



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: High Country Contracting

File: B-278649

Date: January 30, 1998

Scott Thygeson for the protester.

L. Benjamin Young, Jr., Esq., Department of Agriculture, for the agency.

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

DIGEST

Protest alleging that agency's evaluation of the protester's experience was unreasonable is denied where the record shows that the agency evaluated the information submitted by the protester to determine the firm's relevant experience and that this determination is reasonable.

DECISION

High Country Contracting protests the award of a contract to Twin Oaks Construction under request for proposals (RFP) No. R6-3-97-96C(N), issued by the Department of Agriculture, Gifford Pinchot National Forest. High Country alleges that the agency's evaluation of the firm's experience was unreasonable, resulting in the selection of a higher-priced offeror. We deny the protest.

The RFP contemplated the award of a firm, fixed-price contract to construct 5.1 miles of Valley Trail on the Gifford Pinchot National Forest in Washington State. The RFP included a detailed statement of work and drawings describing the required services. The RFP stated a "best value" evaluation scheme in which technical capability and price were equally important, and that award would be made to the offeror whose proposal was determined most advantageous to the government. Offerors were advised that the agency intended to award the contract on the basis of initial offers.

The technical capability factor consisted of two subfactors--experience (30 points) and past performance (70 points). Under the technical proposal instructions, the RFP advised:

Each offeror will be evaluated on their experience as shown for existing and prior contracts. Experience information will be used as part of the capability evaluation factor against

which offerors' relative rankings will be compared to assure best value to the Government.

For evaluation purposes, the RFP included an experience questionnaire which requested that offerors submit information concerning their current projects and those projects completed within the last 3 years. In this regard, offerors were asked to list the types of projects performed and their dollar value, and identify a point of contact (including address and telephone number) for each project listed on the questionnaire. In addition, the questionnaire required offerors to identify the number of years the firm has performed "the line of work contemplated by this solicitation," and the experience of the firm's principal individuals.

Four proposals were received by the closing date for receipt of initial proposals. In evaluating High Country's proposal under the experience subfactor, the agency found that High Country had listed only three projects on the experience questionnaire that were completed--a trail and bridge project, and two bridge projects. The two company principals were listed as having 5 and 2 years experience, respectively. High Country did not enter any response to the number of years of experience it had in the line of work to be performed under this contract. The protester also did not list any current or ongoing relevant work. The reference provided by High Country for both the trail and bridge project and one of the two listed bridge projects was contacted regarding his experience with the firm. The agency was advised that High Country had been awarded three trail construction contracts and a purchase order, that High Country's construction of these trails was "fairly good to very good depending on his crew," and that High Country's performance had "improved on each contract." The contracting officer learned that these three trails were constructed under drier conditions on the east side of the mountains as opposed to the wet and muddy conditions of the west side of the mountains where the Valley Trail will be constructed. Moreover, the contracting officer considered the other projects identified in High Country's experience questionnaire, as well as High Country projects she was familiar with, to be smaller and less relevant to the current project.

The contracting officer's concerns with High Country's inexperience with trail work were exacerbated by the fact that some of the services required for the Valley Trail construction (i.e., tread stabilization and side hill turnpikes) had caused contractors difficulty in prior procurements and because of the many flood repair projects underway, fewer agency personnel were available to perform contract administration. The contracting officer concluded that based on the information provided in High Country's experience questionnaire, which showed only limited trail construction experience, as well as information provided by the contact reference for two of the three listed contracts, High Country's proposal represented a moderate risk of timely performance and increased contract oversight in performance of the Valley Trail requirements.

Twin Oaks' proposal, on the other hand, was determined to be low risk. The contracting officer found, based on Twin Oaks' experience questionnaire and references contacted, that Twin Oaks had experience with trail and bridge projects of similar size, scope, and complexity and under conditions similar to those found on the west side of the mountains. Twin Oaks reported that the firm's principals had 18 years experience in the line of work contemplated under the solicitation and 17 years experience as a prime contractor. Following the technical evaluation of proposals, Twin Oaks was ranked first with a composite score of 100 points and low risk, High Country was ranked fourth with a composite score of 75 points, comprised of 5 points for experience and 70 points for past performance, and rated moderate risk. High Country offered the lowest price, \$115,347; Twin Oaks offered the second low price, \$126,863.75. In selecting Twin Oaks' proposal for award, the contracting officer found that, even though High Country's proposal was considered acceptable, Twin Oaks' highest rated, low risk proposal was more advantageous to the government as it represented a greater likelihood of timely performance and that the need for government oversight of Twin Oaks' performance would be relatively low. The contracting officer also determined that the difference in technical capability between the two proposals was significant enough to justify the payment of the associated price premium. The contracting officer determined that Twin Oaks' proposal represented the best value based on technical capability and price considerations, and made award to that firm. After being informed that Twin Oaks had received the award, and being provided with a written debriefing, High Country filed this protest.

High Country protests that the agency's evaluation of its proposal under the experience subfactor was erroneous; it believes its proposal merited a higher score based on all its years experience, and not just those projects it had completed within the last 3 years.¹

The evaluation of technical proposals is the function of the contracting agency; our review is limited to determining whether the evaluation was reasonable and consistent with the RFP evaluation factors. The Arora Group, Inc., B-270706.2, June 18, 1996, 96-1 CPD ¶ 280 at 3. Where a solicitation indicates that experience will be evaluated, the agency properly may evaluate the extent to which an offeror's

¹To the extent High Country challenges the solicitation experience evaluation provisions as restrictive or otherwise defective, this allegation is not timely raised. Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing time for receipt of initial proposals must be filed prior to that time. 4 C.F.R. § 21.2(a)(1) (1997).

specific experience is directly related to the work required by the RFP. Human Resource Sys., Inc.; Health Staffers, Inc., B-262254.3 et al., Dec. 21, 1995, 96-1 CPD ¶ 35 at 3. Based on our review of the record, and as discussed below, we find the agency's evaluation of High Country's proposal under the experience evaluation subfactor was reasonable and in accordance with the RFP.

The record shows that High Country's low score under the experience subfactor was reasonably based on the information provided by the protester as well as the information obtained from the protester's own reference, and the protester's specific objections to the evaluation in no way cause us to question the reasonableness of the evaluation. For example, the protester claims that none of the references identified on its experience questionnaire were contacted by the agency. We find no merit to this allegation. As discussed above, the agency did contact the reference identified by High Country for both one of the bridge projects and the trail and bridge project listed on the questionnaire. While the protester disputes the assessment provided by the reference for this particular project, as well as the contracting officer's own assessment based on her own knowledge of the types of projects performed by the firm, we conclude that High Country's objection to this aspect of the agency's evaluation constitutes, at best, its mere disagreement with the evaluation results, and does not demonstrate that the agency's evaluation was unreasonable.

Here, the contracting officer properly evaluated the most relevant contract performed by the protester. The other two projects were identified by the protester itself as bridge work and, although the current requirements include bridge construction, the agency did not consider the experience gained by High Country in performing these projects relevant because the trail bridges for the Valley Trail contract are not considered to be a significant portion of the actual work to be performed. While the protester has provided with its protest written references regarding its experience under several projects which, in its view, are similar in size, scope, and complexity to the Valley Trail project, none of this information was included in its proposal and was therefore not considered by the agency in evaluating the firm's experience. We think the evaluation of High Country's proposal under the experience subfactor was reasonably based on the information contained in its proposal, which showed limited relevant trail construction experience and, as discussed above, there is no showing that the agency misevaluated the information. In these circumstances--where the protester fails to include in its proposal information necessary to demonstrate its experience--the fact (unknown to the agency) that it may have such experience is irrelevant to the propriety of the evaluation. AEC-ABLE Eng'g Co., Inc., B-257798.2, Jan. 24, 1995, 95-1 CPD ¶ 37 at 7.

Finally, even if we assume that High Country's proposal merited a higher score under the experience evaluation subfactor, as the protester argues, none of High Country's protest issues provides a basis to disturb the source selection decision.

In a negotiated procurement, award may be made to an offeror submitting a higher-rated, higher-priced offer, where the decision is consistent with the solicitation's evaluation scheme, and the agency reasonably determines that the technical superiority of the higher-priced offer outweighs the price difference. See Systems Integration & Dev., Inc., B-271050, June 7, 1996, 96-1 CPD ¶ 273 at 6. Here, the contracting officer specifically determined that Twin Oaks' demonstrated experience in performing contracts similar in size and scope to the present requirements and under similar conditions was far greater than High Country's, and the protester has not challenged these findings by the agency. Specifically, the agency found (and the record confirms) that Twin Oaks has more extensive trail building experience than High Country, much of the work was similar to the work under this contract, and many of the trail projects were in the Gifford Pinchot Forest. Thus, even if the two proposals were considered equal in all other respects, this would not necessarily mean that the agency had to award to the low offeror, because the RFP stated that the significance of the technical differences between competing proposals was the critical factor in making the price/technical capability tradeoff. In sum, based on Twin Oaks' more extensive relevant experience, the agency's selection of Twin Oaks' offer as most advantageous was consistent with the stated evaluation scheme and reasonable.

The protest is denied.

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