



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Transco Contracting Co.

File: B-228347.2

Date: July 12, 1988

DIGEST

1. Procuring officials enjoy a reasonable degree of discretion in evaluating proposals, and the General Accounting Office will not disturb an evaluation where the record supports the conclusions reached and the evaluation is consistent with the criteria set forth in the solicitation.

2. Protester's argument that as low, technically acceptable offeror it is entitled to award is rejected where the solicitation provided that cost was secondary in importance to technical considerations and agency reasonably concluded that another offeror's technical superiority warranted its higher cost.

DECISION

Transco Contracting Company protests the award of a contract to Beneco Enterprises under request for proposals (RFP) No. F41650-87-R-8010, issued by the Air Force for real property maintenance, repair and improvement at Kelly Air Force Base, Texas. Transco argues that the agency improperly evaluated the proposals.

We deny the protest.

The RFP was issued as a small business set-aside on April 30, 1987. Initial proposals were due on November 17. The solicitation contemplated the award of a firm fixed-price indefinite quantity contract for construction-related services. The services under the contract are to be accomplished by the use of individual delivery orders. The contract to be awarded is a new type developed by the Air Force called "Simplified Acquisition of Base Engineering Requirements" (SABER) and is to be based on a unit price book which contains 25,000 line items of pre-priced construction tasks. Under this type contract, the Air Force

042704

computes the cost of an individual project by adding the prices of the appropriate line items and multiplying the total by a coefficient of the contractor's overhead and profit.^{1/}

The RFP provided that technical factors were more important than price. It listed three evaluation areas which were of equal importance, the first two of which included several items which were listed in descending order of importance. The evaluation scheme was as follows:

Project Management Ability

- Key Project Management Staff
- Quality Control Plan
- Financial Capability
- Technical Support Staff

Subcontracting Support Capability

- Subcontract Management
- Identification of Key Subcontractors
- Purchasing System/Level of Subcontracting

Company Experience

(No subitems)

The agency received 11 proposals by the initial due date. These proposals were evaluated in accordance with the RFP criteria and ranked pursuant to code scheme. Blue was assigned if the proposal exceeded the RFP performance requirements under a particular factor in a beneficial way, while green was assigned if the proposal was completely acceptable. Yellow indicated that the proposal was marginal but correctable and red that it was unacceptable. As the result of the evaluation of initial proposals, eight, including those of Beneco and Transco, were included within the competitive range.

Beneco's initial proposal received an overall rating of green under the project management ability area, with a rating of yellow for the financial capability item. Beneco also received an overall rating of green for the subcontract

^{1/} The contractor's price coefficient is a percentage factor representing an increase or decrease to the prices listed in the Unit Price Book. For example, a coefficient of 1.0 is net and would represent a price equal to the price in the Unit Price Book; a coefficient of 1.2 represents a price 20 percent higher than the book's unit prices.

support capability area, with a yellow rating for the identification of key subcontractors item. For company experience, Beneco received an overall rating of blue. Transco's initial rating was green for all three evaluation areas, with a yellow under project management ability for the technical support staff item.

During December 1987, discussions were held with all offerors in the competitive range, and all eight submitted best and final offers by February 8, 1988. Beneco improved its rating under the financial capability item from yellow to green but its rating under the identification of key subcontractor item remained yellow. Beneco's final rating was an overall green in the first two areas and blue under the final area of company experience. Transco's final overall ratings were green in all three areas. The source selection authority chose Beneco for award even though its price coefficient of 1.2300 was higher than Transco's coefficient of 1.1580. It was the source selection authority's opinion that Beneco's proposal offered the agency the "best program in terms of operational effectiveness" and was the best overall value considering both technical and price factors.

Transco was informed by letter dated March 31 that Beneco had been awarded the contract. At a debriefing conducted on April 8, the Air Force indicated that Transco's proposal had very few weaknesses but noted that the company had limited work order contract experience. This protest followed.

Transco believes that it should have been selected for the award as an experienced and highly rated firm which submitted a lower price coefficient than did Beneco. Specifically, Transco argues that it could not reasonably have been rated lower than Beneco under the experience area and questions the evaluation in the subcontracting area because it is a local firm which is familiar with the subcontractors located near Kelly Air Force Base in Texas while Beneco is located in Utah. Additionally, Transco challenges Beneco's rating under the financial capacity item because, according to the protester, Beneco is having financial difficulties.

In reviewing protests against the propriety of an agency evaluation of proposals, it is not the function of our office to independently evaluate those proposals. Ira T. Finley Investments, B-222432, July 25, 1986, 86-2 CPD ¶ 112. Rather, the determination of the relative desirability and technical adequacy of the proposals is primarily a function of the procuring agency which enjoys a reasonable range of discretion. AT&T Technology Systems, B-220052, Jan. 17, 1986, 86-1 CPD ¶ 57. Consequently, we will question an agency's technical evaluation only where the record clearly

shows that the evaluation does not have a reasonable basis or is inconsistent with the evaluation criteria listed in the RFP. See American Educational Complex System, B-228584, Jan. 13, 1988, 88-1 CPD ¶ 30. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. ESCO, Inc., B-225565, Apr. 29, 1987, 66 Comp. Gen. ___, 87-1 CPD ¶ 450.

In its report on the protest, the Air Force has provided us with the technical evaluation of the proposals which consists of color code ratings and a risk assessment for each evaluation criterion. Based on our careful in camera review of the entire record, we conclude, for the reasons cited below, that the Air Force's evaluation of the two proposals was reasonable.

Company Experience

Transco argues that it was improper for it to have been rated lower under the company experience area because it lacked prior experience under work order contracts, since that type of experience was not included in the RFP's evaluation criteria nor could it reasonably be a factor given that SABER contracts are a very recent development. Additionally, Transco states that it has had significant experience in performing work orders under indefinite quantity contracts, which were the forerunner of SABER-type contracts. Transco believes that this experience (which was indicated in its proposal), coupled with its extensive construction experience, warranted a ranking higher than the awardee's. Transco believes the awardee has more limited experience over less time and consequently, that it was unreasonable for the Air Force to rank it above Transco.

The solicitation informed offerors that they would be evaluated based on their related experience "which is comparable to the work requirements of this solicitation." The RFP further stated that offerors were to submit information concerning either government or commercial contracts held within the last 5 years.

It is the Air Force's view that successful experience in performing a SABER or SABER-type contract could cause it to rate an offeror as exceeding the requirements of the solicitation in this area in a beneficial way, thus entitling the offeror to a blue or exceptional rating. The record indicates that Beneco, as well as two offerors other than the awardee who had successful experience with multi-discipline/multi-project SABER-type contracts, in fact received ratings of excellent or blue. The agency states further that the protester, which received a rating of completely acceptable or green in this area, performed work

on several requirements contracts and a large number of fixed-fee contracts within the last 5 years. It also notes, however, that the firm had no direct SABER-type experience and that the requirements contracts Transco had performed essentially encompassed only three types of work, painting, reroofing and miscellaneous repairs, while this procurement required extensive new construction, maintenance, repair, and alteration covering the entire base.

We do not believe that the record supports a conclusion that the agency was unreasonable in rating Beneco's experience higher than the protester's. The solicitation informed offerors that in the area of company experience the agency was evaluating the quality and extent of comparable experience. We find nothing unreasonable in the agency's determination that while experience with related contracts was acceptable, experience with SABER-type contracts was better and more likely to result in the successful performance of this SABER contract. Moreover, we read the solicitation's reference to related comparable experience as fairly including the concept that experience with the exact type of contract being solicited would be more highly rated than experience with similar contracts. See Tracor Marine, Inc., B-226995, July 27, 1987, 87-2 CPD ¶ 92. We therefore reject the protester's argument that the offerors were rated on the basis of an undisclosed evaluation factor. Also, in accordance with the solicitation, only company experience for the last 5 years was to be evaluated. Therefore, to the extent that Transco is arguing that its construction experience over a period longer than 5 years should have resulted in its being higher than Beneco, its contention is without merit.

Subcontractor Support Capability

Transco argues that Beneco could not have ranked highly under the subcontractor support capability area because, according to the protester, Beneco has no subcontracting history in the San Antonio area, where Kelly Air Force Base is located, and its home office is more than 1,000 miles from the project. In fact, under the identification of key subcontractors item, Beneco received a yellow or marginal rating while Transco received a blue or exceptional rating. Nevertheless, Beneco received blue ratings under the other items in this area, subcontract management, and purchasing system/level of subcontracting, which would appear to us to be unaffected by the prime contractor's location. Thus, while Transco was ranked higher in one aspect of subcontractor support capability and seems to have received a slightly higher overall rating in this area as far as the agency's risk assessment was concerned, that rating did not in the final selection outweigh Beneco's higher rating in

the experience area. We have no basis upon which to question the agency's judgment in this regard.

Financial Capability

Transco also argues that the awardee should not have been ranked as highly under the financial capability item in the project management area. Transco complains that the awardee is not financially solid and therefore the Air Force acted unreasonably if it assigned Beneco a high rating under this item. The solicitation stated that financial capability would be evaluated in the context of the specified bonding requirements and the offeror's fiscal plan for covering phase-in and initial performance costs prior to payment under the contract. In this regard, the solicitation noted that offerors would be required to cover an initial cash float until such time as an adequate number of delivery orders are issued to provide reimbursement of these initial operating expenses.

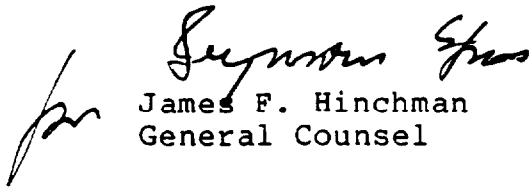
Initially, Beneco received a rating of yellow or marginal for this item because of a lack of information in Beneco's initial proposal. As a result of discussions, Beneco supplied additional information and its rating was upgraded to green or acceptable. In this regard, the record shows that the awardee provided a letter of credit which more than covered the amount required. Additionally, the agency contacted Beneco's bank and bonding companies and verified the amount of available cash, line of credit and bonding capability. Since the solicitation stated that this item would be evaluated in the context of bonding capability and ability to cover the initial cash flow, and these matters were covered by Beneco's bank and bonding companies, the fact that its overall financial condition may not be strong is not as relevant as the fact that the bank and bonding companies are willing to back Beneco.^{2/} Since Beneco was able to provide the required credit line and bonding, we have no reason to object to the agency's rating.

^{2/} After the record was closed in this protest, Transco submitted the affidavit of an alleged former employee of Beneco stating that Beneco was in very poor financial condition and that the employee had been hired as project manager for this contract without any experience. The protester did not explain the reason for the late submittal of this affidavit. In any event, as stated above, the allegations concerning financial conditions are not relevant and the record indicates that Beneco did not propose the individual named in the affidavit as project manager.

Award Selection

Finally, the protester argues that since its proposal was rated as essentially equal to the awardee's, it should have been awarded the contract because its price coefficient of 1.1580 is significantly lower than the awardee's coefficient of 1.2300. In a negotiated procurement, the agency is not required to make award to the firm offering the lowest price unless the RFP specifies that price will be the determinative factor. Jones & Company, Natural Resource Engineers, B-228971, Dec. 4, 1987, 87-2 CPD ¶ 555. Here, the agency specifically reserved the right to award to other than the low offeror and indicated that price was the least important evaluation factor. The agency has the discretion to select a more highly rated technical proposal if, as in this case, it is consistent with the RFP's evaluation scheme. Antenna Products Corp., B-228289, Jan. 19, 1988, 88-1 CPD ¶ 43. Here, the Air Force determined Beneco's proposal to be technically superior--not as essentially equal--to Transco's and we have not found that determination to be unreasonable. Therefore, there is no basis in the record for our Office to question the agency's decision to award to Beneco.

The protest is denied.


James F. Hinchman
General Counsel