



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Peterson & Associates

File: B-223472

Date: September 18, 1986

DIGEST

1. Contracting agency properly may make award to a lower priced, lower rated offeror where the solicitation indicates that price/technical tradeoff will be an important factor in the award decision and the contracting officer determines that the lower rated offeror will provide an acceptable level of technical competence meeting the government's needs.

2. Protester's contention that the proposed awardee offered an unrealistically low price for one line item under a request for proposals (RFP) and therefore lacks an understanding of the RFP requirements constitutes a challenge to the contracting agency's determination that the awardee is a responsible offeror. General Accounting Office does not review such affirmative responsibility determinations except where there is a showing of possible bad faith or fraud on the part of the procuring officials.

DECISION

Peterson & Associates protests the proposed award to Timber Design and Development under request for proposals (RFP) No. R6-12-86-111, issued by the United States Department of Agriculture, Forest Service, for a land survey. Peterson challenges the Forest Service's decision to make award to Timber Design, the lowest priced offeror, in light of Timber Design's relatively low technical score. Peterson also challenges Timber Design's capability to perform the services called for under the RFP. We deny the protest in part and dismiss it in part.

The RFP, issued on April 25, 1986, called for offers to perform the Erickson Terry Cadastral Survey in the Siuslaw National Forest. Seven offers were received by May 27, the due date for initial proposals. The offerors' technical proposals then were evaluated and all were found to be technically acceptable and within the competitive range. Out of a total of 150 points, the proposed awardee, Timber Design,

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received 104 points, ranking sixth of the seven offerors; both the protester and another offeror received 140 points, the highest technical score given. The remaining four offerors received scores ranging from 103 to 113 points.

After best and final offers were submitted on June 11, Timber Design's offer (\$9300) was the lowest in price by a significant amount. The next lowest offer was \$13,430, with the remaining offers ranging up to \$21,769. The protester offered the third highest price (\$17,715). After consideration of the technical scores and prices, the contracting officer decided that the government's needs would best be met by award to Timber Design, the lowest priced technically acceptable offeror.

Peterson challenges the Forest Service's decision to make award to an offeror with a relatively low technical score, arguing that the superior technical capability reflected in Peterson's higher technical score is necessary to perform the services called for under the RFP. The Forest Service disagrees, arguing that, in the contracting officer's judgment, the services called for under the RFP were not so complex that award to a higher rated, higher priced offeror was required to meet the government's needs.

Where, as here, the contracting agency makes a tradeoff between price and technical considerations, the essential question is whether the determination to make award to a particular offeror is reasonable and consistent with the RFP's evaluation scheme. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. The key element in the price/technical tradeoff is the contracting officials' judgment regarding the significance of the differences in technical merit among the proposals. Medical Services Consultants, Inc., et al., B-203998, et al., May 25, 1982, 82-1 CPD ¶ 493.

Here, section M-1 of the RFP specifically advised offerors that the tradeoff between technical considerations and price would be made as follows:

"Award will be made to that offeror (1) whose proposal is technically acceptable and (2) whose technical/cost relationship is the most advantageous to the Government. While cost is secondary to technical, it will be a factor in the award decision. The critical factor in making any cost/technical trade-off is not the spread between the technical scores, but rather what is

the significance of that difference. The significance of the spread scores will be determined on the basis of what that difference might mean in terms of performance and what it would cost the Government to take advantage of it. Award may not necessarily be made to that offeror submitting the lowest offer. Also, award may not necessarily be made for technical capabilities that would appear to exceed those needed for the successful performance of the work. The Government reserves the right to make cost/technical tradeoffs that are in the best interest and to the advantage of the Government."

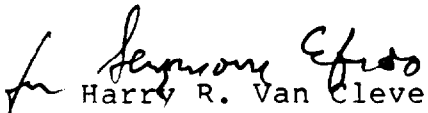
The contracting officer's decision to make award to Timber Design was based on his determination that the premium involved in awarding to a higher rated, higher priced offeror was not justified in view of the acceptable level of technical competence available at a considerably lower price from Timber Design. In challenging this decision, Peterson argues generally that the survey project is more complex than the contracting officer indicated and requires a high level of technical skill. Peterson offers no evidence, however, to show that the level of technical competence offered by Timber Design was insufficient to perform the services called for by the RFP. Further, the solicitation advised offerors that the award selection would be based on the contracting officer's judgment as to the most advantageous price/technical trade-off. Hence, we see no basis on which to question the reasonableness of the contracting officer's decision that award to Timber Design will meet the government's needs. See Hager, Sharp & Abramson, Inc., B-201368, May 8, 1981, 81-1 CPD ¶ 365.

Peterson also points out that Timber Design's price (\$3830) for one line item, the control survey, is significantly lower than the government estimate for that item (\$12,793). Submission of such a low price, Peterson contends, demonstrates a lack of understanding by Timber Design of the RFP requirements. As noted above, although the score Timber Design received for its technical approach was lower than Peterson's score, Timber Design was found technically acceptable. Other than Timber Design's low price relative to the government estimate for the control survey task, Peterson has offered no support to show that Timber Design's proposal was technically unacceptable.

Further, to the extent Peterson is challenging Timber Design's capability to perform in accordance with its technical proposal under the RFP, Peterson's contention involves a

matter of responsibility. Klein-Sieb Advertising and Public Relations, Inc., B-200399, Sept. 28, 1981, 81-2 CPD ¶ 251. Before making award to any offeror, a contracting agency must determine that it is a responsible firm. See Federal Acquisition Regulation, 48 C.F.R. § 9.103(b) (1985). Our Office does not review such affirmative responsibility determinations except where there is a showing of possible bad faith or fraud on the part of the procuring officials, which is not alleged or evident here. See Bid Protest Regulations, 4 C.F.R. § 21.3(f)(5) (1986); Seaton Van Lines, Inc., B-217298, Jan. 8, 1985, 85-1 CPD ¶ 26.

The protest is dismissed in part and denied in part.


Harry R. Van Cleve
General Counsel