

**Matter of:** Corvac, Inc.  
**File:** B-254222  
**Date:** December 2, 1993

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Victor Hays for the protester.  
Cosimo S. Polino, Jr. for Entech Management Services Corporation, an interested party.  
Matthew Pausch, Esq., Defense Logistics Agency, for the agency.  
M. Penny Ahearn, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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**DIGEST**

Agency properly awarded contract to higher-priced offeror with higher-rated past performance where price/past performance tradeoff was reasonable and consistent with evaluation scheme.

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**DECISION**

Corvac, Inc. protests the award of a contract to Entech Management Services Corporation under Defense Logistics Agency (DLA) request for proposals (RFP) No. DLA200-93-R-0021, for the removal and disposal of hazardous waste (solid electroplating sludge) from Robins Air Force Base, Georgia. Corvac protests the evaluation of its own past performance and the agency's determination to make award to a higher-priced offeror with higher-rated past performance.

We deny the protest.

The RFP, a 100-percent small business set-aside, solicited firm, fixed-price offers to remove and dispose of an estimated 7 million pounds of hazardous waste for an 18-month base period and a 1-year option period. The RFP explained that proposals would be evaluated on the basis of price and past performance, with price being more important and past performance "significant" but of "somewhat less importance." Award was to be made to the offeror whose

proposal represented the best value to the government. With respect to past performance, the RFP stated that:

"[t]he government will evaluate the quality of the offeror's past performance. The assessment of the offeror's past performance will be used as a means of evaluating the relative capability of the offeror and the other competitors. Thus, an offeror with an exceptional record of past performance may receive a more favorable evaluation than another whose record is acceptable, even though both may have acceptable technical proposals. . . . In investigating an offeror's past performance, the government will consider information in the offeror's proposal and information obtained from other sources, including past and present customers and their employees. . . . Failure by the offeror to provide evidence of performance on contracts of a similar nature in terms of pick-up locations and waste streams, and disposal timeframes, will be considered by [DLA] in the offeror's past performance evaluation for this RFP."

Past performance was to be demonstrated with "any information regarding the level of performance, in terms of delivery and quality achieved under either government or commercial awards for the same or similar services within the last two years."

Fifteen proposals were received, 7 of which, including Corvac's and Entech's, were rated technically acceptable and included in the competitive range. During discussions, concerning past performance, the contracting officer requested by letter that Corvac submit "the appropriate data in accordance with the [RFP] prescribed format." Specifically, the contracting officer noted that the firm had listed in its proposal a hazardous waste removal contract with DLA which was over 2 years old (since completion), and that he was "more interested in what Corvac has done in the last two years."

Following completion of discussions, the agency received seven best and final offers (BAFO). Corvac's BAFO price of \$1,239,000 was low; Entech's second-low price of \$1,335,000 was 3.5 percent higher. Corvac's past performance was rated acceptable based on the 3-year old DLA contract, although DLA noted that Corvac had experienced performance deficiencies on that contract. The agency also gave no weight to an additional contract listed by Corvac, since that contract entailed future work in Mexico and was supported only by a draft contract (in Spanish).

In contrast, Entech's past performance was rated good based on positive references on 11 of 12 contracts completed by the firm within the past 2 years, all of which recommended award to Entech. According to the agency, these 11 contracts involved the same or similar types of experience in terms of quantities, variety of waste streams, and complexities as the requirement here. While negative comments were received on the twelfth contract, the agency determined that this contract was more extensive in scope than--and thus not comparable to--the requirement here and, in any case, did not outweigh the positive comments on the other 11 contracts.

The contracting officer concluded that Entech's better assurance of quality disposal service outweighed Corvac's lower price due to Corvac's higher risks concerning potential contract performance and schedule compliance. The Source Selection Authority concurred and award was made to Entech.

Corvac argues that DLA evaluated proposals contrary to the RFP's announced evaluation scheme by treating past performance as the most important factor. Additionally, the protester contends that the agency failed to consider certain aspects of the firm's past performance and was inconsistent in its evaluation of past performance among offerors.

Our review of an allegedly improper evaluation is limited to determining whether the evaluation was reasonable and consistent with stated criteria. Computer Based Sys., Inc., 70 Comp. Gen. 172 (1991), 91-1 CPD ¶ 14; Corvac, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454. Based on our review of the record, we conclude that the evaluation was reasonable. First, there is no evidence that DLA elevated past performance above price in importance in the evaluation scheme. Rather, the contracting officer merely determined that Corvac's 3.5 percent price advantage was outweighed by Entech's past performance. In making this determination, the contracting officer stated that:

"[i]t is my determination that the government would receive a significant benefit in awarding to Entech, Inc. over Corvac. If the government were to award to Corvac, the risks concerning potential contract performance and schedule compliance are higher than with Entech, Inc."

This conclusion also is reflected in the contracting officer's best value conclusion, where he stated that "the 3.5 percent higher price is worth paying for the high probability of success, for Entech versus Corvac." This conclusion is consistent with the RFP which, in addition to

the provisions quoted above, specifically advised offerors that:

"[t]he government's conclusions about overall quality of the offeror's past performance will be a factor in determining the relative merits of the offeror's proposal and in selecting the offeror whose proposal is considered most advantageous to the government."

The fact that the key discriminator between two offers turns out not to be the most important factor under the evaluation scheme does not render an award decision unreasonable. The best value analysis here entailed a tradeoff between price and past performance. Obviously, while price was more important to the agency than the past performance, either factor could become the effective discriminator between the offers if the offers were relatively close. Thus, there is nothing inherently unreasonable in the determination that Corvac's 3.5 percent price advantage was outweighed by Entech's past performance advantage and no basis for concluding that the agency ignored the evaluation scheme.

Regarding DLA's evaluation of Corvac's experience, Corvac maintains DLA ignored the fact that "since September of 1991 we have transported hazardous materials and waste on a daily basis with an average of 5 trucks on full-time call (daily DOT driver logs are available to validate our claim)." Corvac also references its "involvement in the Mexican environmental service market" as something that should have been considered. Even assuming that these contracts concerned work similar to the requirement here and that the agency ignored them, there is no reason to believe that Corvac's past performance rating would have been substantially improved had they been considered; Entech's substantially greater number of performed contracts and favorable recommendations would warrant rating that firm superior to Corvac.

In any case, it appears the agency gave these contracts appropriate weight. Corvac's initial proposal included a detailed discussion only of the firm's prior contract with DLA. After the agency advised Corvac that it had not provided the past performance information requested in the RFP, the firm added in its BAFO the references "Mission Petroleum Carriers, Houston Texas" and "provide transportation of petrochemicals to or from Diamond Shamrock and Citgo refineries"; these references included no further information. Absent the kind of detail requested in the RFP--i.e., regarding the similarity of the prior contracts in terms of pick-up locations and waste streams, disposal timeframes, and the level of performance in terms of delivery and quality achieved--DLA had little basis for

evaluating these referenced contracts. Certainly, there is no basis for concluding that these contract references warranted a higher past performance rating. Corvac's BAFO also added a discussion of its "involvement in the Mexican environmental service market," but nothing in that discussion indicated that Corvac had completed any of the work. It is an offeror's responsibility to submit a proposal which establishes that what it proposes will meet the government's needs; otherwise an offeror runs the risk of having its proposal unfavorably evaluated. Herndon Science and Software, Inc., B-245505, Jan. 9, 1992, 92-1 CPD ¶ 46. Given the information included in Corvac's proposal, we see nothing improper in the evaluation of its experience.

Finally, there is no evidence that Entech's past performance problems were dismissed while Corvac's were emphasized. To the contrary, the agency discounted single instances of past performance problems for both offerors in the face of countervailing considerations. As discussed above, the contracting officer considered the one negative reference Entech received and determined that it was not significant because of its dissimilarity to the agency's requirements and was outweighed by numerous positive references. Similarly, the contracting officer discounted Corvac's performance problems on its prior DLA contract--and found that the firm's past performance nevertheless was acceptable--because that contract involved multiple waste streams, while the current, less complex requirement involved only a single waste stream. We conclude that DLA was consistent in its evaluation of the firms.

The protest is denied.

James F. Hinchman  
General Counsel