



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Henderson Design Group

File: B-248973.3

Date: December 11, 1992

Sandra L. Henderson for the protester,
Paul M. Fisher, Esq., and Rita Liotta, Esq., Department of
the Navy, for the agency.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Agency's decision to terminate negotiations with the
protester for architect-engineer services was not
unreasonable where the agency discovered inaccuracies in the
information regarding the firm's recent specialized
experience in providing interior design services listed in
the protester's Standard Forms 254 and 255 and determined
after evaluation of protester's actual experience that
another firm was ranked above the protester and in line for
negotiations.

DECISION

Henderson Design Group protests the selection by the Western
Division, Naval Facilities Engineering Command, San Bruno,
California, of Stephen E. Harriman AIA and Associates as the
firm with which to negotiate an architect-engineer (A-E)
contract for architectural and engineering services for
various interior design projects in western states and
Alaska. Henderson argues that the Navy improperly
terminated negotiations with the firm after erroneously
concluding that it had insufficient experience and
qualifications because it did not describe the actual
interior design services on the projects listed on its
Standard Forms (SF) 254 and 255.

We deny the protest.

Generally, under the selection procedures set forth in the
Brooks Act, as amended, 40 U.S.C. § 541 et seq. (1988), and
its implementing regulations, Federal Acquisition Regulation
(FAR) part 36.6, a contracting agency must publicly announce
requirements for A-E services. An A-E evaluation board
established by the agency evaluates the A-E performance data

and statements of qualifications already on file, as well as those submitted in response to the announcement of the particular project, and selects at least three firms for discussions. The board recommends to the selection official, in order of preference, no less than three firms deemed most highly qualified. The selection official then lists in order of preference the firms most qualified to perform the required work. Negotiations are held with the firm ranked first. If the agency is unable to agree with the firm as to a fair and reasonable fee, negotiations are terminated and the second-ranked firm is invited to submit its proposed fee. See generally FAR part 36.6; James W. Hudson & Assocs., B-243277, July 5, 1991, 91-2 CPD ¶ 29; Asbestos Mgmt., Inc., B-237841, Mar. 23, 1990, 90-1 CPD ¶ 325.

The Navy announced the procurement in the Commerce Business Daily (CBD) on September 25, 1991. The CBD notice stated that selection would be based on the following criteria in descending order of important:

- "1. Recent specialized experience in providing interior design services for the stated building types;
2. Professional qualifications of the interior design staff;
3. Ability of the firm to accomplish the contemplated work within a minimum reasonable time limit;
4. Past performance with government agencies and/or private industry;
5. Location of the firm within the immediate geographic area of WESTNAVFACENCOM, San Bruno, CA; and
6. Volume of work previously awarded by the Department of Defense ("DOD") to the firm."

The announcement established a deadline of 30 calendar days from the date for receipt of SF 254, Architect-Engineer and Related Services Questionnaire, and SF 255, Architect-Engineer and Related Services for Specific Project.

Fifteen firms responded to the CBD notice. The preselection evaluation board conducted a review of each firm's SF 254 and SF 255 and selected four firms as the most qualified to perform. The protester was one of the four firms selected

for interview. The selection board then conducted interviews with the four firms. On the basis of these interviews, the board recommended the following firms, in order of preference:

1. Henderson Design Group
2. Stephen E. Harriman AIA & Associates
3. IDG Architects
4. The Bourne Group

On April 22, 1992, the selection board determined that the protester was the most qualified. The other firms were notified of this selection by letter dated May 27. On June 5, Harriman filed a protest with our Office against the selection of Henderson. The agency reports that a review of the record subsequently revealed that the selection of Henderson should be rescinded because the facts upon which the recommendation was based were discovered to be incorrect. Specifically, the Navy states that it had misinterpreted the extent of Henderson's prior experience. The Navy states that while the principal of the Henderson firm was an employee of the Navy and worked as a project manager during performance of the listed projects, neither the principal nor the firm itself provided the actual interior design services for the projects listed on Henderson's SF 254 and SF 255. As a result, negotiations with Henderson were suspended and Harriman was then selected for negotiations after Henderson was disqualified.¹ The firms were informed of the new selection by letter dated July 10. Henderson subsequently filed its protest with our Office.

Henderson essentially argues that the agency's initial evaluation of its experience was not erroneous and that the selection board properly considered the experience gained by Henderson's principal as an interior design project manager for the Navy.

Our review of the agency selection of an A-E contractor is limited to examining whether that selection is reasonable. Harding Lawson Assocs., Inc., B-230219, May 20, 1988, 88-1 CPD ¶ 483. It is not the function of our Office to make our own determination of the relative merits of the submissions of A-E firms. The procuring officials enjoy a reasonable degree of discretion in evaluating such submissions and we will not substitute our judgment for that of the procuring agency by conducting an independent examination. Id. From our review of the evaluation record, we conclude that the selection decision is supported by the record and it is reasonable.

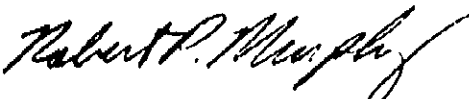
¹Harriman withdrew its protest on July 13.

Here, the Navy announced in the CBD notice that the most important evaluation factor was "recent specialized experience in providing interior design services" for certain building types. The record shows that the firm failed to meet this first and most important selection criteria. In its listing of ten Naval projects, Henderson specifically classified the projects as individual experience. While Henderson acknowledges that the firm does not have the requisite experience it maintains that its principal employee does and argues that the evaluation criteria did not require that a firm serve as the prime contractor, subcontractor or consultant on these projects. However, the record shows that neither Henderson nor its principal provided the actual interior design services to the Navy for these listed projects. Rather, Henderson's principal was a Naval employee who functioned as a project manager on interior design projects actually performed by other A-E concerns. The record shows that neither the firm nor the principal have the actual design services experience required by the CBD notice.

The record further shows that the evaluators rated Henderson high under the first factor because the firm "had significant recent individual experience of key personnel in the interior design of numerous projects for WESTDIV." As shown above, this simply was not factually correct and we think the agency could reasonably reassess Henderson's rating under factor 1 and downgrade the firm for its lack of actual experience.

In contrast, Harriman was found to have very extensive, recent experience in providing interior design services for all the required building types and the record supports the firm's high rating under this factor. Since the firms were rated relatively equal under the other evaluation factors, we find the Navy's decision to reverse the rankings of the firms, after reevaluation of factor 1, to be reasonable and supported by the record. See Vertrains Design Assocs., B-242080, Mar. 8, 1991, 91-1 CPD ¶ 265.

The protest is denied.


for James F. Hinchman
General Counsel