

T. H. H. H. H.



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Madison Services, Inc.

File: B-236894

Date: January 12, 1990

DIGEST

Allegation that agency should not have rejected protester's offer as unacceptable is academic, and will not be considered, where solicitation provided for award to low acceptable offeror and awardee, not protester was low; even if protester prevailed in protest, it would not be in line for award.

DECISION

Madison Services, Inc., protests the rejection of its offer and the award of a contract to Grace Industries, Inc., under request for proposals (RFP) No. DTCG39-89-R-00837, issued by the United States Coast Guard Academy as a total small business set-aside for janitorial and custodial services. The protester maintains that the agency improperly rejected its proposal for failure to comply with a corporate experience requirement.

We dismiss the protest.

The RFP contemplated award of a firm, fixed-priced contract to the responsible offeror whose offer, conforming to the solicitation, was determined most advantageous to the government, cost and other factors considered. The solicitation advised offerors that the technical proposal evaluation criteria were: corporate experience, management/technical, and personnel. Under corporate experience, the RFP required a minimum of 5 years of experience with contracts comparable in size and complexity to the work requirement here. Cost proposals were to be evaluated on the basis of realism, fairness, and reasonableness, with cost being the deciding factor if all technical proposals were determined acceptable.

Madison's proposal was among three received by the agency. After the initial evaluation and discussions, the agency

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requested best and final offers (BAFOs). Only Madison and Grace submitted BAFOs; Grace submitted the lower total price, \$1,116,140, compared to Madison's price of \$1,251,104. After reviewing Madison's BAFO, the evaluation team concluded that the firm failed to comply with the solicitation's 5-year corporate experience requirement and the contracting officer notified the firm of the rejection of its proposal on this basis. Award then was made to Grace at a total price of \$953,530 (reflecting a price reduction made after Madison's offer was rejected).

Madison argues that the agency improperly rejected the firm's proposal since the firm met and exceeded the corporate experience requirement through the experience of the firm's key personnel. The protester maintains that its key personnel each had more than 5 years of comparable janitorial/custodial experience when their years of experience with Madison as well as their experience prior to employment with Madison are considered. The Coast Guard, however, maintains that the evaluation was proper.

We need not decide the issue raised by Madison, since it is clear that Madison was not in line for award in any case. In this regard, as indicated above, award was to be made to the low offeror if more than one proposal was found technically acceptable. As Grace, not Madison, was the low acceptable offeror, even if we agreed with the firm that its proposal should not have been rejected as unacceptable, Madison still would not be in line for award; Grace would remain entitled to the award as the low, acceptable offer (Madison has not challenged the evaluation of Grace's proposal). The protest therefore is academic and will not be considered. See generally Urethane Prod. Corp., B-234694, May 25, 1989, 89-1 CPD ¶ 508.

The protest is dismissed.

Ronald Berger

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