

Protest of)	Date: December 29, 1988
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UNIT DISTRIBUTION CORPORATION)	
)	
and)	
)	
ALLPOINTS WAREHOUSING COMPANY, INC.)	
)	
Solicitation No. 169990-88-B-0016)	P.S. Protest No. 88-77

DECISION

Unit Distribution Corporation (Unit Distribution) and Allpoints Warehousing Company, Inc. (Allpoints) protest the award of a contract to National Pick-N-Pack Company (National Pick-N-Pack), a subsidiary of Dry Storage Corporation, for commercial warehousing services under Request for Proposals (RFP) No. 169990-88-B-0016. Each protester contends that it was not given the points merited in the evaluation of the warehousing facilities and services it offered under the solicitation.

The RFP was issued by the Central Procurement & Materiel Management Service Center, Chicago, Illinois, on July 13, 1988, with an offer due date of August 15. It sought offers for commercial warehousing services for mail transport equipment in several counties in the Chicago area. Section A - Items and Prices, at page 9, contained the following pricing schedule:

	<u>ESTIMATED MONTHLY QUANTITIES</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>LINE TOTAL</u>
A-1 Charge for labor and handling of incoming, outgoing equipment, etc.	320	Hour	\$_____	\$_____
A-2 Monthly storage rate	100	1000 Sq. Ft	\$_____	\$_____

Section C-1 a. also stated in pertinent part that "storage space includes isle [sic] space according to whatever is required by Fire Department codes in the vicinity."

The solicitation further provided that award would be made to the offeror receiving the highest point total of the following weighted evaluation factors:

FACTOR	POINT VALUES
Cost	20 ^{1/}
Facilities	20
Environment (Working)	5
MIS/ADP Capability	15
Full Service Features	15
Security	5
Warehouse Experience	10
Materiel Handling Capability	10

Eight proposals were received in response to the solicitation. Following the receipt of best and final offers, the overall point scores for the protesters and National Pick-N-Pack were as follows:

	COST	TECHNICAL	TOTAL
National Pick-N-Pack	4.94	78.80	83.74
Unit Distribution	0.80	74.20	75.00
Allpoints	20.00	54.40	74.40

The contract was awarded to National Pick-N-Pack on November 1, 1988. These protests followed.^{1/}

Unit Distribution, in its protest, contends that the solicitation is ambiguous with respect to the actual space required. In its offer, the monthly rate (line item A-2) was based on a total square footage of 117,647, which includes 100,000 square feet for actual occupied space plus an additional 17,647 square feet for aisles, dock space, and common areas. The protester urges that other vendors may have used a different method of calculating the monthly rate, i.e., 100,000 square feet total area including aisles, etc. Therefore, the basis of the offers was not equal. Unit Distribution states that it expressed this concern in a conversation with the contracting officer prior to the opening of the proposals.

^{1/}Under Section B-3 a., Cost Evaluation, the contractor offering the lowest total monthly price would be given twenty points. Successively higher prices would be given points based upon the percentage of the difference between the total monthly price offered and the lowest offered price.

^{2/}The date on which the protesters were notified of the award cannot be determined. Unit Distributors protested the award in a letter addressed to and received by the contracting officer on November 15, 1988. Allpoints' protest, also addressed to the contracting officer, was received on November 18. The contracting officer forwarded the protest to this office for resolution pursuant to PCM 2-407.8 e.

Unit Distribution also objects to the points it received (16.6 out of 20 possible) in the evaluation of its facilities.^{1/} The protester contends that its building is one of the highest quality distribution centers in the metropolitan Chicago area, that the facility meets and exceeds every specification, and that it should have received the highest score possible.

Allpoints, in its protest, also challenges the total points awarded to it in the evaluation of its offer. It states that its building, working environment, MIS capabilities, security, warehouse experience, and material handling capabilities are comparable if not superior to those of National Pick-N-Pack. Moreover, its price represented an annual savings of \$239,000 over that of National Pick-N-Pack. Allpoints requests a complete review of the award process.

The contracting officer, in his report, asserts that Unit Distribution's assertions concerning the alleged ambiguity with respect to line item A-2 is a protest against the terms of the solicitation, and therefore must be dismissed as untimely under Postal Contracting Manual (PCM) 2-407.8 d (1).^{1/} The date for receipt of offers was August 15, 1988; Unit Distribution's protest was received on November 15. The contracting officer also states that he advised a Unit Distribution employee, prior to opening of the proposals, that the square footage recited in line item A-2 included aisle space.

The contracting officer also asserts that Unit Distribution's contentions concerning the evaluation are without merit. The evaluation committee did not agree that the protester's facilities should have been awarded the highest possible score; points were properly deducted on the basis of the poor location of the building. Access to the facilities was difficult.^{1/}

Concerning Allpoints' protest, the contracting officer notes that Allpoints received a total combined score of 74.4, which included a maximum 20 points for cost and 54.4 points for the remaining factors. The contracting officer states that Allpoints' technical evaluation revealed several weaknesses. The most significant was Allpoints' rating for the facilities (11.2 out of 20 points). Here, the evaluation committee found that the

^{3/}The RFP provided that the evaluation of the factors, other than cost, would be based upon an on-site visit by a technical evaluation committee to the offered facilities.

^{4/}PCM 2-407.8 d (1) states:

- (1) Written protest based upon alleged deficiencies in a solicitation which are apparent before the date set for the receipt of offers must be received by the date and time set for the receipt of offers.

^{5/}Unit Distribution's overall combined score was also significantly affected by its price, the highest offer received.

warehouse was in a poor location, with inadequate access from a nearby expressway and several congested local streets. Also, lighting inside the building was poor, and equipment belonging to the building's previous occupant was still being removed from the facility. A further weakness was Allpoints' lack of warehouse experience. There was no immediate facility manager, and apparently Allpoints was just starting in the area.

Concerning Allpoints' arguments that it submitted the low offer, with potential savings to the Postal Service, the contracting officer states that the solicitation clearly reflected that cost represented only 20 points in the evaluation, and that award would be made to the offeror receiving the highest combined score. The evaluation criteria contained in the solicitation were followed, and the award to National Pick-N-Pack was proper. Allpoints' protest should be denied.

As our prior decisions reflect, the timeliness requirement imposed by PCM 2-407.8 is jurisdictional, and we cannot consider the merits of any issue which has been untimely raised. Bessemer Products Corporation, P.S. Protest No. 86-5, March 26, 1986; POVECO, Inc., et al., P.S. Protest No. 85-43, October 30, 1985. The contracting officer asserts that Unit Distribution's contention concerning line item A-2 is untimely under PCM 2-407.8. d (1). We agree.

The protester admits that it raised this matter in a conversation with the contracting office prior to the time and date set forth for the receipt of proposals. The protester apparently felt that a factor should be added to account for aisle space. The contracting officer advised that this was not the case. In our view, at this point the protester was "charged with knowledge of a basis for protest." See Computer Systems & Resources, P.S. Protest No. 87-38, June 24, 1987. Since a written protest was not received by the date and time set for the receipt of offers, we cannot consider this issue now.

Both protesters also contend that they were not given the total points merited in the evaluation. In this regard, we begin with the rule that "this office will not substitute its judgment for that of the evaluators or disturb the evaluation unless it is shown to be arbitrary or in violation of procurement regulations." Management Concepts, Inc., P.S. Protest No. 86-29, July 10, 1986; see also Amdahl Corporation, P.S. Protest No. 81-34, September 29, 1981, aff'd on reconsideration, November 23, 1981. The evaluation of technical proposals is a matter within the discretion of the procuring activity, since that activity is responsible for identifying its needs and the best method of accommodating them. See Health Management Systems, Comp. Gen. Dec. B-200775, April 3, 1981, 81-1 CPD & 255. This office does not resolve disputes on the scoring of technical proposals. Computer Systems & Resources, Inc., P.S. Protest No. 86-4, March 27, 1986, citing Mid-Atlantic Forestry Services, Inc., Comp. Gen. Dec. B-217334, September 9, 1985, 85-2 CPD & 279.

We have reviewed the technical evaluation of the offerors and conclude that, while there is a disagreement between the protesters and the contracting officer as to the evaluated weight given to the listed evaluation factors, there is no basis upon which to conclude that the evaluations were arbitrary or capricious. Here, the record establishes that Unit Distribution's facilities were down rated due to the location of the building.

The contracting officer states that this evaluation was reasonable. Although Unit Distribution disagrees with the evaluation, it has presented no evidence that the evaluation was unreasonable or arbitrary. Unsupported allegations or mere disagreement with the technical evaluators do not amount to evidence necessary to sustain a protest. Apec Technology Limited, P.S. Protest No. 88-23, June 30, 1988; Concepts Office Furnishings, Inc., P.S. Protest No. 85-59, November 18, 1985.

Allpoints also has submitted no evidence that the evaluation of its facilities and related warehousing services was unreasonable. The evaluation committee down rated the building facilities due to location and interior lighting. Allpoints' score was also reduced due to its apparent lack of experience in the area. There is nothing to suggest that the score given by the evaluation committee was other the reasoned judgment of the technical evaluators. We, therefore, have no basis to overturn the evaluation.

Allpoints also urges that the price it offers represents a significant potential annual savings to the Postal Service. In this regard, it is well established that in negotiated procurements, awards are not required to be made solely on the basis of the lowest price, and that where, as here, the solicitation advises offerors that various technical factors are significant or more important than price, there is no basis for objecting to an award solely because the awardee did not submit the lowest priced proposal. See Blurton, Banks & Associates, Inc., Comp. Gen. Dec. B-206429, September 20, 1982, 82-2 CPD & 238.

The protests are denied.

William J. Jones
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[checked against original JLS 3/8/93]