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The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Cottage Grove Land Surveying  
File: B-223207  
Date: September 12, 1986

## DIGEST

1. Contracting agency has primary responsibility for determining which documents are subject to release. Only contracting agency and courts have authority under Freedom of Information Act, 5 U.S.C. § 552 (1982), to determine what information must be disclosed.
2. Protest against selection of contractor for surveying contract is denied where protester has not shown that the Forest Service unreasonably evaluated awardee's proposal.

## DECISION

Cottage Grove Land Surveying has protested against an award of a fixed-price contract by the Forest Service to Stuntzner Engineering and Forestry, under request for proposals (RFP) No. R6-86-37N, for surveying services in the Siskiyou National Forest, Oregon. The work consisted of six corner searches, a control survey, corner documentations, the marking and posting of several miles of boundaries, the maintenance of two existing corner markers, and preparation of records and reports.

We deny the protest.

Section "M" of the RFP, Evaluation Factors for Award, informed all offerors of the weights assigned to the technical evaluation criteria: experience and qualifications of the firm and of the individuals assigned to the project (70 points), soundness of the technical approach (50 points), amount of professional supervisory time (30 points), and specialized experience (20 points). A total of 170 technical points could be awarded to a given proposal. Price was not assigned a weight but the RFP informed offerors that the Forest Service would award the contract to its best advantage, price and the technical criteria considered.

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Of the several proposals received, five were determined to be in the competitive range including those submitted by the protester and the awardee. Discussions were held with offerers in the competitive range. All of the competitive proposals were closely ranked as to price and technical merit even after "best and final" proposals were received by the Forest Service. Stuntzner's proposal was scored slightly higher in the technical area compared with all other competitive proposals except one (which was not the protester's). The high-ranked proposal, however, also was about 15 percent higher in price than Stuntzner's, which was the lowest received. The Forest Service selected Stuntzner's proposal for award, because it ranked second technically and was lowest in price. Cottage Grove's proposal ranked fourth technically and was second in price.

In its protest, Cottage Grove first complains that the Forest Service has improperly withheld from it documents which would show how Stuntzner computed its price. The contracting agency has the primary responsibility for determining which documents are subject to release. Employment Perspectives, B-218338, June 24, 1985, 85-1 C.P.D. ¶ 715. To the extent Cottage Grove is requesting disclosure of the Forest Service's documents under the Freedom of Information Act, 5 U.S.C. § 552 (1982), only the contracting agency and the courts have authority under the act to determine what information agencies must disclose.

Cottage Grove basically argues that Stuntzner's proposal was not the most advantageous offer for award because it contains an inadequate technical approach and its price is unrealistically low. Specifically, Cottage Grove argues that Stuntzner's proposal underestimates the amount of corner search and maintenance work and its associated costs, thus indicating a lack of understanding of the work involved.

In reviewing a protest against the selection of the contractor, it is not our function to reevaluate or rescore proposals. See Technical Services Corp., 64 Comp. Gen. 245 (1985), 85-1 C.P.D. ¶ 152; Baker and Taylor Co., B-218552, June 19, 1985, 85-1 C.P.D. ¶ 701. Further, it is the protester's burden to show that the contracting agency's action was unreasonable. See Technical Services Corp., 64 Comp. Gen. 245, supra; Gross Metal Products, B-215461, Nov. 27, 1984, 84-2 C.P.D. ¶ 577.

Regarding the corner search and evaluation, the RFP requires the contractor to investigate the corners of the survey property. This includes an extensive on-the-ground search of the project area to locate evidence of prior surveys, and

to document the location of the corners. The protester contends that the awardee's price of \$86 per corner search is inadequate to support the extensive search required by the RFP.

The Forest Service states that Stuntzner has, "as a matter of public record, [already] evaluated four of the six corners listed for search." Cottage Grove does not rebut this statement. The Forest Service further states that the offerors were not asked to list how much time would be expended on each corner, but, rather, the average time to investigate all six corners. Since Stuntzner previously had evaluated four of the six corners listed for search, the Forest Service considered reasonable, if not conservative, Stuntzner's unit price of \$86 per corner and its production estimate of three corners per day. The Forest Service acknowledges that the average price for this item submitted by offerors in the competitive range was \$155 per corner but, because of Stuntzner's previous documented knowledge of the majority of the work under this item, the Forest Service found Stuntzner's proposed price and estimated time for performance adequate for the work involved.

In reply to the Forest Service's position, Cottage Grove essentially repeats its prior disagreements with the Forest Service's conclusions, and claims that Stuntzner will not be able to perform the corner survey professionally in the time it estimated. As to Stuntzner's prior search efforts, Cottage Grove additionally alleges that Stuntzner did not find two of the four corners searched. Nevertheless, it seems reasonable to conclude that Stuntzner's prior work experience in this same area could reasonably be considered by the Forest Service and that this prior work effort would help to minimize Stuntzner's future search efforts as suggested by the agency. Thus, we find the Forest Service's evaluation reasonable in this regard.


Cottage Grove also challenges the Forest Service's evaluation of Stuntzner's corner maintenance costs and work times estimates. The RFP called for the contractor to maintain two corners including markings, monuments, posts and trees. The awardee proposed 48 minutes per corner for maintenance at \$36 each, a production rate which the Forest Service states is "on the high end of the scale for the project" and somewhat below the average price of offerors in the competitive range of \$49 per corner. Nevertheless, the Forest Service states that Stuntzner's production estimate of 48 minutes per corner is reasonable given that, of the two corners to be maintained, one is "easily accessible and the other requires only one bearing tree to be replaced." The Forest Service

states that an estimate of approximately 45 minutes to replace a bearing tree and do needed painting is not unreasonable.

Cottage Grove questions the low price proposed by Stuntzner for this item and argues that Stuntzner proposed only "50 percent direct supervision of maintenance" without any explanation for the "low rate of professional supervision." The protester has not shown that the Forest Service unreasonably determined that Stuntzner could adequately perform the work within the time it estimated and at the price it proposed. As indicated by the Forest Service, which did some preliminary investigations of the site, the work is a relatively minor effort given the overall scope of the contract. We note that regarding supervisory time, Stuntzner's offer of 50 percent supervision by the surveyor was questioned by the Forest Service during discussions and Stuntzner offered 100 percent supervision by the surveyor in its best and final offer.

Finally, Cottage Grove questions Stuntzner's proposal to survey 8.25 miles of land, even though the contractor recognized that 9.25 miles of work would be necessary to complete the survey. As to this last argument, Stuntzner indicated by its experience that it had previously surveyed an additional mile of land and the Forest Service further advises that this survey was a matter of public record. This prior effort of one mile coupled with the proposed 8.25 mile effort adds up to the required 9.25 miles of work. The Forest Service explains that, by surveying the 8.25 miles, and using its experience and the results of its prior survey, the awardee can satisfy the contract survey requirements at the price offered. We find no basis to question the Forest Service's determination in this regard.

Given the above, it is our view that Cottage Grove is essentially disagreeing with the Forest Service's evaluation of Stuntzner's proposal without showing that the evaluation of that proposal is unreasonable. Consequently, we deny the protest.

  
Harry R. Van Cleve  
General Counsel