-1 CPD ¶ 227.

Here, GSA states that most security systems maintained by it in the National Capital Region report to GSA's RCC through the CMC 4000 computer and that the agency is in the process of tying into that computer all other security systems, including those under this solicitation. Further, GSA has determined that the use of a remote terminal separate from the CMC computer as suggested by the protester would require a duplication of effort and additional cost to the government. Although Kastle disagrees with the agency's judgment as to the need for a CMC interface, the protester has not shown that that judgment is unreasonable. Poly-membrane Systems, Inc., B-213060, Mar. 27, 1984, 84-1 CPD ¶ 354. Consequently, we have no basis upon which to object to the agency's inclusion of the CMC interface requirement in the RFP.

Kastle also contends that the solicitation should require evaluation of monitoring and maintenance costs of proposed security systems in the price evaluation. A procuring agency has broad discretion in choosing the evaluation factors that apply to an acquisition. Federal Acquisition Regulation § 15.605(b). Here, Kastle has cited no legal authority for the requirement that monitoring and maintenance costs be included as an evaluation factor and we are aware of no such requirement. Moreover, the 5 year financial analysis which the contractor is to provide for each building specified in the RFP must take into account maintenance and monitoring costs of security system concepts proposed under the contract for each building. Since there is no obligation on the part of the tenant agencies to order security systems proposed under the survey and design contracts, those agencies are free to reject proposed systems which will result in excessive monitoring and maintenance costs. Under the circumstances, we have no objection to the solicitation's listed evaluation factors.

Kastle also argues that the solicitation is flawed since it does not specify relative weights of the evaluation factors. In this respect, Kastle argues that, under the Competition in Contracting Act of 1984 (CICA), 41 U.S.C. § 253a(b)(1)(B) (Supp. IV 1986), GSA must inform offerors of the relative weight of each of the three listed technical evaluation

factors: management and plan of operation; experience and qualifications and key personnel. The CICA provision referred to by Kastle states that the RFP should include a statement of the significant factors (including price) which the agency expects to consider in evaluating proposals and "the relative importance assigned to each of those factors." In our view, this provision requires only that the contracting agency specify the weight to be given in the evaluation to technical quality relative to the other evaluation factors. Cerberonics, Inc., B-227175, Sept. 2, 1987, 87-2 CPD ¶ 217. Here, by specifying that award would be made to the lowest priced, technically acceptable offeror, the solicitation indicated the relative importance of technical quality to price and indicated that the three listed non-price factors were of equal importance.

Finally, Kastle argues that, regardless of our decision on the other issues raised in the protest, we should award it proposal preparation costs and the costs of filing its protest because GSA amended the solicitation in response to Kastle's arguments regarding the historical preservation criteria. Our authority to award a protester costs is provided by 31 U.S.C. § 3554(c)(1) (Supp. IV 1986), as implemented by our Bid Protest Regulations, 4 C.F.R. § 21.6 (1988). This authority is expressly predicated upon a determination by this Office that a solicitation, proposed award, or award does not comply with a statute or regulation. Sealift Shipyards of Texas, B-231857, July 25, 1988, 88-2 CPD ¶ 81. Here, since our Office has not made such a determination, there is no basis upon which to declare Kastle entitled to reimbursement of its costs.

The protest is denied.


James F. Hinchman
General Counsel