



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: EBA Ernest Bland Associates

File: B-270496

Date: March 13, 1996

Ernest Bland, EBA Ernest Bland Associates, for the protester.

Paula J. Barton, Esq., Department of State, for the agency.

Glenn G. Wolcott, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly excluded protester from further consideration in procurement of architect-engineering services where agency reasonably downgraded the protester's submission consistent with the solicitation evaluation criteria and rated it tenth of the eighteen submissions.

DECISION

EBA Ernest Bland Associates protests the Department of State's decision to exclude that firm for further consideration for award of an architect-engineering (A-E) contract under solicitation No. S-FBOAD-95-R-0213. The procurement, conducted as a set-aside for small disadvantaged businesses (SDB) under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1994), contemplated the award of two or three indefinite quantity contracts for computer assisted design and drafting (CADD) services. EBA contends that the agency improperly evaluated its qualifications and those of the offerors selected for further consideration.

We deny the protest.

BACKGROUND

Generally, in acquiring A-E services, a contracting agency must publicly announce its requirements, evaluate the A-E performance data and qualification statements on file as well as those submitted in response to the announcement, and select at least three firms for discussions. Negotiations are first conducted with the highest-ranked firm. If the agency is unable to agree with that firm as to a fair and reasonable fee, negotiations are terminated and the second-ranked firm is invited to

submit its proposed fee, and so on. See 40 U.S.C. §§ 541 et seq. (1994); Federal Acquisition Regulation (FAR) Subpart 36.6; ARTEL, Inc., B-248478, Aug. 21, 1992, 92-2 CPD ¶ 120; James W. Hudson & Assocs., B-243277, July 5, 1991, 91-2 CPD ¶ 29.

Here, the agency issued the solicitation on June 28, 1995, requesting submission of standard forms (SF) 254 and 255 from interested SDB concerns.¹ The solicitation advised that the agency intended to acquire "engineering CADD drafting" for various projects and stated that the drafting requirements contemplated under this procurement included preparation of architectural, civil, landscape, structural, mechanical, plumbing and electrical drawings. The solicitation further required that firms have personnel "with a minimum of two years AutoCADD experience."²

Regarding evaluation of offerors' submissions, the solicitation stated:

"Firms responding will be considered for selection using the following criteria which is listed in descending order of importance--100 points maximum: a) specialized experience and technical competence in AutoCADD working in metric measurements - 40 points; b) specialized experience and technical competence in facilities documentation, involving multiple disciplines in office buildings, single and multifamily residences, warehouses and other support facilities - 30 points; c) previous record, within the last three (3) years, of performing work on schedule and with effective cost and quality control - 15 points."

¹SF 254 is the standard government questionnaire for firms seeking to provide A-E and related services; SF 255 is the standard A-E questionnaire related to specific projects.

²AutoCADD involves the use of specialized computer software in connection with performance of CADD services.

Eighteen firms, including EBA, provided submissions by the July 31 deadline.³ The agency convened a three-member panel for purposes of evaluating the submissions. Following that panel's review, the submissions were evaluated and the firms were scored as follows:

<u>Offeror</u>	<u>Score</u>
Firm A	98.0
Firm B	93.3
Firm C	87.6
Firm D	88.6
Firm E	86.0
<u>Firm F</u>	<u>83.0</u>
Firm G	77.6
Firm H	73.0
Firm I	67.8
EBA	65.0
Firm J	60.0
Firm K	58.2
Firm L	48.3
Firm M	45.5
Firm N	39.8
Firm O	38.6
Firm P	37.5
Firm Q	23.3

Based on this ranking, the agency selected Firms A through F for discussions and further consideration.

DISCUSSION

EBA first protests its exclusion from the list of firms being further considered, arguing that the agency failed to accord its submission appropriate credit. EBA generally challenges the agency's evaluation under each of the evaluation factors.

In reviewing a protest of an agency's selection of a contractor for A-E services, our Office will not substitute its judgment for that of the agency evaluators. Rather, procuring officials enjoy a reasonable degree of discretion in evaluating the

³The submission of the firm identified in this decision as "Firm A" was timely received by the agency, but subsequently misplaced. Following the deadline for submission, Firm A produced a signed receipt from the U.S. Postal Service demonstrating that its submission had been timely received by the agency. Based on this evidence, the agency properly evaluated the firm's submission.

submissions, and our review examines whether the agency's selection was reasonable and in accordance with the published criteria. ARTEL, Inc., *supra*; James W. Hudson & Assocs., *supra*; Ward/Hall Assocs. AIA, B-226714, June 17, 1987, 87-1 CPD ¶ 605. A protester's mere disagreement with the agency's evaluation does not show that it is unreasonable. IDG Architects, 68 Comp. Gen. 683 (1989), 89-2 CPD ¶ 236.

We have reviewed the record here and, for the reasons discussed below, we find the agency's evaluation reasonable. Overall, the agency reasonably determined that, while EBA's submission was acceptable and reflected certain strengths of that firm, the submissions of other offerors more effectively demonstrated the skills and qualifications sought by the agency.

Under the first, most important evaluation factor—"specialized experience and technical competence in AutoCADD working in metric measurements"—EBA received 20.7 out of a possible 40 points. The agency explains that EBA's submission did not demonstrate significant CADD experience. EBA's submission identified only one project in which CADD and AutoCADD drafting had been used and in response to the SF 255 request to list prior projects which "best illustrate current qualifications relevant to this project," EBA failed to discuss any use of the AutoCADD system. Further, in responding to the SF 255 request to provide resumes for the personnel intended to be used on this project, EBA identified only one individual whose qualifications referenced any experience with AutoCADD. Finally, EBA's submission failed to state whether any of its prior projects had been performed using metric measurements.

EBA has not rebutted the agency's conclusion that its submission demonstrated limited CADD and AutoCADD experience. Rather, EBA complains that it "was particularly struck by [the agency's] constant emphasis on items tangential to the project requirements such as whether the principals of consultant firms 'know CADD.'" As the agency correctly points out, rather than being "tangential" to this procurement, an offeror's experience with CADD was critical to the most important evaluation factor. On this record, the agency's assessment of EBA's CADD and AutoCADD experience was reasonable.

While EBA acknowledges that its submission did not expressly advise the agency as to which, if any, of the projects had been performed using metric measurement, EBA maintains that the agency should have been able to verify on its own that some of the projects had been performed in metric. However, offerors are responsible for preparing adequately written proposals, Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530, and agencies are not obligated to search out information or qualifications that an offeror may have omitted from its proposal. Sunbelt Properties, Inc., B-245729.3, Mar. 12, 1992, 92-1 CPD ¶ 278. EBA's complaints regarding the agency's assessment of its experience with metric

measurements falsely assumes the agency was required to seek and obtain information regarding EBA's qualifications beyond that provided by EBA.

Under the second evaluation factor--"specialized experience and technical competence in facilities documentation involving multiple disciplines"--EBA received 25 out of a possible 30 points. In evaluating this aspect of EBA's submission, the agency noted that the drawings submitted by EBA documented only architectural work; the agency assessed a weakness regarding the requirement to submit documentation "involving multiple disciplines."

Again, EBA does not dispute that the drawings it submitted demonstrated only architectural work. However, EBA points out that one of the six offerors being further considered similarly failed to document its experience in multiple disciplines. On this basis, EBA argues that its submission was not evaluated in a manner consistent with the other offerors' submissions.

Our Office has reviewed the agency's entire evaluation record in this procurement.⁴ Regarding the particular offeror identified by EBA as having similarly failed to provide documentation of experience in multiple disciplines, our review shows that the agency's evaluation of that offeror properly reflected that weakness in its submission. Nonetheless, that offeror received a higher overall score because its submission contained other strengths in areas where EBA's submission did not.

Regarding the third evaluation factor--"previous record . . . of performing work on schedule and with effective cost and quality control"--EBA received a score of 10.7 points out of a possible 15 points. The agency concluded that EBA's submission, while acceptable, did not contain sufficient information to demonstrate an outstanding record of cost and quality control. In evaluating this aspect of EBA's submission, one agency evaluator noted that EBA had submitted only one letter of recommendation.

EBA complains that the solicitation did not mandate the submission of letters of recommendation and argues that, to the extent the agency's evaluation incorporates that consideration, the evaluation is improper. We disagree. The solicitation specifically advised offerors they would be evaluated regarding their documentation of prior cost and quality control. In its assessment, the agency found EBA's submission acceptable, but less than outstanding, with regard to this evaluation factor. The evaluator's comment that EBA's submission included "[only] one letter of recommendation" is consistent with the agency's obligation to assess EBA's submission regarding documentation of its past performance.

⁴The agency also provided the protester with the procurement record, excluding documents containing source selection information.

Finally, under the fourth evaluation factor--"ability to provide and coordinate multi-discipline effort"--EBA received a score of 8.3 points out of a possible 15 points. EBA notes that the initial scores of two individual agency evaluators were widely divergent and argues that this divergency demonstrates the invalidity of the ultimate consensus score.

It is neither unusual nor improper for individual evaluators to reach different conclusions and assign different scores when evaluating proposals, since both objective and subjective judgments are involved. Cybernated Automation Corp., B-242511.3, Sept. 26, 1991, 91-2 CPD ¶ 293. Here, the agency evaluators first scored proposals individually then, following discussions among themselves, arrived at a consensus score which was a midpoint between the high and low scores. We have reviewed EBA's submission with regard to this evaluation factor and do not find the consensus score of 8.3 points to be unreasonable. In any event, the record demonstrates there was no possible prejudice to EBA in this regard. Even if EBA had received the maximum score of 15 points for this evaluation factor, its overall score would have increased only to 72, elevating its rank to ninth out of eighteen firms evaluated. On this record, even if this portion of the agency's evaluation were unreasonable, there would be no basis to sustain EBA's protest. See, e.g., Dynamic Isolation Sys., Inc., B-247047, Apr. 28, 1992, 92-1 CPD ¶ 399; OAQ Corp., B-228599.2, July 13, 1988, 88-2 CPD ¶ 42.

EBA also protests the agency's evaluation of the other firms' submissions, asserting for various reasons that the agency erred in including them in the group for further consideration. Under our Bid Protest Regulations, 4 C.F.R. § 21.0(a), 60 Fed. Reg. 40,737 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.0(a)), a protester must be an "interested party" before we will consider its protest. An interested party for purposes of eligibility to protest must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by the failure to award the contract. A protester is not an interested party if it would not be in line for award if its protest were sustained. See Hydroscience, Inc., B-227989; B-227989.2, Nov. 23, 1987, 87-2 CPD ¶ 501. Here, EBA was ranked tenth out of eighteen firms. Three other firms excluded from consideration had point scores higher than EBA's. Thus, on this record, EBA does not qualify as an interested party to further challenge this procurement.

The protest is denied.

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