

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

BEFORE THE SOUTH CAROLINA
PROCUREMENT REVIEW PANEL
CASE NO. 1993-17

In re:)
)
Protest of Advanced Identification) **ORDER**
Management Systems, Inc.; Appeal)
by Advanced Identification Systems,)
Inc.)
)
)

This case came before the South Carolina Procurement Review Panel (Panel) for hearing on August 24, 1993, on the appeal by Advanced Management Systems, Inc. (AIMS) of a decision by the Chief Procurement Officer (CPO) dismissing AIMS' protest as meritless.¹

Present and participating in the hearing before the Panel were AIMS represented by James Lengel, Esq.; Unisys Corporation (Unisys) represented by Elizabeth Crum, Esq., Steven Blaske, Esq. and Elizabeth Holderman, Esq.; the former Department of Highways and Public Transportation, now the Department of Transportation and the Department of Tax and Revenue, represented by Glennith Johnson, Esq.; and General Services represented by James Rion, Esq.

At the call of the case, AIMS made a motion to waive the hearing and have the Panel make a determination based on the record of the proceedings before the CPO as well as the testimony of the evaluators in Case No. 1993-16, In re: Protest of NBS Imaging Systems, Inc. The Panel granted AIMS' motion.

FINDINGS OF FACT

The State issued a Request For Proposal (RFP) on February 10, 1993, for a Digitized Imaging Driver's License System for the former SC Department of

¹Another Offeror, NBS Imaging Systems, Inc., also protested the intent to award to Unisys. See In re: Protest of NBS Imaging Systems, Inc., Case No. 1993-16.

Highways and Public Transportation. The State did not issue an Amendment #001 to the RFP. On February 10, 1993, Amendment #002 to the RFP was issued. Amendment #002 changes the opening date from March 5, 1993 to March 12, 1993. Amendment #003 was issued on March 2, 1993 to answer the questions raised at the preproposal conference and change the opening date to March 25, 1993. Amendment #004 was issued on March 8, 1993 to clarify an answer to a question in Amendment #003. Amendment #005 was issued on March 22, 1993 to change a specification in the RFP and change the opening date to April 1, 1993.

Proposals were opened on April 1, 1993, and after the State determined that the proposals were responsive, the proposals were evaluated by a committee of six evaluators. The RFP lists the award criteria, in order of importance, as follows:

- a. The proposed system design and the responsiveness to technical specifications.
- b. Cost
- c. Quality of the DL\ ID cards- based on the samples provided.
- d. Vendor's technical and maintenance support capability.
- e. Adaptability \ functionality of the system to current operating environment.

The evaluators were instructed by the State to evaluate each proposal against the RFP and not to evaluate a proposal against another proposal. The cost section of the proposal was evaluated by the State. The evaluators did not have the cost information when they evaluated the proposals. One committee member was given the responsibility to contact references. Once individual scoring was done, the evaluators met together as a committee. At the committee meeting, a sheet with the information about references was given to each evaluator.

Unisys received a total average score of 63.63 and AIMS received 39.5 from all the evaluators for the noncost criteria of the RFP. The other two offerors received total average scores of 39.15 and 38.81. The cost evaluation, based on an objective mathematical formula, added 28.94 points to AIMS' score, and 18.93 points to Unisys' score. AIMS' total score for all criteria is 68.44 and Unisys' total score for all criteria is 82.56.

The intent to award to Unisys was issued on June 8, 1993, and suspended on June 22, 1993, pending protests filed with the CPO.

CONCLUSIONS OF LAW

AIMS motion states that "AIMS recognizes that the issues it has raised on appeal, which relate to and challenge the evaluation process utilized in this RFP as arbitrary and capricious, are also involved in the appeal by NBS." The Panel considers any issues that AIMS may have raised in its protest letter to the CPO, other than the arbitrariness and capriciousness of the evaluation process, to be waived. The Panel concludes that the evidence does not support AIMS' contention that the proposals were evaluated arbitrarily and capriciously. AIMS bases its arguments on the disparity between scores given Unisys and the other offerors.

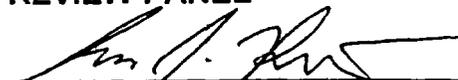
The Panel finds that AIMS has failed to prove the evaluators arbitrarily and capriciously evaluated the proposals. Four of the six evaluators testified that they independently scored each proposal against the RFP. They each also testified that they did not change their scores after the committee meeting. The evaluators and Mr. Spicer, executive manager at Information Technology Management Office, testified that the evaluators did not have the cost scores when they evaluated the proposals. The State added the cost scores. The evaluators did not change their scores for the noncost factors after the cost scores were added.

As the Panel has found previously, the variation of evaluators scores alone, is only proof of the subjective nature of the evaluation aspect of the RFP process. In re: Protest of Drew Industrial Division, Case No. 1993-14. AIMS relies on the disparity in the higher scores given Unisys by each evaluator to show dilution of the cost criteria. A disparity in scores alone does not prove dilution of the cost criteria. The disparity between Unisys' scores and the other offerors can be explained as Unisys providing what the evaluators considered the best solution for the State. The Panel will not substitute its judgment for that of the evaluators.

The RFP process allows the State to evaluate criteria other than cost in determining what is the best outcome for the State. The cost criteria is one of five criteria in the RFP. It is not inconceivable that a proposal could receive high enough scores on the other four criteria, to balance out a low score on the cost criteria. That is in fact what happened in this case. Cost dilution or arbitrariness is not proven because each evaluator scored one proposal higher than the others in the noncost criteria. This is particularly true because the evaluators did not know the scores for the cost criteria. The Panel finds that the evaluators independently evaluated the proposals and did not act arbitrarily or capriciously. The Panel further finds that the process used to evaluate the proposals, while not perfect, is not arbitrary and capricious.

For the foregoing reasons, the Panel upholds the decision of the CPO and dismisses AIMS' protest as meritless.

**SOUTH CAROLINA PROCUREMENT
REVIEW PANEL**



By: Gus J. Roberts, Chairman

Columbia, SC

Sept. 2, 1993.