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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Sterling Services, Inc.

File: B-286326

Date: December 11, 2000

Walter Bull for the protester.

Lt. Col. LeEllen Coacher, Department of the Air Force, for the agency.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably determined protester's past performance deserved a "very good" rating, based on the references in the protester's proposal, rather than the "exceptional" rating the protester asserted it deserved.

DECISION

Sterling Services, Inc. protests the award of a contract to Northwest Florida Facilities Management, Inc. (NFFM) under request for proposals (RFP) No. F08637-00-R-7007, issued by the Department of the Air Force, for transient aircraft services for Tyndall Air Force Base (AFB), Florida.

We deny the protest.

The RFP provided for the award of a fixed-price contract for a base period of 1 year with four 1-year options. The successful contractor is required to provide all personnel, equipment, tools, supervision and other items required to perform the transient aircraft services. RFP at 2-4.

Offerors were informed that the agency would utilize a "Technically Acceptable-Performance/Price Tradeoff (TA-PPT) source selection procedure" to select the proposal that represented the best value to the government. RFP at 23. The RFP explained that under the TA-PPT procedure, the proposals would be evaluated for technical acceptability under the staffing/equipment and quality control plan evaluation criteria, and that the proposals would be evaluated under the past performance criterion as either exceptional/high confidence, very good/significant

confidence, satisfactory/confidence, neutral/unknown confidence, marginal/little confidence, or unsatisfactory/no confidence. RFP at 23-24. The RFP stated that in determining which technically acceptable proposal represented the best value to the government, past performance would be “considered significantly more important than price.” RFP at 23. The RFP also advised offerors that, although the agency reserved the right to conduct discussions if necessary, it planned to make award on the basis of initial proposals. RFP at 20.

The RFP (at 22) included instructions for the preparation of proposals, requesting, among other things, that offerors

[s]ubmit past performance information . . . that is relevant for the last three years. Include past performance history and experience on contracts of this type and magnitude with the government and/or commercial market. All available information pertaining specifically to these criteria should be included, as well as any other information the offeror feels would demonstrate their ability to accomplish this project.

The agency received 11 proposals by the RFP’s closing date and evaluated 6 of the proposals, including those submitted by Sterling and NFFM, as technically acceptable. Sterling’s proposal was rated as “very good/significant confidence” under the past performance criterion at a proposed price of \$1,704,144, and NFFM’s proposal was rated as “exceptional/high confidence” under the past performance criterion at a proposed price of \$1,739,498. Agency Report, Tab 4, Proposal Evaluation Report.

The contracting officer found that NFFM’s proposal represented the best value to the government, noting that NFFM was “performing exceptionally on current TA [transient aircraft] service contracts” at three other Air Force bases, and that because of this, “essentially no doubt exists that [NFFM] will successfully perform the required effort.” The contracting officer added that, although NFFM’s price was 2 percent higher than Sterling’s low-priced proposal, the “superior past performance of the higher priced offeror outweighs the small cost difference.” Id.

Sterling (the incumbent contractor) argues that the agency’s evaluation of its past performance was unreasonable, contending that its past performance should have been evaluated as “exceptional/high confidence.” Protest at 2. According to the protester, Tyndall AFB personnel have rated Sterling’s past performance as “exceptional” on a number of occasions when contacted by other contracting activities. Protest at 2; Comments at 1.

The evaluation of past performance is a matter within the discretion of the contracting agency. In reviewing an agency’s evaluation of past performance, we will not reevaluate proposals, but instead will examine the agency’s evaluation to

ensure that it was reasonable and consistent with the solicitation. Acepex Management Corp., B-283080 et al., Oct. 4, 1999, 99-2 CPD ¶ 77 at 3.

Sterling's proposal included information on transient aircraft services contracts performed at Tinker, Tyndall, Anderson, and Seymour Johnson AFBs. This section of Sterling's proposal included relevant points of contact, Sterling's summary of the contracts' requirements, and completed Contractor Performance Assessment Reports (CPAR) for the Tinker, Tyndall, and Anderson AFB contracts that were signed by the relevant agency representatives and Sterling's president. These CPARs included a table that set forth various areas for evaluation (such as "quality of product/service"), under which Sterling received ratings ranging from "very good" to "exceptional" with regard to Tyndall and Tinker AFBs, and "satisfactory" to "very good" with regard to Anderson AFB. Sterling commented in this section of its proposal that "the past performance of the above-referenced Contracts should be evaluated at the 'Very Good/Significant Confidence' rating based on the definition that the offeror's performance record indicates that there is little doubt that the offeror will successfully perform the required effort." Agency Report, Tab 8, Sterling Proposal, Past Performance Information.

The agency forwarded "past/present evaluation" forms to Tinker, Tyndall, Anderson, and Seymour Johnson AFBs as part of its evaluation of Sterling's proposal under the past performance criterion. These forms listed 12 areas (such as "Contractor's quality of work") on which Sterling's performance was to be rated as exceptional, very good, satisfactory, neutral, marginal, or unsatisfactory. Agency Report, Tab 9, Sterling's Past Performance Surveys.

Sterling received ratings of "very good" under all 12 areas of evaluation from Tinker AFB, and "very good" or "exceptional" under the 12 areas from Tyndall AFB. The record does not contain a survey response from Anderson AFB, and Seymour Johnson AFB, while providing some positive comments regarding Sterling's performance, declined to evaluate Sterling because the firm had been performing the relevant contract for only a few months. Id.

Based upon the record here, we have no basis upon which to find unreasonable the agency's evaluation of Sterling's past performance as "very good" rather than "exceptional." The record reflects that Sterling's past performance received ratings that primarily ranged from "very good" to "exceptional" from Sterling's references, and that the ratings set forth on the CPARs provided by Sterling in its proposal ranged from "satisfactory" to "excellent." Although Sterling may be correct that Tyndall AFB has recently evaluated Sterling's past performance as "excellent" when contacted by other contracting activities, the record also includes CPARs dated within the last 3 years that were prepared by Tyndall AFB and signed by Sterling's president that evaluate Sterling's performance as ranging from "marginal" to "very good," with most of the areas being rated as "satisfactory."

The protester complains that it “was not notified . . . that there was any problem with [its] past performance at Seymour Johnson AFB,” and that this should have been raised with Sterling during discussions. Protest at 2. This contention is premised on a flawed factual assumption. The record does not support the protester’s view that there was any “problem” with its performance at Seymour Johnson AFB that needed to be addressed. Rather, the record reflects that Seymour Johnson AFB was pleased with the protester’s performance, but declined to complete the past performance evaluation form because, as noted above, Sterling had been performing the relevant contract for only a few months. Accordingly, we find that this contention is without merit.

The protester contends that the agency determination to award the contract to NFFM based upon its higher-rated, higher-priced proposal was unreasonable. We disagree. As explained above, there is no reason to object to the agency’s evaluation of NFFM’s proposal as “exceptional/high confidence” and Sterling’s proposal as “very good/significant confidence” under the past performance evaluation criterion. Given that the RFP stated that the past performance would be “considered significantly more important than price” in determining which proposal represented the best value to the government, and the reasonable explanation in the agency’s award selection document as to why NFFM’s higher-rated proposal was worth its slightly higher price, Sterling’s contentions here provide no basis for overturning the award determination. Matrix Int’l Logistics, Inc., B-277208; B-277208.2, Sept. 15, 1997, 97-2 CPD ¶ 94 at 14.

The protest is denied.

Anthony H. Gamboa
Acting General Counsel