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## Decision

**Matter of:** Support Services, Inc.

**File:** B-282407; B-282407.2

**Date:** July 8, 1999

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William T. Welch, Esq., and William B. Barton, Jr., Esq., Barton, Mountain & Tolle, for the protester.

Darcy V. Hennessy, Esq., Moore, Hennessy & Freeman, for DGR Associates, Inc., an intervenor.

Peter Ries, Esq., and Richard G. Welsh, Esq., Naval Facilities Engineering Command, for the agency.

Marie Penny Ahearn, Esq., David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest against evaluation of protester's past performance/relevant experience is denied where (1) notwithstanding statement in contemporaneous evaluation record concerning number of references considered, record as a whole indicates that all relevant references furnished by the protester were considered, (2) agency reasonably evaluated awardee's experience with larger housing maintenance contracts more favorably than protester's, and (3) agency reasonably determined that protester's experience performing interstate rest area maintenance work was not relevant, since contract to be awarded was for housing maintenance and repair.

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### DECISION

Support Services, Inc. (SSI) protests the Naval Facilities Engineering Command's award of a contract to DGR Associates, Inc., under request for quotations (RFQ) No. N68950-99-Q-0183, for maintenance and repair of 240 military family housing

units at the Marine Corps Support Activity in Belton, Missouri.<sup>1</sup> SSI challenges the evaluation of past performance/relevant experience and argues that the award was based on a defective price/past performance tradeoff.

We deny the protest.

The RFQ provided for award to the responsible vendor whose conforming submission was most advantageous to the government, price and past performance/relevant experience considered. The RFQ stated that the agency would “review information about the offerors’ past performance within the last five years on work that is similar to this solicitation in size, scope, and complexity,” and that “[m]ore recent and relevant experience may be viewed more favorably.” RFQ at 19. Vendors were to submit past performance narratives and references for “three (3) to five (5) housing maintenance projects within the last five years” that “demonstrate required capability and experience to successfully perform the requirements of this solicitation.” RFQ at 19, 29. This information was to be submitted on a “Reference Questionnaire” form (included in the RFQ) which included a section designated for “government use,” in which quality, timeliness, cost control, customer satisfaction, and safety criteria were to be rated on a scale of poor, fair, good, and excellent. (In the actual evaluation, the contracting officer contacted the references and noted their ratings on the form.) The solicitation further provided that “[p]rice [was to be] considered relatively more important than past performance.” RFQ at 19.

The agency received quotations from nine vendors, including SSI and DGR. SSI submitted the low quote of \$[deleted], while DGR submitted the second low quote of \$1,098,500.80. After performing a price/past performance analysis of the three low quotes, the contracting officer determined that DGR’s was the most advantageous to the government based on the firm’s more extensive experience and superior past performance reference ratings (an average rating of “good +” compared to SSI’s average of “good”). Determination of Responsibility and Price Reasonableness, Mar. 22, 1999, at 3.<sup>2</sup> Specifically, the contracting officer determined that DGR “demonstrated more experience in the number of references provided and the number of housing units under each contract than provided by Support Services,” and noted that “DGR’s references rated them higher than the references rated

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<sup>1</sup> The procurement was conducted under the simplified procedures authorized in Federal Acquisition Regulation subpart 13.5 for the acquisition of commercial items up to a value of \$5,000,000. Notwithstanding the use of a request for quotations, the record otherwise reflects the terminology of negotiated procurements (for example, those submitting quotations are referred to as offerors).

<sup>2</sup> The contracting officer rejected six of the remaining seven higher-priced quotes, primarily for failure to meet the RFQ requirement for three to five housing maintenance narratives/references.

Support Services.” Id. Upon learning of the resulting award to DGR, and after being debriefed by the agency, SSI filed this protest with our Office.

SSI argues that the agency misevaluated past performance/relevant experience and failed to give greater weight to price in the price/past performance tradeoff as required by the RFQ.

In reviewing a protest against an agency’s evaluation of proposals, we examine the record to determine whether the agency’s judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Environmental Affairs Management, Inc., B-277270, Sept. 23, 1997, 97-2 CPD ¶ 93 at 4. We find that the evaluation and price/past performance tradeoff here were reasonable and consistent with the evaluation criteria.

## PAST PERFORMANCE/RELEVANT EXPERIENCE

### SSI Housing Maintenance References

SSI argues that the evaluation improperly took into account only two of its three submitted military family housing maintenance contract references, both for the Saratoga Naval Housing Area. The protester contends that the agency’s failure to consider the firm’s third reference, for a contract at the Portsmouth Naval Shipyard, is demonstrated by the following statement in the contracting officer’s source selection decision:

Even though Support Services quoted a lower price for the base year and two option years, it did not provide the required three to five housing maintenance references. Support Services provided two housing maintenance references--both for the Saratoga Naval Housing Area, a follow on contract. . . . From the references provided, Support Services does not have the experience requested in the RFQ or demonstrated by the other two low quoters.

Determination of Responsibility and Price Reasonableness at 3. SSI concludes from this statement that the agency improperly failed to consider the Portsmouth Naval Shipyard contract and therefore rejected the firm’s past performance as nonconforming to the solicitation requirements.

The Navy responds that SSI in fact was credited with the submission of three military housing maintenance references, including that for the Portsmouth Naval Shipyard contract at issue here. The agency asserts that this is evidenced by the fact that SSI’s quote was considered in the best value determination; the quotes of firms which did not provide the required number of references were determined nonresponsive and received no further consideration.

In support of its position, the agency has submitted a post-protest sworn declaration from the contracting officer wherein she states that, although she “incorrectly stated that SSI did not provide the required three to five housing maintenance references,” she nevertheless “considered all of SSI’s references,” including the “Saratoga Naval Housing Area contract, awarded in 1991, the Saratoga Naval Housing Area follow-on, awarded in 1996, and the Portsmouth Naval Shipyard contract,” at issue here. Declaration of Contracting Officer, May 27, 1999, at 2. Specifically, according to the contracting officer, she “did evaluate the Portsmouth Naval Shipyard reference . . . and documented [her] phone call to Portsmouth on the ‘Reference Questionnaire’ submitted by SSI.” *Id.* The contracting officer explains that her statement that SSI did not provide the required references merely reflected her view that, while the Saratoga Naval Housing contract counted for purposes of the RFQ requirement for three references, the second, follow-on Saratoga contract was “an extension of the first project, and not a second different project that significantly broadened SSI’s experience.” *Id.* According to the contracting officer, she “considered the two references from Saratoga as essentially one since this reference had the same point of contact and was at the same base for the same housing.” *Id.* at 3.

While we will accord more weight to contemporaneous documents in determining whether an evaluation was reasonable, post-protest explanations that are credible and consistent with the contemporaneous documentation will generally be considered in our review. *Jason Assocs. Corp., B-278689 et al.*, Mar. 2, 1998, 98-1 CPD ¶ 67 at 6; *Pickering Firm Inc., B-277396*, Oct. 9, 1997, 97-2 CPD ¶ 99 at 4-5 n.1.

Here, the contracting officer’s post-protest explanations are generally consistent with the contemporaneous evaluation record and are sufficient to support the conclusion that all three of the protester’s submitted housing maintenance references were considered, including that for the Portsmouth Naval Shipyard contract. It is undisputed by the protester that the contemporaneous evaluation record confirms the contracting officer’s post-protest statement that she documented the Portsmouth Naval Shipyard reference ratings with notations on the respective reference questionnaire submitted by the protester. SSI Proposal, Current Contracts, at 2. Further, the contemporaneous evaluation record gives no indication that SSI’s quote was rejected for failure to provide at least three references (as were the other quotes that failed to include the required references), but instead indicates that the firm’s quote was considered with the other acceptable quotes in the best value determination. Consequently, while we agree that the language in the contracting officer’s source selection statement suggests that the Portsmouth contract was not considered, since the record shows that the contracting officer was well aware of the Portsmouth reference when she made her source selection decision, we conclude that SSI’s quote was not rejected for failure to provide three references, and that the Portsmouth reference was factored into the decision, as the contracting officer declares in her statement in response to the protest.

## SSI Interstate Rest Area Maintenance Contracts

SSI argues that the agency unreasonably refused to consider the firm's four submitted interstate rest area maintenance and custodial contract references because they were not housing maintenance contracts and not similar in size, scope and complexity to the work required by the RFQ. SSI notes that the RFQ stated that the agency would "review information about the offerors' past performance within the last five years on work that is similar to this solicitation in size, scope, and complexity," RFQ at 19, and concludes from this that the RFQ did not limit the consideration of past performance to housing maintenance contracts. Further, SSI contends that its four rest area maintenance contracts, taken together, are at least as large and complex as--and thus are comparable to--the requirement here, as indicated by both the comparable total dollar value (\$1,633,055 for the rest area maintenance contracts, versus somewhat more than \$1 million for the current requirement), and the fact that the rest area maintenance contracts allegedly included electrical, heat, air conditioning, plumbing, structural repair, janitorial and grounds maintenance services, as well as operation of two waste water treatment plants. Supplemental Protest at 19.

The evaluation in this area was reasonable. As indicated above, the RFQ stated that offerors were to "provide past performance narratives for three (3) to five (5) housing maintenance projects within the last five years that demonstrate experience in the [h]ousing [m]aintenance aspects described in . . . the solicitation." RFQ at 29 (emphasis added). This language clearly indicates that the agency intended to review past performance on housing maintenance contracts, and the RFQ statement cited by the protester is entirely consistent with this language. Reading the provisions together, it is clear that the work the agency considered "similar to this solicitation in size, scope, and complexity" was work performed under housing maintenance contracts. See Quality Elevator Co., Inc., B-276750, July 23, 1997, 97-2 CPD ¶ 28 at 5 (disputes as to the meaning of a solicitation requirement shall be resolved by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation).

We find that the agency reasonably concluded that the work under the interstate rest area maintenance and custodial contracts is not comparable to the work under the housing maintenance contract to be awarded here. As noted by the agency, there is no indication that the interstate rest area maintenance services included: (1) a number of units comparable to the 240 housing units under the RFQ here; (2) the full range of housing maintenance services required here, including 24-hour emergency on-call service, change of occupancy maintenance, refinishing of hardwood floors, appliance repair, preventative maintenance of chimneys, furnace replacement, and maintenance of street lights; and (3) the higher level of attention required to coordinate routine and preventative maintenance with the residents of occupied family housing--i.e., rest areas can be serviced anytime. Further, even if the work under the contracts were similar, we think the agency reasonably could conclude

that experience on a number of smaller contracts does not equate with the performance of a single, larger project such as the one under the RFQ here.

#### Number of Housing Units

SSI argues that the Navy improperly evaluated DGR's housing maintenance experience--with larger-sized projects of between 1,067 and 2,359 units--more favorably than the protester's experience with smaller-sized projects; according to the protester, its smaller projects were more comparable to the project here, which involves only 240 units. This argument is without merit. Simply, we think the agency reasonably could have more confidence in the future performance of a firm, such as DGR, that has successfully met the more demanding challenge of performing housing maintenance under contracts significantly larger than the one to be awarded, than in a firm that has only performed contracts similar in size.

#### PRICE/PAST PERFORMANCE TRADEOFF

SSI asserts that the agency improperly failed to evaluate price as relatively more important than past performance/relevant experience, as required by the RFQ. The protester bases its assertion on the statement in the contracting officer's source selection decision that "[t]he two factors used to evaluate the quotes are price and past performance/relevant experience which are of equal importance." Determination of Responsibility and Price Reasonableness at 3.

In response, the agency has submitted a post-protest sworn declaration from the contracting officer stating that "[her] statement that price and past performance were equal was an unintentional error in drafting the Determination of Responsibility and Price Reasonableness," and that in fact she "did consider price relatively more important than past performance when making [her] best value determination." Declaration of Contracting Officer at 2. The contracting officer explains that in making her tradeoff decision, she determined that DGR had demonstrated experience (1) with larger housing maintenance contracts than SSI in terms of total number of units, (2) at more installations than SSI (three versus two), and (3) at a higher performance rating level than SSI (receiving "good +" versus good ratings overall from the contacted references). Id. at 3; Determination of Responsibility and Price Reasonableness at 3; and SSI Proposal, Current Contracts, at 2. The contracting officer states that she "considered the [deleted] price differential [between SSI and DGR] to be worth the additional experience and superior customer feedback provided by DGR." Declaration of Contracting Officer at 3.

Where a solicitation identifies a selection criterion in addition to price, the selection official retains discretion to select a higher-priced but also technically higher rated submission, if doing so is in the government's best interest and is consistent with the solicitation's stated evaluation and source selection scheme. See University of Kansas Med. Ctr., B-278400, Jan. 26, 1998, 98-1 CPD ¶ 120 at 6 (in context of a

negotiated procurement). While the contemporaneous documentation here does not specifically discuss the tradeoff that led to the selection of DGR and, indeed, misstated the relative importance of price and past performance, the contracting officer's post-protest explanation of the tradeoff is consistent with the price/past performance weightings and supported by the record and we, therefore, view it as simply filling in previously unrecorded details. See Pickering Firm Inc., *supra*. Again, the record shows that the selecting official recognized at the time that SSI did not have the experience demonstrated by DGR; the record shows that DGR's past performance was significantly broader than SSI's in terms of both number of housing maintenance contracts and greater number of units within those projects, and that DGR's performance on these projects was rated higher by its references than SSI's performance. Although the RFQ provided that price was more important than past performance, these discriminators provided a reasonable basis for the agency to conclude that payment of the relatively small price premium associated with DGR's quote was warranted in order to obtain the greatest possible assurance of satisfactory performance. We conclude that the tradeoff was reasonable.

The protest is denied.

Comptroller General  
of the United States