

Ms. Barbara Coles



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Lonnie B. Bolling & Son, Inc.
File: B-240204
Date: October 18, 1990

Lonnie B. Bolling for the protester.
Dario DeAngelo, United States Forest Service, Department of Agriculture, for the agency.
Barbara C. Coles, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably selected technically superior, higher priced proposal for mechanical site preparation contract where the agency found the awardee's strengths in personnel, equipment, proposed performance, and superior quality control would provide greatest assurance that all the work contemplated under the contract would be completed within the limited time span allotted for performance and, thus, the award would be the most advantageous to the government.

DECISION

Lonnie B. Bolling & Son, Inc. protests the award of a contract to Lee Kerby & Sons under request for proposals (RFP) No. R8-90-13, issued by the United States Forest Service, Department of Agriculture, for mechanical site preparation on two ranger districts in the Kisatchie National Forest.

The RFP, issued on May 1, 1990, contemplated the award of a fixed price, 2-year requirements contract and sought prices and technical proposals for all labor, materials, equipment, tools, transportation, supervision, and supplies necessary for performance. The RFP emphasized the importance of completing the work by the dates specified, since failure to do so would affect the follow-on contracts for site burning and planting seedlings.

The RFP advised that award was to be made to the offeror whose proposal was technically acceptable and whose technical/price relationship was the most advantageous to

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the government. In regard to relative weight, the RFP stated that technical factors were more important than price. The RFP advised offerors that the award would not necessarily be made to the offeror submitting the lowest price and, conversely, that the award would not necessarily be made to the offeror demonstrating technical capabilities that exceed those needed to successfully perform the contract requirements. Technical proposals were to be evaluated for experience and qualifications of personnel to be used on the project; the firm's experience and qualifications; equipment and support facilities; quality control; and the estimated progress schedule.

A technical panel evaluated the four proposals received on the closing date for the receipt of proposals, and found each proposal to be within the competitive range. Discussions were held with each offeror on June 9 and best and final offers were received on June 18. Kerby received the highest composite technical score of 192 out of 343 points and proposed the second lowest price of \$166,386. Bolling's proposal was ranked third technically with a point score of 168^{1/} and offered the lowest price, \$143,561. Based on the evaluation, the Forest Service decided that it would be most advantageous to the government to award the contract to Kerby since its technically superior proposal provided greater assurance that all the work contemplated under the contract would be completed within the limited time span in which the work was to be performed.

Bolling contends that the agency improperly evaluated its proposal. In this regard, Bolling asserts that the agency improperly downgraded its proposed equipment on the basis of the horsepower of the tractors it offered since, in Bolling's view, the tractors are powerful enough to successfully perform the contract within the time allotted.^{2/}

When a protester challenges a contracting agency's evaluation of its proposal, we will examine the evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria. Data Control/North, Inc., B-233628.4, Apr. 5, 1989, 89-1 CPD ¶ 354. A protester's disagreement with the agency's judgment is itself not sufficient to

^{1/} As a result of this protest, the agency reevaluated Bolling's proposal. While Bolling's score was increased by one point, its ranking remained the same.

^{2/} The protester does not challenge any of the other weaknesses such as, for example, quality control, that the agency determined were apparent in the firm's proposal.

establish that the agency's evaluation was unreasonable. VGS, Inc., B-233116, Jan. 25, 1989, 89-1 CPD ¶ 83.

Here, the protester's argument that the agency improperly downgraded its proposal based on the horsepower of the tractors offered is not supported by the record. The agency structured a graduated scoring scheme to allow points based on the horsepower rating and the age of each proposed tractor. Accordingly, tractors with horsepower over 250 were scored higher than tractors with less than 250 horsepower. Since both of the tractors that Bolling proposed had less than 250 horsepower, it received the lowest points available under the scoring scheme. While Bolling contends that its proposed equipment has sufficient horsepower, it has failed to show that the agency's evaluation of its equipment was unreasonable given the fact that equipment with greater horsepower than that Bolling offered would reduce the risk of delayed completion of the work.

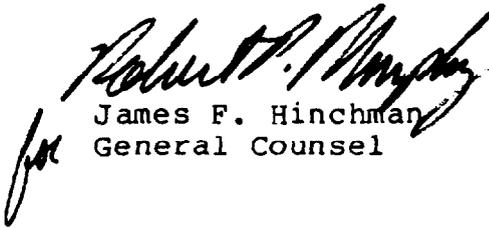
The protester also contends that the Forest Service was not justified in selecting Kerby's technically superior, higher priced proposal. In this regard, Bolling claims that the award contradicts the language in the solicitation which states that in its evaluation of technical proposals, the agency will not consider capability beyond that which is adequate.

The protester misinterprets the language of the solicitation, which states only that award would not necessarily be made to the offeror with technical capabilities exceeding those required to successfully perform the contract. In any event, there is no indication that Kerby's capabilities exceeded those required; rather, the agency found that the technical strengths of Kerby's proposal made it most likely to complete the work on time, and thus that award to Kerby at its higher price was warranted.

Since the government is not required to make award to the firm offering the lowest price unless the RFP specifies that price will be the determinative factor, Unidynamics/St. Louis, Inc., B-232295, Dec. 21, 1988, 88-2 CPD ¶ 609, the contracting officer here clearly had the discretion to determine whether the technical advantage associated with Kerby's proposal was worth its higher price. ADT Facilities Mgmt., Inc., B-236122.2, Dec. 12, 1989, 89-2 CPD ¶ 541. Award to a technically superior higher priced offeror is proper where the record shows that such an offeror's price premium was justified in light of its technical superiority. Unidynamics/St. Louis, Inc., B-232295, supra.

As indicated by the point scores, Kerby was considered significantly superior to the other offerors, including Bolling. The noted strengths in Kerby's proposal included its (1) more experienced personnel; (2) more machinery and more powerful equipment to be provided full-time; (3) less time proposed for completion of work; and (4) superior quality control. In making the source selection, the contracting officer noted that award to Kerby would provide the best assurance that the work contemplated under the contract would be completed within the limited time allotted for performance. Timely completion of the work was critical since weather and ground conditions are suitable for site preparation only from June to September, and any delay in performance would affect follow-on contracts for burning excess debris and would jeopardize plans to plant seedlings currently being grown for the area. In view of the technical strengths of Kerby's proposal and the importance of timely contract performance, we see no basis to object to the selection of Kerby as the most advantageous to the government.

The protest is denied.


James F. Hinchman
General Counsel