



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Sawtooth Enterprises, Inc.

File: B-281218

Date: December 7, 1998

Tim Herrmann for the protester.

Marion T. Cordova, Esq., Department of Agriculture, for the agency.

Guy R. Pietrovito, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Selection of awardee's higher priced, technically higher-rated quotation was reasonable, where the solicitation provided for award on a cost/technical tradeoff basis and the agency reasonably concluded that the awardee's much lower performance risk outweighed the protester's lower-priced quotation.

DECISION

Sawtooth Enterprises, Inc. protests the issuance of a purchase order to David Mark Williams Construction (DMWC) under request for quotations (RFQ) No. R1-5-98-39, issued by the U.S. Forest Service, Department of Agriculture, for a 95-foot long continental-type trail bridge across Skull Creek in the Clearwater National Forest, Idaho. Sawtooth objects to the technical evaluation of its submission and complains that it should have received award based upon its lower-quoted price.

We deny the protest.

The RFQ was issued under simplified acquisition procedures for the installation of a prefabricated steel trail bridge in the Clearwater National Forest. Technical proposals were required to address the following evaluation criteria:

- (1) Past performance, including your history of performing quality work, timely completion, and commitment to customer satisfaction. Cite all recent (within past two years) contracts performed for similar work. Include the names and telephone numbers of the customer's representative, and the name of the foreman assigned to each project. Also include the names of the designer, fabricator, and supplier of the bridge.
- (2) Name, qualifications, and experience of the foreman and crew members to be assigned to this project.

RFQ at C-3.

Quoters were informed that award would be made on a best value basis, considering price and technical merit. Price was stated to be more important than technical merit. The RFQ also provided that award may be made without negotiating with quoters. Id.

Specifications and technical drawings were provided for the trail bridge. Among other requirements, the bridge was to be fabricated in accordance with American Association of State Highway Transportation Officials Standard Specifications for Highway Bridges and to be fabricated in a plant certified under the American Institute of Steel Construction Quality Certification Program. RFQ at C-42.

Fourteen quotes were received, ranging from Sawtooth's low quote of \$59,200 to a high quote of \$111,707; DMWC's quote was \$76,522. Protest Report, Tab H. Technical submissions were reviewed by an evaluation board, which noted that both Sawtooth and DMWC had failed to provide all requested information in their technical submissions. Protest Report, Tab G, G-1.

More specifically, Sawtooth did not identify the designer/fabricator/supplier of its quoted bridge, did not detail the qualifications and experience of its intended crew (two of the four listed crew were stated to have bridge building experience), and did not identify its proposed foreman. In addition, although Sawtooth identified 19 projects for its past performance information, only 1 project was for similar, albeit not recent, work (a 90-foot continental pack bridge in 1992). Id., G-2-4. The submission did include a resume for the president of the protester--who was identified as one of the crew--which indicated that the president had built over 40 bridges; the resume, however, also does not indicate that any of the bridge projects were performed recently. Protest Report, Tab E, E-4.

DMWC also did not provide all requested information in its technical submission; for example, DMWC also did not detail the qualifications of its proposed crew or provide names and telephone numbers for customer representatives for identified past projects. Protest Report, Tab G, G-1. The evaluation board found, however, that DMWC identified a certified designer/fabricator/supplier for the bridge, had performed two similar bridge projects within the past 2 years (one of which was at the Clearwater National Forest), and had proposed a crew of four, including an identified foreman, who were all stated to be experienced in heavy construction and bridge setting. Protest Report, Tab G, G-5-7.

The contracting officer concluded that DMWC's higher-priced quotation represented the best value to the government, considering price and the technical merit of its submission. Although the contracting officer noted that Sawtooth had a good reputation, particularly with respect to trail construction, she was concerned that Sawtooth's lack of recent similar experience, failure to identify its bridge supplier,

failure to clearly identify its intended foreman, and limited bridge building experience among its crew presented a performance risk. On the other hand, although DMWC also had not provided all requested information, DMWC had recent similar experience, identified a certified bridge supplier, and identified a crew with bridge building experience. In the contracting officer's judgment, DMWC presented lower performance risk than did Sawtooth and represented the best value for the work, considering Sawtooth's price and DMWC's technical superiority. Contracting Officer's Statement at 2-3.

Simplified acquisition procedures are designed to, among other things, reduce administrative expenses, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors. Federal Acquisition Regulation § 13.002 (FAC 97-03). Even when using such procedures, an agency must conduct the procurement consistent with a concern for fair and equitable competition and must evaluate quotations in accordance with the terms of the solicitation. See Nunez & Assocs., B-258666, Feb. 10, 1995, 95-1 CPD ¶ 62 at 2. In reviewing protests against an allegedly improper simplified acquisition evaluation and award selection, we examine the record to determine whether the agency met this standard and exercised its discretion reasonably. Id.

The record establishes that the Forest Service's evaluation was consistent with the RFQ and that its selection of DMWC was reasonable. Although neither the protester nor the awardee provided all the information requested by the RFQ, the technical submissions provided enough information to allow the agency to evaluate their relative technical merits. Thus, for example, the agency could determine that DMWC had recent similar experience and Sawtooth did not; in this regard, Sawtooth admits that it has not performed similar work within the last 2 years. Also, DMWC identified a certified bridge supplier and Sawtooth did not.¹

The contracting officer's concern that Sawtooth's deficiencies (e.g., lack of recent similar experience and failure to identify a bridge supplier) were significant discriminators is also supported by the record. The contracting officer explains that this project would be performed in a remote area, requiring the transportation and setting of the prefabricated bridge by helicopter. The steel track bridge would be handled in two halves that would have to be set on gabions placed in an excavated portion of the stream bank. Given the sensitivity of the stream and its banks, the agency desired an experienced contractor that would not unduly disrupt the site. In

¹Although Sawtooth suggests that the agency could have conducted discussions with it if the agency needed more information, there was no requirement that the agency do so, particularly given the solicitation's warning that an award without discussions was contemplated. In any event, Sawtooth has provided no information during this protest to indicate that discussions would have affected the agency's evaluation judgment.

addition, the agency notes that there are many bridge suppliers in the market that are not certified as required by the RFQ and that Sawtooth's failure to identify its intended supplier also posed risks in performance delays. In sum, Sawtooth's lack of recent similar experience, coupled with its failure to identify a certified bridge supplier, raised logical performance concerns that were reasonably viewed as significant.

Sawtooth argues that its quotation should have been selected based upon its lower price. However, where a solicitation provides for a cost/technical tradeoff, an agency may properly select a more highly rated technical proposal (or quotation, as here) over one offering a lower price where it is determined that technical merit of the higher-priced one outweighs the price difference. Southwest Marine, Inc.; American Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 17-18. Here, the contracting officer found that DMWC's evaluated lower performance risk outweighed the benefit of Sawtooth's lower price. Although Sawtooth disagrees with this assessment, its mere disagreement does not demonstrate that the contracting officer's cost/technical tradeoff judgment was unreasonable. SC&A, Inc., B-270160.2, Apr. 10, 1996, 96-1 CPD ¶ 197 at 8.

The protest is denied.

Comptroller General
of the United States