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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

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Decision

Matter of: Sunbelt Design & Development, Inc.

File: B-291490; B-291490.2

Date: January 2, 2003

Johnathan M. Bailey, Esq., Law Office of Theodore M. Bailey, for the protester.
John D. Inazu, Esq., and Paul S. Davison, Esq., Department of the Air Force, 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

Protest of the agency's evaluation of the protester's and the awardee's past performance is denied, where the protester does not demonstrate that the agency's evaluation was unreasonable or inconsistent with the solicitation evaluation criteria.

DECISION

Sunbelt Design & Development, Inc. protests the award of a contract to Boneal, Inc. under request for proposals (RFP) No. F09603-02-R-72053, issued by the Department of the Air Force, Warner Robins Air Logistics Center (WRALC), for MD-1 universal towbars. Sunbelt contends that the evaluation of past performance was inconsistent with the terms of the solicitation and otherwise unreasonable.

We deny the protest.

The solicitation, issued June 28, 2002, contemplated the award of a fixed-price requirements contract for a base year with 2 option years to provide an estimated quantity of towbars to satisfy the Air Force and Foreign Military Sales requirements. Offerors were advised that the agency would conduct a performance/price trade-off to make an integrated assessment for a "best value" award decision. Under this procedure, a trade-off would be made between the offerors' present/past

performance and price, with past performance significantly more important than price.¹ RFP at 27.

As relevant here, in the past performance information volume of its proposal, each offeror was required to provide information for itself and each proposed “critical” subcontractor:

for each active or completed contract (with preferably at least one year of performance history) in the past three (3) years, that the offeror considers relevant in demonstrating its ability to perform the proposed effort. If the total number of such contracts exceeds four (4), the offeror shall address its four (4) most relevant contracts.

RFP at 25. For each listed contract, the solicitation required the offeror to send an attached past performance questionnaire to knowledgeable sources for return to the agency for itself and each proposed critical subcontractor. The solicitation generally indicated that relevant present/past performance could be for any federal, state and local governments or their agencies, and commercial customers having a performance period completion not earlier than 3 years from the RFP release date. In addition, the agency planned to evaluate the complexity and magnitude of the offeror’s previous and current work and its relation to the work required for this procurement. Id.

As applicable here, the RFP evaluation criteria provided that the following relevance criteria apply: very relevant (present/past performance involved the magnitude of effort and complexities which was essentially what solicitation requires); relevant (present/past performance involved less magnitude of effort and complexities and includes most of what solicitation requires); semi-relevant (present/past performance involved much less magnitude of effort and complexities and includes some of what solicitation requires); not relevant (present/past performance did not involve any significant aspects of above). RFP at 28.

The Air Force received seven proposals by the extended closing date, including those from Sunbelt and Boneal (because the other proposals are not relevant to this decision, we do not address them further). The proposals were forwarded to the appropriate evaluation teams. In evaluating offerors’ proposals under past performance, the agency’s Performance Risk Assessment Group (PRAG) obtained information from a variety of sources--information provided by offerors in their

¹Past performance was to be assigned a narrative rating of “exceptional/high confidence,” “very good/significant confidence,” “satisfactory/confidence,” “neutral/unknown confidence,” “marginal/little confidence,” “unsatisfactory/no confidence.” RFP at 28-29.

proposals regarding the type of contracts performed, information from the past performance questionnaire responses with follow-up interviews with the references as necessary, information from the government's Mechanization of Contract Administration System (MOCAS) on current workload and workload for the past 12 months, and information available from the Contractor Performance Assessment Reports (CPAR). Agency Report (AR), exh. 12, PRAG Report, and exh. 14, Source Selection Decision. The PRAG initially discussed how to evaluate the relevance of each offeror's past performance and memorialized its evaluation approach as follows:

As discussed in our first meeting, the items do not have to be towbars or trailers specifically in order to be relevant or very relevant items as this would restrict competition and would not meet the requirement of the solicitation. We need to concentrate on the similarity of processes that might be used to produce an item. For example, towbar and trailers would be considered relevant if the quantities delivered and contract value meet the definition of relevancy. However, other end items . . . should be reviewed to see how they are manufactured to see if they are relevant to the similar processes of the towbar.

AR, exh. 11, PRAG Evaluation Worksheets at 2.

Sunbelt submitted references for six contracts, and the agency received past performance responses from four contract references. The PRAG considered only one of these contracts, with WRALC for multiple aircraft trailers, to be very relevant and the contract reference rated the protester's performance evenly between "exceptional" and "very good." Three of the remaining five contracts were considered relevant--a contract with WRALC for aircraft engine trailers (past performance reference responses were predominately "very good," with one "exceptional" and one "satisfactory"), a WRALC contract for control consoles (reference responses were all "very good"), and an Army contract for another type of towbar (questionnaire responses were all "exceptional"). A Kelly Air Force Base contract for B-52 aircraft hoist assemblies was considered semi-relevant because its level of complexity was much less than that required under the solicitation (no questionnaire responses received; when contacted, the reference stated she lacked information necessary to complete the questionnaire) and a contract for an hydraulic lift trailer was considered not relevant (only the first article had been completed). From these references, including favorable narrative comments and information obtained from other government sources, Sunbelt's past performance was assigned a "very good/significant confidence" rating. AR, exh. 12, PRAG Report at 28-31; exh. 8, Protester's Past Performance Information and Questionnaires.

As for Boneal, six contracts with the corresponding contract references responses formed the basis for its "very good/significant confidence" past performance rating.

Five of the six contracts that Boneal submitted as evidence of its past performance were found to be relevant (DELETED). Boneal's WRALC contract for precision-machined components was considered semi-relevant (because it involved much less effort and complexity). In determining the relevance of Boneal's contracts, the evaluators specifically noted that the type of manufacturing processes required under most of Boneal's contracts was similar to the type of processes needed for production of the towbar. For example, Boneal's contract to manufacture towpins to be utilized in mail transportation equipment nationwide was considered relevant by the PRAG because the "effort involves procurement of seamless tubing and the incorporation of various sawing, drilling, and welding operations . . . machining, welding, mechanical assembly, and finished goods packaging are similar to the processes required . . . of the towbar . . . including most of what this solicitation requires." AR, exh. 12, PRAG Report at 6-7. The past performance questionnaire responses received by the agency were divided equally between "very good" and "exceptional," and the narrative comments evidenced that Boneal's performance was very good. *Id.* at 5-9; exh. 9, Awardee's Past Performance Information and Questionnaires.

In sum, Boneal and Sunbelt (and certain other offerors) were assigned identical performance ratings. As for price, Boneal proposed a price of \$4,825,985, while Sunbelt proposed a price of (DELETED). AR, exh. 14, Source Selection Decision at 3.

After reviewing the findings of the PRAG and the price evaluation teams, the contracting officer, who served as the source selection authority, determined that Boneal's proposal represented the best overall value to the government based on its "very good/significant confidence" rating and low price as compared to Sunbelt and the other offerors whose proposals received the same confidence assessment at higher prices. AR, exh. 14, Source Selection Decision, at 2. On September 26, the Air Force awarded a contract to Boneal. After receiving notice of the award and a debriefing, Sunbelt filed this protest with our Office.

Sunbelt first challenges the past performance evaluation, alleging that the agency rated its past performance unreasonably low given its "past excellent and directly related experience." Protest at 6. More specifically, the protester maintains that the "very good/significant confidence" rating does not accurately reflect that Sunbelt "has actually successfully manufactured the very item being solicited," nor does it recognize the differences in the types of work performed by Sunbelt as opposed to Boneal. *Id.*; Protester's Comments at 3.

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. A protester's mere disagreement with the agency's judgment in its

determination of the relative merit of competing proposals does not establish that the evaluation was unreasonable. Champion Serv. Corp., B-284116, Feb. 22, 2000, 2000 CPD ¶ 28 at 4. As discussed below, the record provides no basis to object to the evaluation of the offerors' past performance.

As to the agency's evaluation of Sunbelt's past performance, the record shows that the evaluators specifically credited the firm for performance of its multiple aircraft trailer contract, which was considered a very relevant contract. The protester's performance under this contract, however, was not rated exceptional overall (as noted above, the questionnaire responses for this contract were evenly split between "exceptional" and "very good"). While Sunbelt apparently expected a higher rating, it does not assert that any of the underlying past performance information received by the agency was erroneous or that the evaluators' overall past performance rating for Sunbelt based upon this information was unreasonable. Indeed, Sunbelt has presented nothing--besides its own view of its performance--to establish that the agency's past performance assessment was unreasonable. Under these circumstances, we find no basis in this record to conclude that Sunbelt would be entitled to a higher past performance rating; Sunbelt's mere disagreement with the agency's evaluation judgment does not render the evaluation unreasonable.

Sunbelt next protests the past performance ratings assigned to Boneal's proposal on the basis that the awardee's identified present/past contracts were limited to providing equipment that did not involve the production of an aircraft towbar, aircraft trailer, or any other form of ground support equipment. In addition, the protester disputes the agency's evaluation findings that Boneal's present/past contracts involved processes similar to that required by the solicitation, since none of the awardee's listed contracts involved manufacturing large, heavy mechanical assemblies such as that which makes up the MD-1 towbar. Protester's Comments at 2. Thus, Sunbelt argues, Boneal lacks any directly relevant experience and it was therefore unreasonable for the agency to assign Boneal's proposal the same overall "very good/significant confidence" rating as that assigned to its own proposal. Protest at 6.

This argument is without merit. The proposals properly were rated against the RFP's evaluation provisions, not against each other. The solicitation did not require that an offeror's past/present contracts concern the precise requirement being solicited here, *i.e.*, an MD-1 towbar. Rather, as discussed previously, the RFP provided that the agency would assign ratings of either "very relevant," "relevant," "semi-relevant" or "not relevant" to the firms' past performance based on the similarity of the past and current contracts reviewed to the work to be performed under this RFP, thereby establishing a less stringent standard. The PRAG reasonably examined the past performance contract information to determine if the contract end items were manufactured in a manner similar to the solicited towbars. Thus, the PRAG's past performance evaluation of proposals was consistent with the stated RFP evaluation scheme. Our review of the record, including Boneal's proposal and the past

performance questionnaires completed by its references, confirms that Boneal has not performed a contract for an MD-1 towbar. However, the agency found that the description of the work performed under five of Boneal present/past contracts established that the products and services involved processes similar to those needed to manufacture an item like the towbar. The record further indicates that the agency's evaluators considered the magnitude and complexity of these contracts in making its relevance determinations. Given the past performance information provided in Boneal's proposal, in conjunction with the favorable past performance questionnaire responses and ratings from the references, we find reasonable the agency assigning Boneal a "very good/significant confidence" rating for past performance, the same rating assigned to Sunbelt.

In challenging the PRAG's evaluation, Sunbelt relies on more restrictive language contained in the PRAG report which defined relevance as either: very relevant, where the work involved producing any large aircraft towbar or another similar item for ground support equipment with a dollar magnitude workload in excess of \$1 million; relevant, where the dollar magnitude workload was between \$100,000 and \$1 million for manufacturing any towbar or trailer or similar manufacturing processes for ground support equipment; semi-relevant, where the past performance only included similar manufacturing processes and a dollar magnitude workload under \$100,000. However, this more restrictive definition was not contained in the RFP and clearly was not the basis for evaluation of the competing offerors' past performance, which the record shows involved the PRAG's assessment of the similarity of offerors' past performance to the manufacture of the solicited requirements.

The protest is denied.

Anthony H. Gamboa
General Counsel