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United States Government Accountability Office
Washington, DC 20548

Comptroller General
of the United States

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Decision

Matter of: Superior Landscaping Company, Inc.

File: B-310617

Date: January 15, 2008

Michael A. Gordon, Esq., and Fran Baskin, Esq., Holmes & Gordon, for the protester.
Andrew E. Mishkin, Esq., Tamara M. McNulty, Esq., and Daniel E. Toomey, Esq.,
Duane Morris LLP, for The Davey Tree Expert Company, an intervenor.
LTC James A. Lewis, Department of the Army, for the agency.
Linda C. Glass, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Agency's evaluation of protester's technical proposal is unobjectionable where the record established that the evaluation is reasonable and consistent with the stated evaluation criteria; protester's mere disagreement with the agency's evaluation does not render the evaluation unreasonable.

DECISION

Superior Landscaping Company, Inc. protests the award of a contract to The Davey Tree Expert Company, under request for proposals (RFP) No. W91WAW-07-R-0022, issued by the Department of the Army for grounds maintenance services at the Arlington National Cemetery. The protester principally contends that the agency unreasonably evaluated its proposal as marginal under the technical capability evaluation factor.

We deny the protest.

BACKGROUND

The RFP was issued on June 8, 2007, for grounds maintenance services at Arlington National Cemetery. The RFP provided for the award of an indefinite-delivery/indefinite-quantity contract with fixed-price and labor-hour task orders for a period of 12 months with four 12-month options. This RFP replaced a previous solicitation that resulted in an award to Davey Tree that was subsequently terminated for convenience in response to an earlier protest filed by Superior.

The RFP provided that the award would be made to the best overall proposal considering the following evaluation factors: technical capability, past performance, small business participation plan and price. RFP § M.1. The RFP further provided that in order to receive consideration for award, a rating of no less than “acceptable” must be achieved for the technical capability and past performance evaluation factors. The technical capability evaluation factor consisted of the following four equally weighted subfactors: relevant experience, key personnel experience, operational procedures to accomplish requirements and quality control plan. RFP § M.2. The RFP also informed offerors that the government intended to evaluate proposals and award a contract without discussions.

In recognition of certain unique requirements associated with maintaining the grounds at Arlington National Cemetery, the RFP explained that:

Arlington National Cemetery is our nation’s most sacred shrine and the final resting place for our most revered military and political leaders. Arlington Cemetery receives four to six million visitors per year - including visits from the President of the United States, other heads of state, family members of the deceased, and millions of tourists from around the world. Approximately 6,000 funerals are conducted yearly - in addition to over 2,000 other ceremonies, such as commemorations, wreath ceremonies, and head-of-state visits. These ceremonies and funerals often receive the intense focus of the press and other media. Because of Arlington’s special significance and the attention it receives, strict adherence to these specifications is essential. Failure to meet specifications will have a negative impact on our nation’s image and will not be tolerated. The successful contractor forms a true partnership with the federal government to ensure those who served our nation are properly honored.

RFP § C.1.2.

Seven proposals were received, including those from Superior and Davey Tree, by the closing date for receipt of proposals.¹ The proposals were subsequently evaluated by the evaluation team which provided its recommendations to the source selection authority (SSA). Only Davey Tree and another offeror were rated “acceptable” or higher in the technical capability evaluation factor. Superior’s overall technical rating of marginal was comprised of three marginal ratings on technical subfactors, and one rating of acceptable, as set forth below:

¹ To maintain anonymity during the evaluation process, offerors were instructed to contact the contract specialist to obtain an offeror code to be used throughout the proposal in lieu of the company name. RFP § L.5.

Overall Technical Rating	Marginal
a. relevant experience	Acceptable
b. key personnel experience	Marginal
c. operational procedures	Marginal
d. quality control plan	Marginal

Superior received an overall rating of marginal for the technical capability evaluation factor because the agency concluded that Superior's key personnel lacked relevant experience, that the company's proposed operational procedures did not indicate understanding of the scope of work, and that the proposed quality control plan was inadequate. Id. at 15.

The evaluation results for all of the proposals were as follows:

	Overall Technical Rating	Past Performance/ Risk	Small Business Plan	Total Price
Davey	Excellent	Excellent/Low Risk	Acceptable	\$11.7 million
Offeror A	Acceptable	Good/ Moderate Risk	Marginal	\$13.3 million
Offerors below this line were considered ineligible for award				
Offeror B	Marginal	Good/ Moderate Risk	Good	\$12.6 million
Offeror C	Marginal	Marginal/ High Risk	Good	\$11.3 million
Superior	Marginal	Acceptable/ Low Risk	Marginal	\$10.8 million
Offeror D	Unacceptable	Marginal/ Moderate Risk	Good	\$12.4 million
Offeror E	Unacceptable	Unacceptable/ High Risk	Unacceptable	\$11.1 million

Agency Report (AR), Tab 15, Source Selection Decision at 4.

Upon completion of the evaluation, the SSA determined that the Davey Tree proposal represented the best value to the government since it was the highest rated of the two technically acceptable proposals and had the lower price. Id. at 27. Award was made to Davey Tree and this protest followed.

DISCUSSION

The protester argues that the agency's evaluation of its proposal was unreasonable and contends that one of the evaluators acted in bad faith throughout the procurement demonstrating favoritism toward the incumbent awardee, and bias toward the protester. While the protester objects to the agency's evaluation of its proposal under all evaluation factors, we note that offerors were required to achieve at least a rating of acceptable under the technical capability evaluation factor to be eligible for award. Thus, our decision will focus on the reasonableness of the agency's assessments under this evaluation factor, and in particular, on the assessments under the three technical subfactors under which the proposal was rated marginal—as it was these ratings that ultimately excluded Superior's proposal from the tradeoff process.

As a preliminary matter, we note that Superior's contentions regarding agency bias, are woven into all its challenges. Although the protester provides no specific evidence of bad faith, it asserts that contracting officials had no intention of awarding to anyone but Davey Tree and would take whatever steps necessary to prevent awarding the contract to Superior. In our view, government officials are presumed to act in good faith and a protester's claim that contracting officials were motivated by bias or bad faith must be supported by convincing proof; our Office will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Shinwa Elecs., B-290603 et al., Sept. 3, 2002, 2002 CPD ¶ 154 at 5 n.6.

In addition, our review of this record, including the detailed evaluation here, shows no evidence that any government official attempted to improperly manipulate the results of this competition. To the extent the protester contends that the agency's decision to re-issue this RFP on a best value award basis—as opposed to the previous approach that contemplated award to the lowest-priced, technically-acceptable offeror—was a ruse to avoid awarding to Superior, it should have raised its objections prior to the closing time for receipt of proposals. Bid Protest Regulations, 4 C.F.R. § 21.1(a)(1) (2007).

Key Personnel Experience

The RFP provided that the agency would evaluate the extent to which proposed key personnel had the qualifications, experience, operational knowledge, and skill to successfully accomplish the stated requirements, consistent with their proposed role in the offeror's management plan. RFP § M.3.b.

Superior submitted resumes for two key personnel—a project manager and a quality control manager. In its evaluation, the agency noted that Superior's project manager's resume indicated that he had several years of experience as a project manager for “all phases of grounds maintenance” starting in 1997 but the resume

contained no details concerning the actual duties performed by the individual during that time. AR, Tab 12, Source Selection Consensus Report, at 11. Moreover, the agency found that the most recent experience of Superior's project manager centered on sports field management from 2003 to the present, which the agency considered of limited relevance to maintenance of the cemetery grounds at Arlington. The agency also noted that Superior's proposed quality control manager appeared to have limited experience in quality control and that neither the resume, nor the proposal, provided information or details on projects or sites where she might have actually performed quality control work. Id.

Superior disagrees with the marginal rating it received under the key personnel subfactor. It contends that the agency misread its proposal, and argues that its project manager's experience for the past 4 years was not limited to sports fields--as it had been before that time--but included serving as the project manager of Superior's grounds maintenance contract at the United States Naval Academy.

Our review of the resume at issue shows that the resume, on its face, describes Superior's project manager as "Project/Sports Turf Manager" from 2005 to 2006 at the Naval Academy; from 2003 to 2004 his position was described as "sports field manager." Superior Proposal at 41. The only detail provided concerning his position was that he "[m]anage[d] all phases of the Grounds Maintenance Contract and sports fields" at the Naval Academy, and the representation that the work "includes large amounts of fill and sod work for field maintenance similar to grave maintenance defined by the ANC [Arlington National Cemetery] solicitation." Id. In short, this resume clearly highlights the project manager's experience with sports field maintenance, and gives few details concerning any experience performing any other type of ground maintenance work. Given the lack of detail provided in Superior's proposal concerning its project manager's actual experience, we cannot conclude that the assessment of his experience was unreasonable.

With respect to the proposed quality control manager, the record shows that Superior provided almost no details concerning the experience of this individual to serve in this key role. In its comments on the agency report, Superior acknowledges that it did not identify its quality control manager's specific projects, but argues that there was no requirement in the RFP for such details. Instead, Superior argues that her education in landscape architecture, experience working with plants of all types, and experience in working for Superior in quality control for the previous 2 years showed her ability to perform the job.

We disagree. An offeror has the responsibility to submit a well-written proposal, with adequately detailed information, which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. CACI Techs., Inc., B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5. In this regard, an offeror must affirmatively demonstrate the merits of its proposal and risks

the rejection of its proposal if it fails to do. HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5.

Superior's quality control manager's resume indicated that in 2 years of employment at Superior she held positions described as "Quality Control Evaluator and Reporter, Landscape Estimator and Manager, [and] Pesticide Control Applicator." Superior's Proposal at 51. The resume says nothing about whether she held these positions serially, or all at the same time. During the same timeframe, the resume showed that she was also an owner and part time worker at another facility, thus rendering unclear the extent of her quality control experience during the previous two years. Given the lack of detail provided by Superior to demonstrate that its proposed key personnel had relevant experience, we see nothing unreasonable in Superior's rating of marginal under the key personnel experience evaluation subfactor.

Operating Procedures to Accomplish Requirements

Under the Operating Procedures subfactor, the RFP stated that the agency would evaluate the extent to which offerors demonstrate a thorough understanding of the tasks and effort required to perform the statement of work. Offerors were to provide a detailed management plan showing their ability to plan, manage, and perform the work at the high standards required for Arlington National Cemetery. Offerors were to be evaluated in regard to quality of workmanship, staffing plan, scheduling capabilities, inventory of existing equipment, as well as the methods and logistics associated with getting the needed materials and equipment to the work site. RFP § M.3.c.

The evaluators rated Superior's proposal marginal under this subfactor primarily because they concluded that the proposal lacked detail regarding the methods and procedures the company would use for reporting to the government's representative each day, scheduling, and working around the many funerals and ceremonies at Arlington. In addition, the evaluators concluded that Superior, for the most part, merely "parroted" back the RFP's requirements. AR, Tab 12, Source Selection Consensus Report, at 12. The evaluators also found that Superior's proposed equipment was inadequate for successful performance. Id.

Superior argues that in evaluating its proposal under the operational procedures subfactor, the agency used unstated criteria to unduly favor the incumbent. Specifically, Superior argues that unless an offeror detailed all the equipment and personnel needed to perform every task, it received a rating of marginal. Superior also generally disagrees that its proposed equipment was inadequate.

Again, our review of the proposals and the evaluation record here lead us to conclude that it was incumbent upon Superior to provide all the information necessary to demonstrate its ability to manage and perform these requirements. Instead, Superior failed to provide a detailed plan of operation for maintaining the

grounds at Arlington National Cemetery. As a result, the agency could not be sure Superior had a clear understanding of the requirement. While Superior disagrees with the evaluators' determination that its equipment was either inadequate or not appropriate in size, Superior was required to demonstrate how it would successfully perform with its proposed equipment and failed to do so. Superior's disagreement does not make the agency's determination unreasonable.

Quality Control Plan

Under the third subfactor for which Superior was rated marginal, quality control plan, the RFP provided that the agency would look for a concept for organizing, managing, performing, reviewing, and delivering products and services that meets the requirements here. RFP § M.3.d. The RFP stated that the quality control plan should have sufficient checks and balances, and internal and external reviews, to assure that the contractor can consistently provide support, including sub-contractor services, that are accurate, complete and timely. Id.

The evaluators found that Superior failed to propose a complete quality control plan in that Superior failed to provide the forms, processes or feedback systems as promised in their outline of the plan. AR, Tab 12, Source Selection Consensus Report, at 12. Additionally, the evaluators found that the identification and prevention of defects were not found in any portion of the protester's narrative addressing its plan, nor were there checklists, or checklist examples, tailored to monitoring the quality of performance here. Instead, the evaluators concluded that Superior's plan was simply a narrative of operational procedures, with little or no reference to ensuring performance. Id.

While Superior generally disagrees with the criticism of its quality control plan, the record does not support its assertions. In our view, the agency reasonably determined that Superior's quality control plan was incomplete and failed to provide details—even details about the features of the plan as outlined by Superior. In this regard, Superior outlines five areas of its quality control plan: quality control program and structure; identification and prevention of defective service; description of records, forms, and actions taken; customer complaint feedback system; and maintenance of quality records. AR, Tab 10, Superior's Proposal, at 33. However, Superior failed to provide the details of its plan as outlined. For example, Superior did not provide the forms or any details concerning its customer complaint feedback system or its maintenance of quality records. While Superior maintains that the RFP did not require offerors to provide forms, and contends that the absence of forms was due to a page limitation imposed on proposals, we think the agency reasonably concluded that the company's written proposal was inadequate due to its lack of detail. See, Quality Elevator Co., Inc., B-271899, Aug. 28, 1996, 96-2 CPD ¶ 89 at 6.

Finally, to the extent that Superior raises certain challenges to the evaluation of the awardee's proposal, we do not reach those arguments. Since the record demonstrates that Superior's proposal was properly rated marginal for technical capability and is therefore ineligible for award, and since there is another technically acceptable firm besides the awardee eligible for award, Superior is not an interested party to raise challenges to the evaluation of the awardee's proposal. 4 C.F.R. § 21.1(a) (2007). TRS Research, B-283342, Nov. 4, 1999, 99-2 CPD ¶ 85 at 4.

The protest is denied.

Gary L. Kepplinger
General Counsel