



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Hot Shot Express, Inc.

File: B-290482

Date: August 2, 2002

Judy W. Royals, for the protester.

Jesse W. Rigby, Esq., Clark, Partington, Hart, Larry, Bond & Stackhouse, for Crown Support Services, Inc., an intervenor.

Phillipa L. Anderson, Esq., Merilee D. Rosenberg, Esq., and Philip Kauffman, Esq., Department of Veterans Affairs, for the agency.

David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where offeror's proposal indicated that it was part of a family of wholly-owned subsidiaries and closely-held affiliates with interlocking officers and boards of directors, and that the parent company would have significant involvement in the proposed effort, agency could properly attribute the past performance of the family of companies to the offeror.

DECISION

Hot Shot Express, Inc. protests the award of a contract to Crown Support Services, Inc. (CSS), under Department of Veterans Affairs (VA) solicitation No. ALM 0205-1, for laundry transport services. Hot Shot principally asserts that CSS was not eligible for award.

We deny the protest.

The solicitation, issued on February 8, 2002, provided for award of a fixed-price contract for an approximately 6-month base period, with 2 option years, for transporting laundry between various VA medical centers (including those in Jackson and Gulfport, Mississippi; New Orleans, Louisiana; Mountain Home, Tennessee; and Salisbury, North Carolina) and the Naval Hospital and Dental Clinic in Pensacola, Florida. Award was to be made to the responsible small business offeror whose conforming proposal was most advantageous to the government. The solicitation provided for proposals to be evaluated based on three evaluation factors:

(1) past performance; (2) “Technical/Offeror’s Capabilities (Ability of Offeror to meet the Government requirements as outlined . . .),” including consideration of “Offeror’s resources”; and (3) price. Federal Acquisition Regulation Standard Clause § 52.212-2, Evaluation–Commercial Items (JAN 1999). The past performance factor was slightly more important than the technical/offeror’s capabilities factor, and the two factors combined were equal in weight to price.

Five proposals were received in response to the solicitation; all were included in the competitive range. Based on its evaluation of the subsequent final proposal revisions, VA determined that CSS’s proposal, which received the highest evaluation score (198 of 200 available technical and cost points), was most advantageous. Hot Shot’s score was 186 points; its offered price was higher than CSS’s, and its overall past performance and technical scores were lower. Upon learning of the resulting March 21 award to CSS, and after receiving a debriefing, Hot Shot filed an agency-level protest. That protest was denied, and Hot Shot then filed this protest with our Office.

Hot Shot’s protest focuses largely on its assertion that at the time of award CSS lacked a Department of Transportation (DOT) motor carrier identification number, which it claims was required by the qualifications provisions of paragraph 7 of the solicitation’s statement of work. That provision stated as follows:

QUALIFICATIONS: Offers shall be considered from offerors who are regularly established in business to provide transport services, who are financially responsible, possess the vehicles, and personnel to furnish transport services in the volume specified for all medical centers covered under this contract. The successful offeror shall meet all Federal, State, and City codes regarding the operation and performance of a transport service.

Hot Shot asserts that the agency improperly permitted CSS to rely on the DOT motor carrier identification number of other related companies.

This argument is without merit. To the extent Hot Shot’s protest can be read as asserting that CSS will not meet all federal, state, and city codes regarding the performance of transport services, its argument concerns performance obligations, enforceable by the agency in its administration of the contract. Compro Computer Servs., Inc., B-278651, Feb. 23, 1998, 98-1 CPD ¶ 58 at 4; Health Care Waste Servs., B-266302, Jan. 19, 1996, 96-1 CPD ¶ 13 at 2-3. As such, these provisions concern the general responsibility of the awardee and its ability to perform the contract consistent with all legal requirements. The agency found CSS to be a responsible contractor, and we will not review its affirmative determination of CSS’s responsibility under the circumstances here. 4 C.F.R. § 21.5(c) (2002).

Viewing the protest as a whole, we understand Hot Shot's essential argument to be that, lacking a DOT motor carrier identification number of its own, CSS could not be "regularly established in business to provide transport services"--as required by the solicitation--and could not have past performance of its own. This argument is without merit. An agency properly may attribute the experience or past performance of a parent or affiliated company to an offeror where the firm's proposal demonstrates that the resources of the parent or affiliated company will affect the performance of the offeror. Universal Bldg. Maint., Inc., B-282456, July 15, 1999, 99-2 CPD ¶ 32 at 6. The relevant consideration is whether the resources of the parent or affiliated company--its workforce, management, facilities or other resources--will be provided or relied upon, such that the parent or affiliate will have meaningful involvement in contract performance. Perini/Jones, Joint Venture, B-285906, Nov. 1, 2000, 2002 CPD ¶ 68 at 4-5; NAHB Research Ctr., Inc., B-278876.2, May 4, 1998, 98-1 CPD ¶ 150 at 4-5. Further, where, as here, no provision in the solicitation precludes offerors from relying on the resources of their corporate parent or affiliated companies in performing the contract, and an offeror represents in its proposal that resources of a related company will be committed to the contract, the agency properly may consider those resources in evaluating the proposal. See Physician Corp. of Am., B-270698 et al., Apr. 10, 1996, 96-1 CPD ¶ 198 at 13.

The record here indicates that the resources of CSS's parent and affiliated companies will have meaningful involvement in contract performance. CSS's proposal indicated that CSS is part of a family of wholly-owned subsidiaries and closely-held affiliates with interlocking officers and boards of directors, which provide a variety of services to the federal government, and the parent of which was Crown Management Services, Inc. According to the proposal, although the Crown companies operate as independent cost centers, they report to the corporate office in Pensacola, Florida, from which they receive corporate resources and support as required. CSS Past Performance Proposal at 2.

In particular, the proposal stated that the solicited VA effort would be managed from the Crown corporate office in Pensacola, which would provide contract support for contract administration, quality control, safety, finance and accounting, payroll, and accounts payable. CSS Technical Proposal at 2. The proposal also provided that the project manager for the contract would be the president of CSS, and included key personnel resumes that further indicated that: the president of CSS also was the vice president of Crown Management Services; the chairman of CSS also was the chief executive officer and president of both Crown Management Services and Crown Healthcare Laundry Services; the vice president of CSS also was the vice president of Crown Management Services and a vice president of Crown Healthcare Laundry Services; and the controller of CSS also was the controller of Crown Management Services and Crown Healthcare Laundry Services. Id.; CSS Past Performance Proposal at 9-17.

As for the required delivery vehicles, the proposal indicated that the Crown companies lease tractors and other trucks from specified rental companies, including Ryder Transportation Systems, which then are responsible for maintaining the trucks for the Crown companies. CSS Technical Proposal at 2. In this regard, in response to Hot Shot's protest, a manager at Ryder submitted a declaration explaining that Ryder furnishes trucks to the Crown companies, including those to be used by CSS for the VA contract here, which are properly licensed, insured and registered with DOT, and that Ryder is responsible for providing periodic maintenance, repair, licensing and safety inspection. Declaration of Ryder Customer Development Manager, June 7, 2002; Ryder Truck Lease & Service Agreement. Although, as pointed out by Hot Shot, CSS did not possess a DOT motor carrier identification number at the time of award, the Ryder manager's declaration indicates that the trucks delivered by Ryder to Crown companies are listed under Ryder's DOT registration number until the Crown company is ready to operate them under its own registration number. That is what happened here--while CSS did not have its own license as of the April 1 start date for the contract, it did obtain its own license on May 7. DOT Motor Carrier Identification No. USDOT 1023884, May 7, 2002.

In addition, CSS's proposal described significant transportation experience, primarily associated with laundry. CSS included in its proposal a general description of the Crown companies' numerous prior government contracts for a wide variety of services, many of them related to laundry services and equipment, and of its commercial healthcare laundry service business, which serves 25 hospitals and over 175 clinics and medical offices in several states from a plant in Florida, and involves the transportation of a significant volume of laundry. CSS Past Performance Proposal at 2-5. In addition, the proposal cited five current contracts for which references could be contacted: a large contract with the VA medical center in St. Albans, New York for transporting laundry to various facilities in New York and New Jersey, performed by Crown National Services, Inc., a wholly-owned subsidiary of Crown Management Services; three contracts with Mississippi hospitals for the pick-up, processing and return of linen, performed by Crown Healthcare Laundry Services; and a large contract to purchase, receive, inventory, warehouse and issue linen at five hospitals in Florida, performed by Crown Healthcare Laundry Services. Performance evaluations were returned for three of the cited contracts (the St. Albans contract and two of the Mississippi contracts); all of the references rated the overall performance as superior, the highest rating. *Id.* at 18-22; CSS References.

In summary, the record available to the agency indicated that CSS was part of a family of wholly-owned subsidiaries and closely-held affiliates with interlocking officers and boards of directors; that the parent company, Crown Management Services, was involved in the performance of its subsidiaries and affiliates, and would have significant involvement in performance of CSS's contract here; and that key personnel from Crown Healthcare Laundry Services also held key positions in CSS. VA thus could properly attribute the transportation services experience and past performance of the Crown companies, including that of Crown National

Services, a wholly-owned subsidiary of Crown Management Services, and Crown Healthcare Laundry Services, to CSS. Further, CSS's proposal explained where it would obtain vehicles to perform the contract. In these circumstances, there is no basis for questioning the award.

Hot Shot challenges the evaluation of its own proposal under the technical/offeror's capabilities factor, questioning several of the concerns expressed on the evaluators' worksheets. In addition, Hot Shot generally asserts that its proposal was unfairly evaluated under the past performance factor.

We will not sustain a protest unless the protester demonstrates a reasonable possibility of prejudice, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Parmatic Filter Corp., B-285288.3, B-285288.4, Mar. 30, 2001, 2001 CPD ¶ 71 at 11; see Statistica, Inc. v. Christopher, 102 F. 3d 1577, 1581 (Fed. Cir. 1996). Here, as noted above, CSS's price was lower than Hot Shot's; as a result, even if Hot Shot's proposal received the maximum point score under the technical/offeror's capabilities and past performance factors, its total score (including price) would be only 196 points, still lower than CSS's score. Since any deficiency in the evaluation of Hot Shot's proposal therefore would not affect the award decision, there was no resulting prejudice to Hot Shot.¹

Hot Shot also argues that the agency improperly extended the closing date for receipt of initial proposals. Under our Bid Protest Regulations, protests based on such alleged solicitation improprieties must be filed prior to the closing time for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1). This argument, first raised with the agency after award, therefore is untimely and will not be considered.

Hot Shot asserts that its debriefing from the agency was inadequate. We will not review a protest against the adequacy of a debriefing, since it is a procedural matter that does not affect the validity of the award. DePonte Invs., Inc., B-288871, B-288871.2, Nov. 26, 2001, 2002 CPD ¶ 9 at 3 n.2.

The protest is denied.

Anthony H. Gamboa
General Counsel

¹ In any case, our review of the record supports the agency's determination that CSS's proposal offered a number of significant strengths relative to Hot Shot's proposal in the technical/offeror's capability area, and a record of superior, relevant past performance (through the past performance of affiliated Crown companies reasonably attributed to CSS).