



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: California Resources

File: B-280176

Date: September 8, 1998

Kelly T. Smith for the protester.

Pamela Reiner Waldron, Esq., Social Security Administration, for the agency.

Jeanne W. Isrin, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Selection of slightly higher quote was proper where experience and past performance were more important than price, and agency reasonably evaluated protester's experience as deficient.

DECISION

California Resources protests the selection of Riojas Enterprises, Inc. (REI) under request for quotations (RFQ) No. SSA-RFQ-98-3446, issued by the Department of Health and Human Services, Social Security Administration (SSA), for the relocation of SSA records from 10 locations to the SSA National Records Center (NRC) in Independence, Missouri. California Resources objects to the evaluation of its quote and selection of REI at a higher price.

We deny the protest.

The procurement was conducted as a small business set-aside under the Simplified Acquisition Procedures of Federal Acquisition Regulation (FAR) subpart 13.5. The RFQ was to lead to a fixed-price, indefinite-quantity contract for 1 base year, with four 1-year options. The contractor was to provide all necessary management, personnel, materials, services, facilities and equipment necessary to relocate boxes filled with confidential SSA records. SSA personnel were to pack and sequentially number the boxes, the tops of which were to remain open. The contractor was responsible for palletizing and shrink-wrapping the boxes, loading the palletized boxes into trucks, shipping the boxes to the NRC, and unloading the boxes and moving them to shelves in proper sequential order. The 10 loading sites are located in 7 different states.

Quotes were to be evaluated based on experience, past performance and price, with experience and past performance equal in weight and more important than price. For the experience/past performance evaluation, quoters were required to submit a sufficient number of references, current or completed within the last 3 years, to demonstrate relevant experience and provide a record of relevant past performance. RFQ § H-1(B)(1)(j). For each reference, quoters were to provide, in addition to basic identifying information, a full description of the services provided, including the extent to which the work was similar in size, scope and complexity to the requirement here (more specifically, information concerning "the transportation/storage of vital records or sensitive materials, the volume of materials handled, number of sites involved, personnel requirements and scheduling"). RFQ § H-1(B)(1)(j)(i)-(iii). Experience was to be evaluated in terms of size (volume of material handled), scope (shipping sensitive materials with schedules established on short notice), and complexity (pickup from multiple sites for shipment to a single facility on a flow basis). RFQ § I-1(d)(1). Award was to be made to the firm submitting the quote which represented the best value to the government. The RFQ warned that failure to supply complete reference information and a thorough description of the quoter's experience might result in the quote being eliminated from consideration. RFQ §§ I-1(a), H-1(B)(1)(j).

Of the nine quotes timely received, the protester's was low at \$2,971,450, and REI's second low at \$3,022,330. Four of the quotes were rejected for lack of sufficient experience information and/or the required reference information necessary to evaluate past performance. SSA found that four others, including the protester's, failed to include references demonstrating experience performing contracts of similar size, scope and complexity. Although the evaluators concluded that only REI's quote demonstrated adequate experience/past performance, and that the other quotes, including the protester's, were unacceptable, the contract specialist performed a price/technical tradeoff, which was adopted by the contracting officer, between the protester's and REI's quotes. The conclusion of that analysis was that REI's superior experience/past performance warranted paying REI's slightly higher price, and the agency thus made award to REI.

California Resources argues that the evaluation of its quote, particularly with respect to the experience requirements, was unreasonable. It maintains that its quote in fact contained references which demonstrated its experience performing similar contracts.¹

¹California Resources also argues that the evaluation process as outlined in the RFQ inappropriately weighed experience and past performance too heavily. Citing FAR § 15.101, the protester argues that the requirement in this case was clearly definable and that the risk of unsuccessful performance was minimal, and therefore price should have played a dominant role in the source selection. These arguments

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The evaluation of quotations, like the evaluation of proposals, is within the discretion of the procuring agency, since it is responsible for defining its needs and the best method of accommodating them, and must bear the results of a defective evaluation. See Orion Research, Inc., B-253786, Oct. 21, 1993, 93-2 CPD ¶ 242 at 3. Where an agency's technical evaluation is challenged, our Office will not independently weigh the merits of quotations or proposals; rather, we will examine the evaluation to ensure that it was reasonable and consistent with the stated evaluation factors. Integrity Private Sec. Servs., Inc., B-255172, Dec. 17, 1993, 93-2 CPD ¶ 332 at 3.

The evaluation here was proper. The protester's quote included four experience references which clearly were not similar to the current requirement. For example, one contract involved logistics planning services for a waste processing program for the Government of Guam. The reference read as follows:

H&H provides comprehensive waste management planning services. California Resources provided subcontracted design of logistics for a waste processing program for the Government of Guam in 1995. Logistics planning included equipment specification, modeling and budgeting. The total contract amount was \$20,000.

Letter from California Resources to the Contract Specialist 3 (Mar. 23, 1998). It was not apparent to the agency--nor is it apparent to us--how this effort was similar to the current requirement, since the description did not reference packing, handling, shipping, or working with sensitive materials. The protester argues that this reference indicated interstate shipping experience. However, neither in the reference nor elsewhere in the quote is there any indication that this contract involved interstate shipping.

Two other contracts involved recycling programs performed within California. Under one, for the City of Sacramento, California Resources organized the collection of used paper from a variety of locations, which was then transported by the city to the protester's warehouse and then processed by the protester's workers for recycling. Estimated revenues were \$4,000. The agency determined that this contract was not relevant because the protester did not perform the shipping, interstate or otherwise, and it did not involve sensitive materials. Under the other contract, California Resources worked with another recycling company to collect

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amount to a protest of the RFQ's evaluation provisions, which expressly stated that experience and past performance were more important than price, and warned that the low quoter might not receive award. Such protests of alleged solicitation improprieties are untimely, and will not be considered, where they are not filed prior to the closing time for submitting quotes. See 4 C.F.R. § 21.2(a)(1) (1998).

unused bulk mail from three post offices in Sacramento and had it transported to the protester's warehouse where it was processed for recycling. The agency concluded that the contract was of limited relevance because it also did not require California Resources to transport or ship sensitive materials interstate. We find no basis to object to this conclusion. The protester asserts that the materials it handled under the post office contract were in fact sensitive, as shown by the fact that it had to sign security commitments in order to do the work. However, the protester's quote does not mention a security commitment or provide other information that would indicate that the materials were sensitive, and we do not think the term "unused bulk mail" in any way suggested that sensitive materials were involved.²

In contrast, REI submitted six references, one of which was the incumbent contract under which REI shipped records from multiple sites to the NRC. Another was an SSA contract to ship records from Baltimore, Maryland to the NRC. Under both contracts, there were fewer locations from which boxes were to be shipped, but the scope and complexity of the services were essentially identical to the current requirement. Two other reference contracts, performed for Department of Defense agencies, were similar to the current requirement in that they involved the handling of sensitive materials, although the shipping requirement was regional, rather than national, in scope. Further, REI's past performance on its reference contracts was evaluated as excellent with no performance issues or concerns.

Based on the protester's failure to furnish references establishing relevant experience, we think the evaluators reasonably determined that its quote was unacceptable. Even if the quotation were assumed to be acceptable, however, it is clear that the tradeoff the agency conducted was reasonable, given that experience and past performance were the most important factors, and REI's price premium--\$50,880, or less than 1.7 percent--was minor. Saco Defense, Inc., B-252066, May 20, 1993, 93-1 CPD ¶ 395 at 7.

The protester argues that the evaluation was biased in favor of the awardee, the incumbent contractor. However, the protester has made only bare allegations--it has not furnished any evidence that contracting officials had a specific and malicious intent to injure the protester, and that the intent translated into agency

²The fourth contract, for a California state agency, involved collecting, preparing for shipping and transporting used telephone directories from California to Washington state. Again, however, the agency reasonably found that the contract did not involve sensitive materials or shipping from various nationwide locations to a central location.

action which unfairly affected the protester's competitive position. D. M. Potts Corp., B-247403.2, Aug. 3, 1992, 92-2 CPD ¶ 65 at 7. There thus is no basis for a finding of bias.

The protest is denied.

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