



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Buckeye Park Services Inc.

File: B-282282

Date: April 27, 1999

William Johnson for the protester.

Capt. Janice G. Inman, Department of the Air Force, for the agency.

Katherine I. Riback, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging award for grounds maintenance contract on the basis that the awardee did not, prior to award, demonstrate compliance with certain licensing requirements is denied where the solicitation did not require such a demonstration; the solicitation provision regarding licensing was only a contract performance requirement.

DECISION

Buckeye Park Services Inc. protests the award of a contract to Metcalfe Grounds Maintenance under request for proposals (RFP) No. F22600-99-R-0057, issued by the Department of the Air Force for grounds maintenance at Keesler Air Force Base. Buckeye contends that the award to Metcalfe is improper because the awardee failed to comply with the solicitation's licensing requirements.

We deny the protest.

The agency had previously issued a solicitation for the grounds maintenance at Keesler Air Force Base, but suspended action under that procurement due to a protest filed in our Office. To cover these services in the interim, the agency telephonically solicited five of the offerors (with a follow-up fax) for a 3-month period with award to be made to the firm submitting the lowest-priced, technically acceptable offer. This RFP incorporated the performance work statement of the previous solicitation. Of significance to this protest, the RFP required that the "Contractor shall make sure employees have the following current and valid professional certifications before starting work under this contract . . ." RFP § C-1.2.2.2. (emphasis added). With regard to these professional certifications, the RFP also required "[t]he Contractor shall possess a current Commercial State of Mississippi Pesticide License," RFP § C-1.2.2.2.3., and "Contractor shall have at least

one supervisor/work leader with a Tree Surgery and/or Landscape Gardening License from the Bureau of Plant Industry, Mississippi Department of Agriculture and Commerce.” RFP § C-1.2.2.2.4.

The agency received four proposals by the March 8, 1999 closing date. On March 10, the agency made award to Metcalfe Grounds Maintenance, as the firm that had submitted the lowest-priced, technically acceptable offer. This protest followed. Buckeye contends that Metcalfe’s proposal should have been rejected as technically unacceptable because it did not satisfy the RFP’s licensing requirements quoted above.

Contrary to Buckeye’s interpretation, the solicitation simply did not require that these licensing requirements be satisfied prior to award; indeed, nowhere did the solicitation specifically direct offerors to address compliance with these requirements in their proposals. Moreover, the solicitation did not require offerors to submit evidence of compliance, but instead required only the “contractor” to have the specified licenses before starting work under the contract. In this regard, the use of the term “contractor” generally indicates that the licensing requirements are general performance requirements to be addressed by the successful awardee, post-award. Heart of Dixie Mach. & Fabrication Co., Inc., B-271869, July 30, 1996, 96-2 CPD ¶ 49 at 3. Thus, there is no basis to reject Metcalfe’s proposal as unacceptable.¹

The protest is denied.

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¹ These licensing requirements are contract performance requirements, and compliance with them is a matter of contract administration, not subject to review by our Office. 4 C.F.R. § 21.5(a) (1998).