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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Roy F. Weston, Inc.

File: B-252541.2

Date: July 19, 1993

John W. Fowler, Jr., Esq., and Robert G. Fryling, Esq., Saul, Ewing, Remick & Saul, for the protester.
Michael R. Charness, Esq., and Jerone C. Cecelic, Esq., Howrey & Simon, for Versar, Inc., an interested party.
John Pettit, Esq., and Ronald G. Allen, Esq., Department of the Air Force, for the agency.
Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of allegedly improper evaluation of firm's past performance under architect-engineer selection procedures is dismissed where even if firm received a high score for past performance as specifically requested by the firm, it would not have been selected for negotiations but still would have been the 25th ranked firm.

DECISION

Roy F. Weston, Inc. protests the decision by the Department of the Air Force not to select the firm for negotiation of an architect-engineer (A-E) contract for environmental assessments, site inspections, remedial investigations and feasibility studies at agency locations throughout the country. Weston basically contends that the agency improperly evaluated its past performance qualifications.

We dismiss the protest.

Generally, under the selection procedures set forth in the Brooks Act, as amended, 40 U.S.C. §§ 541 et seq. (1988), and its implementing regulations, Federal Acquisition Regulation (FAR) part 36.6, the contracting agency must publicly announce requirements for A-E services. An A-E evaluation board established by the agency evaluates the A-E performance data and statements of qualifications already on file, as well as those submitted in response to the announcement of the particular project, and selects at least

three firms for discussions. The board recommends to the selection official, in order of preference, the firms most qualified to perform the required work. Negotiations are held with the firm ranked first. If the agency is unable to agree with the firm as to a fair and reasonable fee, negotiations are terminated and the second-ranked firm is invited to submit its proposed fee. See generally, FAR part 36.6; ARTEL, Inc., B-248478, Aug. 21, 1992, 92-2 CPD ¶ 120; James W. Hudson & Assocs., B-243277, July 5, 1991, 91-2 CPD ¶ 29.

The procurement, referenced as solicitation No. F41624-93-R-8003, was synopsized in the Commerce Business Daily (CBD) on November 27, 1992. The synopsis stated that the agency intended to make 5 to 10 awards of indefinite delivery/ indefinite quantity contracts for 1-year basic and four 1-year option periods. The synopsis invited firms to submit a completed Standard Form (SF) 254 (A-E and Related Services Questionnaire) and an SF 255 (A-E Related Services for Specific Project Questionnaire) on which firms provide their qualifications. The CBD notice also stated that firms submitting their qualifications would be evaluated under the following six factors, listed in descending order of importance: (1) specialized experience (subsequently assigned 35 points during evaluation); (2) past performance (25 points); (3) professional qualifications (20 points); (4) professional capacity (15 points); (5) location (all firms met this criterion); and (6) volume of work previously awarded to the firm by the Department of Defense (DOD) (5 points).

In response to the CBD notice, 70 firms submitted qualifications statements. The agency convened a preselection board with five voting members for purposes of selecting a list of firms with which to negotiate the A-E contracts. Each evaluator assigned points under each evaluation factor which were then compiled to form an evaluator's raw total score for each firm. The agency then converted each evaluator's raw points to a normalized score to correct the effect of extreme point assignment by any individual evaluator. The normalized score ranked the firms according to each evaluator's selection of the best qualified firm (normalized position No. (1) to the least qualified firm (normalized position No. (70). The combined normalized scores of all evaluators were then used to list each firm's standing from best qualified to least qualified in the field of 70. The board then selected the top

15 firms from the normalized list for negotiations. Weston was ranked 33rd on the normalized list (as well as on the raw score list on which Weston received a total raw score of 392 out of a maximum of 500). This protest followed.[1]

Weston essentially alleges that the agency misevaluated its past performance qualifications. Specifically, Weston states that it received consistently high scores for specialized experience, professional qualifications, and professional capacity--obtaining 92 percent, 90 percent, and 85 percent of the total available points, respectively, for each of these factors. Weston complains that it received only 56 percent of the total available points for past performance despite the fact that the overall scores show a direct correlation generally between scores awarded for professional capacity and specialized experience and the score for past performance. Weston quantifies the score it should have received (a total of 114 raw points for past performance) which the protester believes would have been "sufficiently high . . . to increase its total score within the range of scores determined by [the agency] to warrant discussions."

The agency principally argues that even if the protester had received the high score for past performance which the protester alleges should have been given to the firm, it would still have been the 25th rated firm under the normalized rating method.[2] Accordingly, the agency states that since the evaluation of past performance had no effect on the listing of firms for negotiations, the protest should be dismissed. We agree.

In support of its position that the alleged misevaluation of its past performance had some effect on the selection decision, Weston argues that "normalized scores were calculated but were not used by [the agency] to rank firms for inclusion on the . . . list." The authority the protester cites for this proposition is a statement by the contracting officer in the agency report, taken out of

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[1]Weston filed an initial protest objecting generally to its "exclusion from the competitive range," without being aware of any specific reason as to why the agency had not selected the firm for negotiations. Subsequently, upon receipt of the agency report, Weston filed an additional submission detailing its basis for protest--the agency's allegedly improper evaluation of its past performance.

[2]The agency has provided our Office with a revised normalized list of firms ranked in order of merit which assumes the protester received the additional points it seeks for past performance.

context, that the "aggregate of factor scores were totaled to produce a numerical ranking for each firm." The agency report, the raw evaluation documents, and the ranking lists prepared by the evaluators, as well as the record as a whole, clearly show that the final selections were based solely on the ranking of firms on the normalized list. Thus the protester's argument is based on a factual error.[3] Simply put, regardless of the agency's evaluation of the protester's past performance, the firm would not have been selected for negotiations and therefore the protester provides no grounds for us to disturb the selection decision. See DOD Contracts, Inc., B-240590.3, Oct. 22, 1991, 91-2 CPD ¶ 354.

Finally, the protester argues that it was prejudiced because it would have been selected for negotiations had the agency not arbitrarily limited the number of firms it selected for negotiations. We find no merit to this contention. The record shows that the CBD announcement stated that 5 to 10 awards were anticipated. As the agency states, "[a]llowing for the maximum number of awards and a couple of potentially unsuccessful negotiations, a short list of 12 [would have been] probably reasonable." Instead, the agency selected 15 firms, a number that is 50 percent more than the maximum number of contracts to be awarded. We find nothing in the record to suggest that limiting the number to 15 firms was other than reasonable.

The protest is dismissed.

Robert P. Murphy
for James F. Hinchman
General Counsel

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[3]The protester also argues that calculating a normalized score from a total given raw score of 114 is difficult without having each evaluator's individual raw score. However, given the total raw score of 114, the agency assumed that the protester received an "exceptional" rating for past performance by each evaluator and determined its revised normalized rating on that basis. The protester has never argued that any individual evaluator should have given the firm higher than an "exceptional" rating.