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Decision

Matter of: Command Enterprises, Inc.

File: B-293754

Date: June 7, 2004

Charles F. Merz, Esq., Charles F. Merz & Associates, for the protester.
Lynn H. Patton, Esq., Armstrong Allen, for Mow Better Lawn & Landscaping, Inc., an intervenor.
Maj. Graeme S. Henderson, Department of the Air Force, for the agency.
Charles W. Morrow, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly rated protester's past/present performance as merely "satisfactory" in light of protester's insufficient relevant experience, and the agency reasonably concluded that the risks associated with protester's limited corporate experience were not offset by the individual experience of protester's proposed project manager.

DECISION

Command Enterprises, Inc. protests the award of a contract to Mow Better Lawn & Landscaping, Inc. d/b/a/ Rushing Technical Services, Inc. (RTS) under request for proposals (RFP) No. F16602-03-R-0005, issued by the Department of the Air Force, for grounds maintenance at Barksdale Air Force Base (AFB), Louisiana. Command challenges the propriety of the Air Force's past performance evaluation and its "best value" determination.

We deny the protest.

BACKGROUND

The RFP at issue here was published on August 11, 2003, seeking proposals to perform various grounds maintenance activities on more than 3,200 acres of improved, semi-improved, and unimproved land at Barksdale Air Force Base (AFB), Louisiana, for a base period and six 1-year option periods. RFP, amend. No. 0001, App. A, at 24. The statement of work (SOW) requires the contractor to perform a variety of grounds maintenance duties, including: mowing, aeration,

trimming/pruning shrubs/hedges, irrigation, leaf removal, fertilization, fence cleaning, maintaining sand play areas, edging of jogging trail, and clover eradication. RFP amend. No. 0001, App. A, at 14.

The RFP provided for award on the basis of the proposal offering the “best value” to the government and established past/present performance and price as the only evaluation factors, advising offerors that past/present performance was “significantly more important” than price. RFP amend. No. 0001 at 2. More specifically, with regard to evaluation of past/present performance, the RFP provided:

The past/present performance factor assesses the degree of confidence the Air Force has in an offeror’s ability to supply services that meet users’ needs including cost and schedule based on a demonstrated record of project compliance. The confidence assessment rating is established through an integrated analysis of those risks and strengths identified by the statement of work as determined by the offeror’s recent, and relevant projects performance.^[1] Relevant past performance is defined as providing grounds maintenance services for approximately 2000 acres of improved and semi-improved grounds as described in the Statement of Work, in addition to providing all other similar work, as referenced in Appendix A of the Statement of Work. . . . As a result of an analysis of the risks and strengths identified in the past and present performance record, each offeror will receive a rating for the Past Performance factor.

RFP amend. No. 0001 at 3.

In connection with the agency’s assessment of past/present performance, offerors were directed to submit questionnaires completed by contract references for whom the offerors had performed prior work. These questionnaires sought responses to various questions under the headings of: performance, quality, cost, management and safety. Price was evaluated on the basis of reasonableness.

¹ The RFP also advised offerors that the following adjectival ratings and associated definitions would be applied under the past/present performance factor: “exceptional/high confidence” (essentially no doubt exists that the offeror will successfully perform the required effort); “very good/significant confidence” (little doubt exists); “satisfactory/confidence” (some doubt exists); neutral/unknown confidence (no performance record); “marginal/little confidence” (substantial doubt exists); and “unsatisfactory/no confidence” (extreme doubt exists). RFP amend. No. 0001 at 3.

Proposals were submitted by six offerors, including Command and RTS, by the September 10 closing date.² Command's proposal offered a price of \$10,257,440; RTS's proposal offered a price of \$11,062,349.³

In evaluating Command's past/present performance, the agency determined that Command had not performed any contracts that qualified as "relevant past performance."⁴ Specifically, Command submitted past/present performance questionnaires from references regarding three contracts: one at Jackson, Ohio that encompassed 369 acres; one at Ft. Campbell, Kentucky, that encompassed 600 acres; and one at Fort Knox, Kentucky, for which no acreage information was provided. The agency concluded that Command's past performance was not of sufficient magnitude to qualify as "relevant." In addition, the agency noted that Command's prior contracts involved primarily mowing, and did not encompass the variety of tasks required by this RFP. Agency Report, Tab 20, Proposal Evaluation Report, at 23-24, 26-27. Nevertheless, because Command had proposed a project manager with substantial experience,⁵ the agency did not disqualify Command's proposal from consideration. Rather, "based mainly on the work the proposed Project Manager has performed," the agency assigned Command's proposal a past/present performance rating of "satisfactory/confidence." Id. at 27.

In contrast, the agency evaluated RTS's past/present performance as "exceptional/high confidence," with no indication of performance, cost, quality or management problems. More specifically, the agency determined that RTS possessed a proven track record of dependability and experience in large area contracts and, as an incumbent contractor, had performed all of the tasks identified in the SOW in an exceptional manner. Overall, the agency concluded that

² Over the past 18 months, RTS has performed the grounds maintenance services described in the SOW at Barksdale pursuant to a blanket purchase agreement (BPA). Agency Report, Tab 20, Proposal Evaluation Report at 3.

³ The other offerors' proposals are not relevant to resolution of Command's protest; accordingly, they are not further discussed.

⁴ As discussed above, the solicitation provided that "Relevant past performance is defined as providing grounds maintenance services for approximately 2000 acres of improved and semi-improved grounds as described in the Statement of Work, in addition to providing all other similar work [including aeration, trimming/pruning shrubs/hedges, irrigation, leaf removal, fertilization, fence cleaning, maintaining sand play areas, edging of jogging trail, and clover eradication] as referenced in Appendix A of the Statement of Work." RFP, amend. No. 0001 at 3.

⁵ Prior to submitting its proposal, Command hired an experienced project manager that had previously performed substantial grounds maintenance work for another company.

“essentially no doubt exists that [RTS] will successfully perform the required effort.” Id. at 20-21.

On the basis of the initial proposals,⁶ the agency performed a price/performance tradeoff, concluding that RTS’s superior past/present performance warranted paying its somewhat higher price. Agency Report, Tab 20, Proposal Evaluation Report, at 25, 26-28. This protest followed.

DISCUSSION

Command protests the agency’s past/present performance evaluation, essentially arguing that, based on the prior experience of Command’s proposed project manager, the agency was required to rate Command’s past/present performance as “exceptional/high confidence.” We disagree.

The evaluation of past performance is a matter within the discretion of the contracting agency which our Office will review only to ensure that the agency’s judgment was reasonable and consistent with the solicitation criteria and applicable statutes and regulations. Sterling Servs., Inc., B-286326, Dec. 11, 2000, 2000 CPD ¶ 208 at 2-3. Where a solicitation requires the evaluation of an offeror’s past performance, an agency has the discretion to determine the scope of the offeror’s performance histories to be considered, provided all proposals are evaluated on the same basis and consistent with the solicitation’s requirements. Honolulu Shipyard, Inc., B-291760, Feb. 11, 2003, 2003 CPD ¶ 47. A protester’s mere disagreement with the agency’s judgment in its determination of the relevant merit of competing proposals does not establish that the evaluation was unreasonable. Sunbelt Design & Dev., Inc., B-291490, B-291490.2, Jan. 2, 2003, 2003 CPD ¶ 20 at 4-5.

Here, the agency evaluated Command’s past/present performance as “satisfactory/confidence” because Command had not performed any contracts that constituted “relevant” past performance; that is, Command’s prior contracts were relatively small, and the scope of activities previously performed was more limited than the broad range of activities required under this solicitation. As noted above, the RFP contained clear definitions regarding “relevant” past/present performance, and also advised offerors that, in evaluating past/present performance the agency would consider the “risks and strengths identified in the past and present performance record” of each offeror. The agency’s procurement record amply supports the agency’s concern that Command, the corporate offeror, had not, performed any contracts of sufficient size or scope to qualify as “relevant” past performance. Although Command’s proposal of an experienced project manager

⁶ The RFP advised offerors that the agency intended to award a contract on the basis of initial proposals. RFP amend. No. 0001 at 4. Accordingly, there is no basis for Command’s assertion that the agency was required to conduct discussions.

reduced the agency's assessment of risk flowing from Command's limited corporate experience, we find nothing unreasonable in the agency's assessment of only a "satisfactory/confidence" rating. Accordingly, Command's assertion that the experience of one individual, its proposed project manager, mandated a rating of "exceptional/high confidence" is without merit.

Command also protests that the agency's "best value" determination was irrational. However, this assertion is predicated on Command's assertion that the agency should have evaluated Command's past/present performance as equivalent to that of RTS. As discussed above, there is no merit in this assertion. Further, the RFP specifically made past/present performance "significantly more important" than price. On this record, we find no basis to question the agency's price/past performance tradeoff.

The protest is denied.⁷

Anthony H. Gamboa
General Counsel

⁷ In its comments responding to the agency report, Command complained that the agency's source selection decision was improperly affected by concerns regarding Command's financial capabilities. As discussed above, the agency's evaluation record contains ample documentation supporting the agency's assessment of Command's past/present performance, and that the agency reasonably determined that RTS's higher past/present performance rating warranted its somewhat higher price. Accordingly, Command's assertions regarding allegedly improper consideration of its financial capabilities do not provide any basis for sustaining the protest.