



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Remote Broadcast Services

File: B-406833

Date: September 7, 2012

Bruce Begich for the protester.
Melissa D. McClellan, Esq., Department of Agriculture, for the agency.
Lois Hanshaw, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of the protester's quotation and award determination is denied where the record demonstrates that the evaluation was reasonable and consistent with the solicitation's evaluation criteria, and the protester's challenges to the independent government estimate and allegations of bias are unsupported by the record.

DECISION

Remote Broadcast Services (RBS), of Blackfoot, Idaho, protests the award of a contract by the Department of Agriculture to N&J Enterprise, LLC, of Choteau, Montana, under request for quotations (RFQ) No AG-7604-S-12-0027, for wilderness equipment maintenance and horse packing services. RBS challenges the evaluation and independent government estimate (IGE), and it claims bias in the award.

We deny the protest.

BACKGROUND

On March 7, 2012, the Department of Agriculture issued the RFQ as a fixed-priced, requirements contract for a base year with four 1-year options. RFQ at 1, 4-6, 31. The RFQ included a performance work statement (PWS) that required the contractor to provide all personnel, equipment, tools, materials, supervision, and other items and non-personal services necessary to perform wilderness radio equipment maintenance and horse packing services on a scheduled basis for 34 sites a year, and other services on an "as needed" basis. RFQ amend. 1, at 7.

The PWS emphasized that the sites were located within wilderness or roadless areas in Montana and Idaho, accessible only by horseback or on foot. Id. at 7. The PWS contemplated that the contractor would provide three types of services: transportation to and from the radio sites, maintenance and repair of radios and related equipment at the sites, and documentation of the tasks performed. Id.

The RFQ stated that award would be made on a best value basis, considering the evaluation factors of company experience and demonstrated capability; past performance; and price. Id. at 33-34. The non-price factors, combined, were stated to be more important than price. Id. at 33. For the first factor (company experience and demonstrated capability), the RFQ identified four equally-weighted subfactors: company experience, personal experience, understanding the problem and project approach, and quality assurance. Id. All of the subfactors except for quality assurance required experience with both radio and horse packing services. Id.

The agency received three quotations in response to the RFQ. Agency Memorandum of Law, at 2. As relevant here, RBS submitted a quotation for \$750,076. Agency Report (AR), Tab E, RBS Quotation, at 7. The quotation emphasized RBS's more than 30 years experience with radio and related systems. Id. at 8-9. However, the quotation gave cursory attention to horse packing, stating only that RBS would subcontract the horse packing services to an unidentified "qualified, experienced" company. Id. at 9.

N&J submitted a quotation for \$253,806. N&J's quotation stated that the firm was formed in 2009, but that one of its primary personnel had more than 30 years experience with radio systems, and its personnel collectively had 78 years of experience handling stock and horse packing. AR, Tab G, N&J Quotation, at 50-51. The quotation provided detail addressing both the radio and horse packing requirements. Id. at 51-52.

The agency assigned the following evaluation ratings to vendors' quotations.

		RBS	N&J
Company Experience and Demonstrated Capability			
	Company Experience	Satisfactory	Excellent
	Personal Experience	Satisfactory	Excellent
	Understanding the Problem & Project Approach	Poor	Very Good
	Quality Assurance	Very Good	Very Good
Past Performance		Very Good	Very Good
Price ¹		\$750,076	\$253,806

¹ The IGE was \$355,640. AR, Tab I, IGE, at 1.

Contracting Officer's Statement at 2.

As noted above, RBS's quotation received only satisfactory or poor ratings under the three subfactors where horse packing was a consideration. The agency's contemporaneous evaluation records explain that this was because RBS "did not adequately describe accessing the wilderness sites or providing crucial horse packing services" and because RBS proposed to subcontract these services to an unidentified contractor. AR, Tab F, RBS Evaluation, at 3. The agency noted that RBS's quoted price was twice the IGE and was likely due to the unknown cost of horse packing services. Id.

In contrast, N&J's quotation was found to have demonstrated very good to excellent competencies in both radio site maintenance and horse packing services. AR, Tab H, N&J Evaluation, at 3. In addition, the agency noted, the firm's ownership and maintenance of animal stock allows them to readily respond without depending on subcontractors. Id. The ability to provide horse packing services, the agency stated, provided the firm with a "distinct advantage" over the other vendors. Id. N&J's quotation was below the IGE, which the agency concluded may have been due to the firm's ownership of animal stock that could reduce the cost of horse packing services. Id.

On May 16, the agency awarded the contract to N&J. On May 26, RBS timely filed an agency protest with the Department of Agriculture.² On June 1, RBS also filed a protest with our Office.

ANALYSIS

In the protest before our Office, RBS alleges that the agency improperly evaluated quotations by giving too much consideration to horse packing. The protester also complains that the IGE was not in line with industry standards, and that there was bias in the evaluation.

In reviewing protests challenging an agency's evaluation of quotations, we will not conduct a new evaluation or substitute our judgment for that of the agency; rather we will examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Silicon Ro Foundation, B-406304, Mar. 9, 2012, 2012 CPD ¶ 110 at 2.

RBS's contention that the agency gave too much weight in the evaluation to horse packing is without merit. Each of the evaluation criteria for which RBS's quotation was rated inferior to N&J's quotation specifically stated that horse packing services

² The agency denied the protest on June 25. AR, Tab P, Agency Protest Decision.

were an important consideration. For example, under the company experience subfactor, the solicitation stated that vendors would be evaluated for their years of experience providing radio equipment maintenance and horse packing services. Similarly, under the personal experience subfactor, vendors were asked to describe specific experience providing radio equipment maintenance and horse packing services. For the subfactor titled understanding the problem and project approach, vendors were again advised to provide a plan to provide both radio and horse packing services. Nothing in the criteria suggests that horse packing would be given lesser weight in the evaluation than radio experience, or that horse packing would not be an important consideration to the agency here.

As noted above, RBS's quotation addressed in detail its radio experience, but it did not adequately address the horse packing requirement. RBS's quotation stated that the firm will subcontract out the services, but the quotation provided no plan to do so and did not even identify the company's intended subcontractor. Given the stated importance of horse packing services in the evaluation criteria, we cannot find unreasonable the agency's view that RBS's quotation was less advantageous than N&J's in this regard. We further find that the agency gave appropriate weight to horse packing services consistent with the evaluation criteria.

RBS next challenges the IGE, contending that it is "not in line with industry standards" and does not include an estimate of radio costs. Protest at 2; Comments at 2. However, RBS has not provided any support for this claim. The IGE states that it is an "[e]stimate of costs to perform site and equipment maintenance at 34 radio sites located within roadless areas" and includes the estimated costs of the technicians, their per diem, and the use of animals to access the sites. AR, Tab I, IGE, at 1. RBS has not provided any industry standards or estimates to show that the IGE is unreasonable.

Finally, RBS alleges bias in the evaluation. RBS complains that an N&J employee formerly worked at the agency, and that a current agency evaluator worked in the same area as the N&J employee. Because horse packing was an important consideration, RBS argues, the evaluator must have been biased in favor of N&J. Protest at 2; Comments at 2.

Government officials are presumed to act in good faith and we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. International Garment Processors, B-299674 et al., July 17, 2007, 2007 CPD ¶ 130 at 4. Where a protester alleges bias, it not only must provide credible evidence clearly demonstrating a bias against the protester or for the awardee, but also must demonstrate that this bias translated into action that unfairly affected the protester's competitive position. Id.

Prior to evaluating proposals, the agency removed from the evaluation team an individual who had worked with an N&J employee in the past. The agency then

required the remaining evaluators to sign a conflict of interest statement attesting to their ability to act in an objective manner. AR, Tab J, Conflict Certification, at 2-3. The protestor has provided no evidence that these evaluators were biased, and we see no evidence of bias in the evaluation. As noted above, the agency's consideration of horse packing experience was reasonable, and consistent with the evaluation criteria.

The protest is denied.

Lynn H. Gibson
General Counsel