

Goddard



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: The Forestry Association, Inc.

File: B-237225.2

Date: November 17, 1989

DIGEST

The General Accounting Office will not review an affirmative responsibility determination absent a showing of possible fraud or bad faith or misapplication of definitive responsibility criteria.

DECISION

The Forestry Association, Inc. (TFA), protests the award of a contract to Stacie Harris and Associates under request for quotation (RFQ) No. R3-01-89-50, issued by the Forest Service, Department of Agriculture, for timber site work in the Apache-Sitgreaves National Forests.

We dismiss the protest.

TFA contends that Stacie Harris failed to submit a fully completed and signed "Experience Questionnaire" as was required by the contracting office for evaluation of offerors. TFA asserts that since the RFQ stated award would be made to the offeror with the offer "most advantageous to the government, cost or price and other factors, specified elsewhere in this solicitation, considered," the award was improper because Stacie Harris's incomplete experience questionnaire could not have been properly evaluated. TFA alleges that since Stacie Harris' price was 18 percent below the government estimate this may indicate a lack of understanding of the work required.

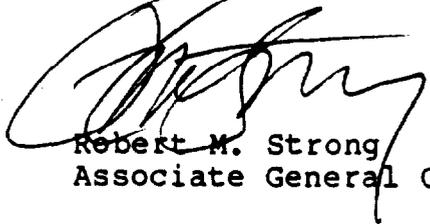
The RFQ did not elsewhere list any evaluation factors other than price, nor did it contain any definitive responsibility criteria. Whether a bidder has the apparent ability and capacity to perform under a contract is a question of the firm's responsibility. Montgomery Elevator Co., B-220655, Jan. 28, 1986, 86-1 CPD ¶ 98. Under our Bid Protest Regulations, we will not review a contracting officer's affirmative responsibility determination absent a showing of

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possible fraud or bad faith, or that definitive responsibility criteria in the solicitation were not met. 4 C.F.R. § 21.3(m)(5) (1989). To show possible fraud or bad faith, we require that the protester present facts that reasonably indicate that the government actions complained of were improperly motivated. See Vanguard Indus., Inc., B-233490.2, Dec. 21, 1988, 88-2 CPD ¶ 615.

Here, TFA alleges no such facts. Further, the "Experience Questionnaire" referred to by TFA merely calls for information relating to an offeror's responsibility, without establishing any definitive responsibility criteria which offerors were required to meet. Accordingly, we have no basis to review the Forest Service's affirmative determination of responsibility.

The protest is dismissed.



Robert M. Strong
Associate General Counsel