



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: URS Consultants

File: B-275068; B-275068.2

Date: January 21, 1997

James S. Hostetler, Esq., and Susan K. Fitch, Esq., Kirkland & Ellis, for the protester.

Frank S. Swain, Esq., Baker & Daniels, for Schmidt Associates, Inc., an intervenor.

Marcy A. Sherrill, Esq., General Services Administration, for the agency.

Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that the agency's evaluation of the protester's past performance in a procurement for architect-engineering services relating to renovation of a building was unreasonable because the agency did not recognize the relevance and outstanding nature of the protester's previous design work on the same building under a contract with a different agency is denied where the agency reasonably considered the protester's previous design work on the same building, as well as the recommendations and criticisms from references listed by the protester regarding the quality of the protester's performance on other prior architect-engineering work, as part of its past performance evaluation.

DECISION

URS Consultants protests the General Services Administration's (GSA) evaluation of offerors' qualifications and selection of Schmidt Associates for negotiation of an architect/engineering (A/E) services contract pursuant to request for qualifications (RFQ) No. GS05P96GBC0013 for performing various A/E services related to modernization and renovation of a building at Fort Benjamin Harrison in Indianapolis, Indiana. Fort Benjamin Harrison was closed in 1996 pursuant to the Base Closure and Realignment Act, 10 U.S.C. § 2687 (1994), and GSA assumed ownership and control of Building One.

We deny the protest.

This A/E procurement was conducted pursuant to the Brooks Architect-Engineers Act, 40 U.S.C. §§ 541-544 (1994) and Federal Acquisition Regulation (FAR) subpart 36.6, which provides that agencies shall announce their A/E requirements and list general and project-specific evaluation criteria, appoint expert evaluation boards to review qualification statements submitted in response to the synopsis by prospective offerors together with in-house data concerning the offerors' capabilities and past performance, and evaluate and rank at least three offerors on a short list for further contract negotiations in order of ranking.

On May 16, 1995, GSA synopsisized the requirements of the solicitation in the Commerce Business Daily (CBD) and requested qualifications statements from firms interested in performing various A/E services related to the general rehabilitation and renovation of Building One, at Fort Benjamin Harrison. The synopsis indicated that modernization efforts were to include pre-design programming, surveying of existing conditions, studies, developing concepts, presentations for client agencies, energy conservation analysis, development of housing plans and support for the relocation of tenants into swing space, development of phasing plans, completion of architectural and engineering design, preparation of specifications and computer-assisted design and drafting drawings for construction documents, value engineering, cost estimating, space planning, interior design, and post-construction services (including shop drawing review, photography, record drawings and construction inspection). The synopsis stated that each firm's qualifications would be evaluated on four evaluation criteria, listed in descending order of importance as follows: past performance on design; philosophy and design intent; key designers' portfolio; and designers' profile.

The CBD synopsis indicated that GSA would select a contractor through a two-stage process. Stage I would establish the architectural, mechanical and electrical engineering, and industrial hygienist design capabilities of interested A/E firms and their key designers. During Stage I, interested firms were to submit standard forms (SF) 254 and 255¹ for the A/E design firm only and additional information including: 8"X10" graphics and written descriptions of relevant prior completed projects; a statement from their key designers regarding the firm's design philosophy and the parameters that apply specifically to the modernization of buildings; their key designers' portfolios; and biographical profiles of their key designers. After the qualifications statements and related materials were evaluated, a short list of at least three firms would be selected for participation in Stage II. The synopsis stated that, during Stage II, each short-list offeror's entire project team--including the A/E design firm, its key designers, and all the consultants that will work on the

¹SF 254 is an Architect-Engineer and Related Services Questionnaire and SF 255 is an Architect-Engineer and Related Services Questionnaire for Specific Project.

project-would be evaluated. This evaluation was to be based upon submission of SFs 254 and 255 which reflected the entire project team and would include a face-to-face interview with each project team.

Twenty-five interested firms submitted qualifications statements in Stage I. The GSA evaluation board, consisting of 3 voting members and 10 non-voting members, evaluated each firm's qualifications statement on the 4 evaluation criteria that were set forth in the CBD synopsis. At the close of Stage I, URS and Schmidt were included among the four short-listed firms selected for participation in Stage II. During Stage II, each project team was interviewed by the evaluation board. Each project team made a 45-minute presentation which was followed by a question and answer period. The evaluation board next selected three projects that the board thought were similar in size and scope to the proposed project from each offerors' list of previous projects included in their qualifications statements. The board then contacted the three references selected for each project team and asked them a series of questions concerning prior performance of that project team member.² After reviewing all of the materials submitted by offerors during Stage I and Stage II, the interview results, and the reference questionnaires, the evaluation board met again to discuss their individual ratings of each firm and to prepare a consensus report and recommendation. After discussing the evaluations among themselves, the evaluation board ranked Schmidt first and URS second on its short list of most highly qualified firms. Therefore, GSA first intends to negotiate a contract with Schmidt, the highest qualified firm.

The protester contends that the agency's past performance evaluation was unreasonable because GSA failed to recognize the relevance and "outstanding nature" of URS' past performance. URS asserts that it has already successfully completed a significant portion of the exact same work now being sought by GSA under a previous contract for A/E services on the exact same building awarded it by the Army Corps of Engineers in 1988. Therefore, URS contends that since it has the most relevant past performance for this contract, it should have been ranked first on the short list.

Basically, GSA responds that, because its planned use of Building One differs in significant ways from the Army's use of the building, it has different needs and goals regarding this renovation project. In fact, GSA states that one of the first tasks its new A/E contractor will be required to perform is to evaluate the property and to describe exactly how GSA's goals and plans for renovation should differ from the earlier goals and plans contemplated by the Army.

²A questionnaire which asked the exact same questions of each reference for each prior contract was used for this purpose. As an example, each reference was asked, "Would you hire them again? Why or Why not?"

In reviewing a protest of an agency's selection of a contractor for A/E services, our function is not to reevaluate the offeror's capabilities or to make our own determination of the relative merits of competing firms. Rather, the procuring officials enjoy a reasonable degree of discretion in evaluating the submissions, and our review examines whether the agency's selection was reasonable and in accord with the published criteria. Greenhorne & O'Mara, Inc., B-258281, Jan. 5, 1995, 95-1 CPD ¶ 1. A protester's mere disagreement with the agency's evaluation does not show that it is unreasonable. Id. Under this standard, after reviewing the entire record in light of URS' contentions, we find no basis upon which to disturb the agency's ranking of potential A/E contractors.

First, the record does not support the protester's assertion that the present procurement is for services that are identical to those that URS has already substantially performed under the 1988 A/E contract. Originally, Building One was a warehouse, but, by 1988, it was owned and controlled by the Department of Defense (DOD) which used it to house the Defense Finance Accounting Service (DFAS). In 1988, the Corps awarded an A/E contract to URS in preparation for a planned modernization of the building that would bring the building up to then-current military standards. Now, however, GSA wants to renovate the building so that it will be attractive in a competitive commercial market. There is also a need to design and build a new heating facility since Fort Benjamin Harrison's central steam plant, which provided heat for the building, will be closed in the near future. The electrical system also needs to be updated since GSA anticipates the widespread use of computers by future tenants. GSA's security concerns are also different from those of DOD 8 years ago. For one thing, Building One is no longer part of a military installation and therefore is no longer protected by military police and firefighting personnel. Additionally, GSA reports that its security concerns have been heightened since government buildings have been blown up in Oklahoma City and elsewhere in recent times. Moreover, GSA wants its A/E contractor to redesign Building One so that it is accessible to disabled people in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (1994); the Act was not in effect when the Corps awarded a contract to URS. Thus, it is obvious that the actual A/E services to be rendered in the new contract will differ in a number of significant ways from the services URS performed for the Corps of Engineers.

Second while it is clear from the record³ that the evaluation board considered URS' previous experience on that project, it also considered other URS projects, and that while the Corps of Engineers's project manager for Building One gave URS a very good recommendation, the other references contacted by the board gave less positive appraisals of URS' work.

One of the other references, associated with URS' work on the [deleted] gave a generally positive recommendation and stated that he would hire the firm again. However, this same person also cautioned that [deleted] and that URS [deleted].

The third reference contacted by the board, who was knowledgeable about URS' design work on a prior renovation project at the [deleted], gave a very mixed appraisal containing both positive and negative comments.⁴ This project manager

³The evaluation board's original consensus report contained only a terse discussion of each offeror's qualifications and a brief statement as to why the board recommended the selection of Schmidt. The scoresheets of the board's three voting members that were attached to the report contained only numerical ratings of each offeror on the various evaluation factors/subfactors but no narrative discussions. The protester argues that the evaluation is inadequately documented. Subsequent to the filing of URS' protests, the board's voting members prepared narrative comments to show why they rated each offeror as they did on their original scoresheets; the board also revised its original discussion of each firm's qualifications in an attempt to amplify its original reasoning. This new documentation is consistent with the original scores and consensus comments and provides narrative support for the scoring by each evaluator and the summary statements in the consensus report. Supplementing the recording in this manner is not objectionable. Bank Street College of Education, 63 Comp. Gen. 393 (1984) 84-1 CPD ¶ 607. Accordingly, in resolving URS' protest, we considered the entire record, including the evaluators' narratives and the revised consensus report that were prepared subsequent to the filing of the initial protest, as well as the original consensus report and evaluators' scoresheets, the board's interview notes, and the reference questionnaires used by the board.

⁴URS contends that the agency should have allowed it to rebut any negative comments made by its references during discussions. However, GSA was not required to conduct discussions, as would normally be required under FAR § 15.610, because this was an A/E procurement and was, therefore, governed by FAR subpart 36.6 which specifically states that FAR part 15 is inapplicable. FAR § 36.601-3(b). Under the Brooks Architect-Engineers Act and implementing regulations, contracting agencies are only required to hold limited discussions with short-list firms concerning concepts, the relative utility of alternative methods, and feasible

(continued...)

stated that URS was cooperative and that he would hire the firm again for architectural and electrical work, but [deleted]. He stated further that URS had no capability for [deleted]. The project manager also noted that there were [deleted] associated with URS' prior work and stated, in response to a question about change orders, that the [deleted].

Third, with respect to Building One, while it is clear that the evaluators gave URS generally high ratings for past performance in large measure because of its work on this building,⁵ it is also clear that the evaluators did not believe that URS' work for the Corps on the redesign of Building One warranted the highest rating. Among other things, the board noted that because Fort Benjamin Harrison was closed, URS had completed only about 60-65 percent of the design work and had not done any work on implementation and phasing through actual construction. Thus, GSA reports that the evaluators could not ascertain from URS' previous work on that project what the ultimate success of the Corps's renovation project would have been.

Furthermore, the final consensus rankings included consideration of the face-to-face interviews. While the board noted that URS made an excellent presentation and that URS' previous work on Building One might possibly result in a shorter start-up time if URS were selected, the evaluators also noted some negative aspects of selecting URS, including: (1) URS [deleted] and (2) though asked twice, URS did not answer a question about [deleted].

On the other hand, Schmidt received favorable references from each of the three individuals GSA contacted. Schmidt's team also included a subcontractor who had relevant, recent experience in Building One. Based on these references and the

⁴(...continued)

ways to prescribe the use of recovered materials and achieve waste reduction and energy-efficiency. 40 U.S.C. § 543; FAR § 36.602-1(c). Furthermore, URS was aware when it listed the references in its submissions that the agency might contact them to obtain their insight into the quality of URS' past work, and, as there is no indication in the record that the information received from the references was untrue, we see no reason why the agency had to investigate the veracity of the references' statements or allow URS to rebut them.

⁵URS received ratings of [deleted] on each and every evaluation factor and subfactor. Regarding evaluation of the past performance factor, URS received ratings of [deleted] from two of the three voting board members on each of the four evaluation subfactors (renovation projects, overall past performance, budget/on-time performance, and phasing experience), while the third voting member rated URS as [deleted] on two subfactors and [deleted] on two subfactors.

experience of Schmidt's team, Schmidt was ranked higher than URS. URS does not challenge the agency's evaluation of Schmidt's experience. Given that Schmidt's references were all positive while URS' references did note some problems, and the evaluators were reasonably concerned that URS might [deleted], we think the agency reasonably could rank Schmidt higher than URS for past performance.

The protester also contends that the evaluation was unreasonable because Schmidt's Stage II evaluation score (i.e., final evaluation score) was [deleted] points more than in its Stage I evaluation score (i.e., initial evaluation score) and the evaluation board provided no explanation or rationale for such a large increase in Schmidt's rating. There is no merit to this argument.

The evaluation board used different scoring systems for each stage of the procurement. In Stage I, a perfect evaluation would have resulted in a total score of total 75 points; in Stage II, the scoring was revised so that a perfect evaluation would have resulted in a total score of total 100 points. Schmidt received a total score of [deleted] points for its Stage I submissions; Schmidt received a total score of [deleted] points in the Stage II evaluation. Changing these scores to percentages, shows that Schmidt received scores of [deleted] percent in the Stage I evaluation and [deleted] percent in the Stage II evaluation. Thus, the actual increase in Schmidt's score was very small.

Additionally, as noted above, the Stage I evaluation was based upon qualifications statements (SFs 254 and 255) and other submissions relating to Schmidt alone. However, the Stage II evaluation was based upon all of the Stage I submissions plus: Sfs 254 and 255 representing the entire project team (including consultants); the project team's presentation and answers to questions asked during the face-to-face interview with the evaluation board; and the recommendations, criticisms, and comments received from an offeror's references.

The evaluation record contains ample information to support the slight increase in Schmidt's score. Among other things, the board's consensus report states that Schmidt's team made an outstanding presentation during its interview, demonstrating "exceptional strengths in all key positions with no weaknesses noted" as well as "a clear understanding and respect for the complexities of a major renovation." The evaluators were also favorably impressed with the experience of the consultants that Schmidt intended to use if awarded the contract. Furthermore, the references contacted by GSA all gave very positive recommendations for the Schmidt team and all indicated that they would be pleased to work with the Schmidt team again. In addition, the evaluators noted that the Schmidt team had a demonstrated track record of on-time performance on seven major projects. Based upon consideration of these and other factors, the evaluation board reasonably increased its overall rating of the Schmidt team.

The protest is denied.⁶

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⁶URS also argues that since it already performed a significant portion of the required work under its previous contract with the Corps of Engineers, if GSA does not award the contract to URS, GSA will necessarily pay a second time for work that has already been completed and paid for by the Corps. This argument is not persuasive because, as discussed at length above, the work URS performed for the Corps differs significantly from the work that will be required under the present contract. The services under this contract call for renovating to make the building attractive for commercial use, for designing and building a new heating system, upgrading of the electrical system and making the building accessible to the disabled, work not covered under the scope of the previous contract. Moreover, GSA reports that it has all of the drawings and other data that URS delivered to the Corps under the prior contract and, to the extent that those materials are relevant to GSA's future work requirements, they will be made available to the new contractor.