Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: McHargue Construction Company

File: B-279715

Date: July 16, 1998

Mike McHargue for the protester.
Sharon J. Chen, Esq., and Robert W. Schlattman, Esq., General Services Administration, for the agency.
Paula A. Williams, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation called for multiple awards on the basis of greatest value, with technical quality more important than price, the agency's decision to award contracts to six higher technically rated, lower-priced offerors than the protester is unobjectionable since the record shows that the evaluation was conducted in accordance with the evaluation factors set forth in the solicitation and the record supports the evaluators' conclusions.

DECISION

McHargue Construction Company protests the failure of the General Services Administration to make an award to it under request for proposals (RFP) No. GS-04P-97-EWD-0056, for general repairs and alterations to government-owned and government-leased space in various buildings within the states of North Carolina, South Carolina, and Tennessee.

We deny the protest.

The RFP, as amended, provided for award of multiple fixed-price, indefinite-delivery, indefinite-quantity (ID/IQ) contracts for a 1-year base period with four 1-year option periods. RFP, amend. No. 02; Vol. 1 § 300 at 1-2, ¶¶ 1.1-1.2, 1.4, 1.5. The solicitation contemplates that GSA will issue task orders under each ID/IQ contract to obtain all labor, materials, supervision, tools, and equipment necessary for the construction and repair projects. The RFP also stated the competition procedure for placement of individual task orders among the firms that receive contract awards. RFP, Vol. I § 300 at 10-11, ¶ 7. The solicitation, which was not set aside for small business concerns, permitted offerors to submit proposals for all

or for specific geographic areas within a particular state.[1] The RFP stated that the agency could award up to five ID/IQ contracts for each geographic area listed in the RFP. RFP, amend. No. 02. Offerors were advised that the RFP reflected the agency's minimum requirements and were invited to increase the quantity and quality of services to be provided in their proposals. RFP, amend. No. 02, Vol. II, Evaluation and Award, ¶ 1. The maximum value for each ID/IQ contract is $10 million. RFP, Vol. 1 § 300 at 2, ¶ 1.7.

The RFP stated a greatest value evaluation scheme, with technical quality deemed more important than price. RFP, Vol. I § 300 at 6, ¶ 4.1. Proposals would be evaluated on the basis of the following technical evaluation factors, with their relative weights to be scored on a 1,000-point scale:[2] (a) experience and past performance--500 points; (b) qualifications of key personnel--250 points; and (c) management and technical approach--250 points. The RFP provided detailed instructions for the preparation of proposals and requested that offerors organize their technical proposals to respond to the evaluation factors and provide separate technical and price proposals. RFP, Vol. I § 300 at 7-9, ¶ 5.2.

Under experience and past performance, offerors were required to identify at least two similar projects valued at least $200,000 each.[3] As to the qualifications of key personnel, the RFP required resumes for each key individual including a description of the duties and responsibilities performed by these individuals on their last three similar projects. As part of their management and technical approach proposal, offerors were required to describe their approach to accomplishing the demonstration project included in the RFP. RFP, amend. No. 03 at 3. This demonstration project was representative of the general requirements for work to be ordered under the ID/IQ contracts and offerors were to address and provide examples of their ability to perform work of the size and type involved; their ability to effectively coordinate the work of multiple trades; and their ability to handle multiple projects, priority work, and demanding customers. RFP, amend. No. 02, Vol. III, Demonstration Project.

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[1]The geographic areas are: Asheville, NC; Raleigh, NC; Winston-Salem and Greensboro, NC; Charleston, SC; Columbia, SC; Greenville/Spartanburg, SC; and Knoxville/Chattanooga, TN.

[2]Each evaluation factor was to be rated using an adjectival and numerical scoring scheme which was not disclosed in the RFP.

[3]Similar projects were defined as projects of the scope, magnitude, and difficulty contemplated by the instant RFP. RFP, Vol. I § 300 at 7-8, ¶ 5.2(c)1.

With respect to price, the RFP instructed offerors that they were to prepare their price proposals by submitting pricing for normal and expedited completion of the demonstration project,[4] including detailed price break-out by major technical specification categories. RFP, Vol. I § 300 at 9, ¶ 5.2(d). Price proposals would be evaluated based on the realism and reasonableness of the proposed price for the demonstration project, considering both the offeror's approach and understanding of the project. RFP, Vol. 1 § 300 at 7, ¶ 4.1(b).

Several proposals were received by the October 17, 1997 extended closing date, including McHargue's.[5] After the proposals had been scored by individual technical evaluation panel (TEP) members, the TEP developed a consensus score for each proposal. Twelve offers were rated as technically acceptable, including McHargue's, and these 12 proposals were included in the initial competitive range. Technical Evaluation Report. The agency subsequently conducted oral discussions with the competitive range offerors during which the agency identified weaknesses in each offeror's proposal, linking these weaknesses to specific RFP requirements. In this regard, the agency contacted McHargue by telephone on January 26, 1998, and identified areas in its proposal that required additional information and/or clarification. The agency requested that the protester provide the experience, qualifications and education of its key personnel (other than its estimator); clearly define its management and technical approach to performing the demonstration project; and reevaluate its pricing for the HVAC (heating, ventilation and air conditioning) system and other elements which seemed to be too high. McHargue and the other competitive range offerors were asked to submit revised proposals by February 4 at 3 p.m.

The agency evaluated the revised proposals received and conducted an analysis of the price proposals; GSA states that it did not receive a revised proposal from the protester. The final weighted technical scores and evaluated prices (for the three geographic areas at issue in this protest) were as follows:

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[4]Normal project completion was defined as work performed within approximately 90 days; expedited completion anticipates that the work will be completed in 30 days. RFP, amend. No. 02, Vol. III, Demonstration Project--Assumptions at 6.

[5]McHargue submitted a proposal for three geographic areas in North Carolina: Winston-Salem/Greensboro, Raleigh, and Asheville.

Offeror	Technical Score (max. 1,000 points)	Price For Normal Completion	Price For Expedited Completion
R.D. Vaughn	875	$303,163.00	$322,063.00
J.W. Poole	875	$359,396.00	$442,181.00
Prime Builders	850	$323,777.00	$364,190.00
Witherington Constr.	825	$297,890.00	$496,574.00
D.C. Neal	800	$422,500.00	$480,000.00
Brooks Lumber	725	$444,891.00	$464,891.00
McHargue	625	$453,154.04	$503,675.00
Offeror A	600	$372,038.00	$438,221.00
Offeror B	550	$517,383.14	$632,759.51

The contracting officer, who served as the source selection official (SSO) reviewed the technical and price evaluation reports and considered six higher-rated technical proposals superior to the protester's. Based on the technical quality of these six proposals, the SSO selected Vaughn, Poole, Prime Builders, Witherington, Neal, and Brooks for award.[6] Price Negotiation Memorandum. After receiving notice of the awards and a debriefing on March 31, McHargue filed this protest.

McHargue, a small business concern, objects to the agency's evaluation of its proposal under each evaluation factor as well as the agency's decision not to select its proposal for award.[7]

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[6]In each area, award was made to five firms; most of the firms received award in more than one area. All of the six awardees were self-certified small businesses.

[7]The protester submitted numerous arguments in support of these and other protest grounds. This decision will discuss only the more significant arguments. We have reviewed the entire record and considered all of the protester's arguments; those arguments not specifically addressed in the decision are also denied.

In reviewing protests against allegedly improper evaluations and source selection decisions, our Office will examine the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation factors. Brisk Waterproofing Co., Inc., B-276247, May 27, 1997, 97-1 CPD ¶ 195 at 3. Based on our review of the record, we conclude that GSA's evaluation and selection decision were reasonable. We discuss some key areas of the evaluation below.

The experience and past performance factor was worth 50 percent of the evaluation points. Of particular concern to the agency was McHargue's experience with projects of the scope, magnitude, and difficulty of the instant RFP. In this regard, the amended RFP provided, in pertinent part, as follows: "The projects listed should include at least two (2) projects whose dollar amounts are [at least $200,000.00] and should include at least one project for both design and construction services." RFP, amend. No. 03 at 3; Vol. I § 300 at 8, ¶ 5.2(c)1. McHargue's proposal included information pertaining to 12 past and current contracts. Of these, it identified two current contracts with GSA: for partition and miscellaneous repairs in the Raleigh area, valued at approximately $315,000; and for exterior cleaning and caulking of the federal courthouse in Winston-Salem, valued at approximately $230,000. For the exterior cleaning and caulking contract, the protester identified itself as a subcontractor to Sigma Construction. The average value of the other contracts identified in McHargue's proposal was less than $50,000.

The evaluators considered the partition and miscellaneous repairs project as the only contract that met the dollar requirement for similar projects, and noted that the other projects listed in the protester's proposal were not of the scope, magnitude, and difficulty of the instant procurement. The evaluators noted that the other projects listed were smaller and less complex, that the protester received good references on all its projects, and concluded that the protester was better suited to handling smaller projects. Based on these considerations, the evaluators assigned McHargue's proposal 300 out of 500 available weighted points for this factor.

McHargue maintains that it was improper for GSA to discount its exterior cleaning and caulking contract on the basis that McHargue is not the prime contractor. We find nothing unreasonable in the agency's factoring of this consideration into the evaluation. The roles of a company as a subcontractor on a project working under a prime contractor, as opposed to serving as the prime contractor, are different, and we think the agency could reasonably decide that the listed subcontract did not meet the RFP requirement for similar projects of the requisite size, scope and difficulty in assigning the experience evaluation points, since this solicitation called for the firm to act as a prime contractor. Further, the remaining projects listed were less complex projects of low dollar value compared to the contracts to be awarded under this solicitation. We think the record reasonably supports the agency's determination that the past and current projects identified in McHargue's

proposal did not demonstrate the firm's experience as a prime contractor on larger, complex projects of the type contemplated by this RFP. In these circumstances, we think the scoring under this factor was not objectionable.

Next, McHargue maintains that the agency misapplied the qualifications of key personnel in evaluating its proposal. According to the protester, the agency improperly downgraded its proposal for not submitting resumes for the key individuals identified in its proposal, when, in fact, "amendment number 03 to this solicitation deleted this requirement." Protester's Comments at 3. This allegation is without merit.

Under the proposal submission requirement in Volume 1 of the RFP for the qualifications of key personnel factor, offerors were to identify all individuals and principals proposed to perform all phases of the projects and, among other things, "[a] resume must be submitted for each." The RFP advised that each resume should "include a description of duties and responsibilities performed by the key individuals and principals on their last three similar projects." RFP, Vol. I § 300 at 9, ¶ 5.2(c)(3). Amendment No. 03 did not change nor modify this requirement. (As relevant here, amendment No. 03 merely deleted the two subfactors--project manager and on-site superintendent--under the qualifications of key personnel technical factor in Volume II of the RFP. RFP, amend. No. 03 at 3 (revisions to Vol. II, ¶ 4). Our review of McHargue's proposal indicates that the firm did not include resumes for any key personnel and that the information provided in the firm's proposal simply named four individuals and stated that each had passed a "full FBI background check," but did not describe the experience or qualifications of the personnel at all. The technical evaluation of a proposal is based on information submitted in it and an offeror runs the risk of having its proposal rejected or downgraded if the proposal submitted is inadequately written. See Research Analysis and Maintenance, Inc., B-242836.4, Oct. 29, 1991, 91-2 CPD ¶ 387 at 5. We see no basis to object to the evaluators' downgrading of McHargue's proposal in this area (which was assigned 125 out of a possible 250 points).

McHargue also contends that the agency improperly evaluated its proposed pricing for the HVAC portion of the demonstration project on the basis that the firm was "the only offeror that truly understood the HVAC portion of the demonstration project as it was described in their specifications." Protester's Comments at 4. While McHargue generally disagrees with the agency's conclusion that its pricing for HVAC and other elements seemed too high, it has not specifically refuted those conclusions. In particular, the protester has not refuted the agency's overall concern--communicated to the protester during discussions--that its HVAC pricing

was based on an assumption concerning the chiller and air handler which was inconsistent with the requirements of the demonstration project.[8]

Since McHargue has provided nothing to establish that the evaluators' conclusion concerning its pricing was unreasonable or objectionable and the record shows that McHargue's price for the demonstration project was the second highest of all 12 offers and higher than any of the awardees' prices, we have no basis to question the agency's evaluation and ranking of McHargue's price proposal. The protester's mere disagreement with the agency does not in itself render the evaluation unreasonable. See Microeconomic Applications, Inc., B-258633.2, Feb. 14, 1995, 95-1 CPD ¶ 82 at 5. Thus, the record reasonably supports the agency's determination that McHargue's overall price was higher than any of the awardees' total price.

In sum, the record shows that McHargue's proposal was properly downgraded under each evaluation factor, and the evaluators reasonably concluded that there were no competitive strengths in McHargue's proposal that outweighed those in the proposals of the six higher technically rated proposals that were ultimately selected for award.[9]

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[8]While McHargue argues that the HVAC requirements in the demonstration project were flawed, such an argument, to be timely, was required to be raised by the date and time set for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1998).

[9]The protester asserts that the agency lost or improperly failed to evaluate additional information which GSA allegedly received on February 3. McHargue has provided our Office with the United States Postal Service Express Mail receipt as evidence of delivery of a package to GSA on that date. In response, GSA states that it did not receive this package from McHargue and argues that even if it had received this additional information, the firm would still not be in line for award because the awardees' proposals were technically superior to the protester's, particularly in the area of experience in projects of similar size, magnitude and difficulty as the instant solicitation. As shown above, the record shows that McHargue's proposal was higher priced and technically lower scored by at least 100 points compared to the awardees'. Further, the record supports the agency's position that McHargue did not address the deficiencies in its proposal which the agency identified in discussions. Our review of McHargue's correspondence to the agency shows that McHargue never provided resumes nor described the qualifications and education of all key personnel, did not respond to the request to clearly define the technical approach to be used and, as the agency points out, the protester did not, and apparently could not provide any additional relevant experience which would have justified a higher score. Thus, the record shows that McHargue's submission, even if it was not properly considered, did not rectify the deficiencies in its initial proposal that resulted in its low technical scoring.

McHargue nonetheless argues that it should have received a contract since the RFP contemplated multiple awards, the firm is a small business, and its proposal was acceptable. There is no right to a government contract, Jack Faucett Assocs., B-277555, Sept. 12, 1997, 97-2 CPD ¶ 71 at 3, although firms do have the right to have their bids or offers considered fairly. Krygoski Constr., Co., B-213035.2, May 15, 1984, 84-1 CPD ¶ 523 at 6. The agency awarded five contracts for each of the seven geographic areas consistent with the amended RFP. In order for McHargue to have received an award, it would have had to displace one of the higher-rated, lower-priced firms. As discussed above, McHargue was rated technically inferior and offered higher prices compared to the proposals of the six firms, all self-certified small businesses, that were awarded contracts. Under these circumstances, the agency's decision not to award McHargue a contract was reasonable.

Accordingly, the protest is denied.

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of the United States