



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Consolidated Engineering Services, Inc.

File: B-277273

Date: September 24, 1997

David M. Nadler, Esq., and Tina M. Ducharme, Esq., Dickstein Shapiro Morin & Oshinsky, LLP, for the protester.

Jerry Ann Foster, Esq., General Services Administration, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably downgraded protester's proposal significantly under experience and past performance factor where only one of four references identified in proposal responded to agency's inquiry; that reference was from protester's parent company, leading agency to question its impartiality; and protester failed to include information in proposal showing work performed under that contract was similar to work under the solicitation.

DECISION

Consolidated Engineering Services, Inc. protests the elimination of its proposal from the competitive range under General Services Administration (GSA) solicitation No. GS-07P-97-HXC-0007, for commercial facilities management services at four federal buildings in Texas.

We deny the protest.

The RFP indicated that the awardee would be selected on a best value basis considering two technical factors--staffing and work schedules (with three subfactors), and experience and past performance--and cost (less important than technical). Eleven offers were received and were evaluated with scores ranging from 2.3 to 8.7 (on a 10-point scale). GSA determined that the three top-rated offers--with scores of 8.7, 8.1, and 8.0--were significantly superior to the others (the next highest-ranked offer received 5.9 points) and should be included in the competitive range. Consolidated's proposal was ranked tenth, with a score of 3.5. Consolidated's score reflected a finding of deficiencies in the experience and past performance factor and the operation, maintenance, repair, and supervisory staff subfactor.

EXPERIENCE AND PAST PERFORMANCE

The experience and past performance factor was worth 40 percent of the evaluation score. The RFP required that offerors provide specific information on prior contracts; specifically, offerors were to "demonstrate that, within the last 5 years, for a minimum of three (3) contracts, each of which must have been at least 12 months in duration . . . and for services similar in size and scope to those required by this solicitation and that [they] have provided satisfactory services." The RFP stated that the agency would contact the firms for which the work was performed for an evaluation of the offeror's performance, and added: "Offerors are cautioned to submit accessible references. References which cannot be contacted and/or verified will not be considered." The information required to be provided included: type of facility and gross square footage; type of services performed under the contract (*i.e.*, mechanical maintenance and operation, custodial, etc.); date of contract start and expiration; and name, title, complete address, and telephone number of reference contact.

Consolidated's proposal included information pertaining to four clients for which it had performed contracts: the Office of Thrift Supervision; NationsBank; the Washington Navy Yard; and the Charles E. Smith Company (Smith). However, some of the required information was omitted. For NationsBank, the protester submitted the name of a reference and a telephone number, but no address, and when the agency attempted to contact the reference, it was told that the number was disconnected or not in service. The agency sent letters to the three other references. Neither the Navy Yard nor the Office of Thrift Supervision responded to the letters, and when the agency then attempted to contact the Navy Yard by telephone, it learned that the number provided by Consolidated was not a Navy Yard number, and that no one recognized the name of the individual Consolidated identified. Smith did respond to the reference request with an excellent rating. The agency noted, however, that Smith was the parent company of the protester and, further, that it was not clear that the work performed for Smith was similar to that required by the solicitation. Based on these considerations, GSA assigned Consolidated's proposal 0.8 (out of 4 available) weighted points for this factor.

Consolidated challenges the evaluation under this factor on several grounds. First, it maintains that GSA should have made a better effort to contact the references it provided in its proposal. Thus, for example, Consolidated believes that when the agency could not contact the NationsBank reference, the agency should have attempted to get a more recent phone number and an address from directory assistance. This argument is without merit. It was the protester's responsibility--not the agency's--to obtain and provide accurate information regarding its prior contracts, and the RFP specifically warned offerors that the agency would not consider references that could not be contacted.

Second, Consolidated maintains that it was improper for GSA to discount Smith's "excellent" rating on the basis that Smith is the protester's parent company. However, we find nothing unreasonable in the agency's factoring of this consideration into the evaluation. It is only logical that the impartiality of a reference would be deemed relevant in assigning the reference evaluation weight, and, we think, a parent/subsidiary relationship between a reference and offeror reasonably may be viewed as bearing negatively on the reference's impartiality, since a favorable evaluation could result in monetary gain to the reference.

Third, Consolidated asserts that its proposal did in fact clearly indicate that the work it performed for Smith was similar to the services requested by the instant solicitation. However, while Consolidated's proposal did specifically explain that the firm had performed operation and maintenance services at Smith properties ranging in size from 100,000 to 1,000,000 square feet, including Smith's Crystal City complex in Virginia (which consists of 25 office buildings, 2 hotels and 11 apartment buildings), the proposal failed to indicate gross square footage for specific facilities, or to indicate the services performed at any specific facility, as required by the RFP. As this omission precluded the agency from determining whether the work performed for Smith had been performed in similar sized buildings, these contracts with Smith provide no basis for concluding that Consolidated's proposal was improperly downgraded under this factor.

UNFAIR EVALUATION

Consolidated maintains that its proposal was scored unfairly under the experience and past performance factor compared to the competitive range proposals. Specifically, Consolidated notes that two other offerors, for which only two references responded to GSA's request for information, received 2.4 points compared to Consolidated's 0.8, despite the fact that the references' ratings were lower than those provided by Smith for Consolidated. Consolidated further notes that, unlike the evaluation of its own proposal, the agency did not reduce the scores of these offerors' proposals, or draw negative inferences, based on the failure of other references to respond. Consolidated asserts that a third offeror received 3.6 points because four references responded, even though one response was for a contract that was in place for only 2 months (not the 12 months requested by the RFP), and a second was a base services contract which did not call for services similar to those required under this RFP.

This argument is without merit. While it is true that only two responses were received for two of the offerors, the references for both involved similar projects of similar size, the entities providing the references were not affiliated with the offerors and, for both, one reference rated the firm's past performance "excellent" and the other "very good." With respect to the third offeror, while one of the references involved a contract for less than 12 months, the other three references involved contracts for more than 12 months, and all rated the offeror's performance

"excellent" or "very good." While one of those three contracts was for base services, the record shows that the services performed were similar to those under the RFP, *i.e.*, facility management, operation and maintenance of mechanical systems, and custodial services. Given that Consolidated received only one reference, and that one's impartiality was in question, and that its proposal omitted information required to demonstrate similarity of prior work, there is no basis for concluding that Consolidated's proposal was scored unfairly.

**OPERATION, MAINTENANCE, REPAIR STAFF, SUPERVISORY STAFF,
SUBCONTRACTING PLAN AND WORK SCHEDULES SUBFACTOR**

Consolidated takes issue with the scoring of its proposal under the operation, maintenance and repair staff subfactor (which was assigned 30 percent of the weight under the staffing and work schedules factor); GSA downgraded Consolidated's proposal (0.6 points) on the basis that its proposed supervisory personnel were insufficient to perform the work and showed a lack of understanding of the requirements. However, even if Consolidated received all points available for this subfactor, its score for the factor would increase by 2.4 points (from 0.6 to 3), and its overall score only from 3.5 to 5.9. Since the agency determined that only those proposals with scores of at least 8.0 had a reasonable chance of being selected for award, Consolidated's increased score would not result in its proposal's inclusion in the competitive range. Accordingly, Consolidated was not prejudiced by any improper evaluation under this factor, and we will not consider this issue. See Executive Sec. & Eng'g Techs., Inc., B-270518 et al., Mar. 15, 1996, 96-1 CPD ¶ 156 at 3-4.

The protest is denied.

Comptroller General
of the United States