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**Comptroller General
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Decision

Matter of: RCL Components, Inc.

File: B-400175

Date: August 19, 2008

J. Hatcher Graham, Esq., for the protester.

John J. Melton, Melton Sales & Services, Inc., for the intervenor.

Marvin Gibbs, Esq., Department of the Air Force, for the agency.

David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency consideration in past performance evaluation of the relative amount of an offeror's government contracting experience was improper because the stated evaluation criteria did not expressly include this consideration is denied, where solicitation provided for evaluation of "programmatic and logistical considerations" and "type of contract," which were sufficient to encompass consideration of whether an offeror had experience performing government contracts; while solicitations must identify the evaluation factors and significant subfactors, they are not required to identify all areas of each that might be taken into account, provided that any unidentified areas are reasonably related to or encompassed by the stated criteria.

DECISION

RCL Components, Inc. protests the Department of the Air Force's award of a contract to Melton Sales & Services, Inc. under request for proposals (RFP) No. FA8519-07-R-72276, for overhaul of aircraft tow tractors. RCL challenges the past performance evaluation and resulting source selection.

We deny the protest.

The solicitation, issued August 21, 2007, provided for award of a requirements contract for a basic contract period of 1 year, with four 1-year option periods, to overhaul an estimated quantity of 166 of 3 types of tow tractors: the MB-2 tow tractor, used for towing aircraft up to 500,000 pounds in weight; the nuclear-certified MB-4 tow tractor, used for towing munitions trailers up to 80,000 pounds and aircraft up to 175,000 pounds; and the U-30 tow tractor, used for towing aircraft up to

850,000 pounds. The estimated value of the contract was \$9.5 million including options. Award was to be made to the offeror whose proposal represented the “best value” to the government, based on consideration of two evaluation factors—past performance and price. Past performance was significantly more important than price.

Regarding the past performance evaluation, the solicitation required that offerors complete “a separate ‘FACTS Sheet’ for each active or completed contract . . . in the past three (3) years” (performed, preferably, for at least 1 year) that the offeror considered relevant in demonstrating its ability to perform the proposed effort. If the total number of such contracts exceeds four, offerors were to address the four most relevant contracts. Offerors also were to include two additional pages, in spreadsheet format, that listed all contracts that the offeror was performing or had performed in the past three 3 years. RFP, Proposal Requirements, §§ (c)(1), (c)(3). In addition, offerors were required to send out and track the completion of past performance questionnaires, the responsibility for which “rests solely with the offeror.” RFP, Proposal Requirements, § (c)(5).

The RFP provided for the agency to make a past performance assessment of “the confidence in the offeror’s ability . . . to successfully accomplish the proposed effort based on” the offeror’s “demonstrated record of contract compliance in supplying products and services that meet users’ needs, including cost and schedule.” RFP, Evaluation Basis for Award, § (b). It further provided that “[t]he currency and relevancy of the information, the source of the information, context of the data and general trends in the contractor’s performance will be considered.” *Id.* In this regard, the agency was to rate the relevance of prior contracts using one of four ratings: (1) very relevant, for a contract that “involved the magnitude of effort and complexities, which are essentially what this solicitation requires,” that is, one that included “the comprehensive overhaul and repair of heavy-duty vehicles with Gross Vehicle Weights (GVW) greater than or equal to 20,000 pounds to include six (6) of [eight] components,” including mode-selectable steering system, brake system, hydraulic system, power train system components, electronic control system, steering system, power train, cooling system, welded structures, and chassis system; (2) relevant, for a contract that “involved less magnitude of effort and complexities, including most of what this solicitation requires,” including four of the above components; (3) somewhat relevant, for a contract “involving much less magnitude of effort and complexities, including some of what this solicitation requires,” with only two of the above components; or (4) not relevant, for a contract “that did not involve any significant aspects of the above.” *Id.* The RFP advised offerors, in this regard, that “‘magnitude of effort and complexities’ in the above definitions denotes not only technical features and characteristics but also programmatic and logistical considerations including but not limited to quantities produced, dollar values, type of contract, length of effort, type and complexity of data provided, etc.” *Id.* Based on consideration of the quality and relevance of the offeror’s past performance record, the agency was to assign one of six confidence levels: high confidence that the

offeror will successfully perform the required effort, significant confidence, satisfactory confidence, unknown confidence (neutral), little confidence, or no confidence.

RCL, Melton, and two other offerors submitted proposals in response to the solicitation, three of which—including RCL's and Melton's—were included in the competitive range for discussion purposes. RCL's discussions included a discrepancy in its FACTS sheets. Whereas the RFP required a FACTS sheet for each of an offeror's four most relevant contracts, RCL's initial proposal instead included four FACTS sheets covering a total of eight contracts, with one FACTS sheet for each of four customers. In response to the agency's identifying this discrepancy, RCL furnished additional information regarding four of the contracts in its final proposal revision (FPR).

Notwithstanding the information furnished in RCL's FPR, the final report of the agency's Performance Confidence Assessment Group (PCAG) included an evaluation of the relevance and quality of RCL's performance of all eight contracts identified in RCL's FACTS sheets. Two of the eight contracts were determined to be very relevant, four somewhat relevant, and two not relevant. Despite this determination, however, the PCAG report indicated that, since the solicitation called for detailed information regarding only four contracts, the PCAG's overall confidence rating of significant confidence was based on only four of RCL's contracts, including both of the very relevant contracts, one of the somewhat relevant contracts, and one of the not relevant contract. The contracts considered included RCL's only government contract (FA8519-04-D-0009), a very relevant, approximately \$14 million, 4-year contract with the Air Force for the depot level overhaul and repair of three different types of aircraft loaders. Three past performance questionnaire responses were received for this contract: one rated RCL's performance satisfactory, and two rated RCL's performance predominantly satisfactory, but with a number of very good and excellent ratings. Although two of the responses for the contract noted RCL's flexibility and willingness to ensure that the customer's needs were met, the questionnaire responses also noted RCL's inexperience with government contracting and steep learning curve as problems encountered at the beginning of performance. The overall significant confidence rating also reflected RCL's other very relevant contract—a \$25 million, 5-year contract with FedEx (No. 03-0414) for the remanufacture of tow tractors and loaders—the questionnaire response for which included satisfactory and very good ratings. PCAG Report at 8-15; RCL Past Performance Questionnaire Responses.

While only 1 of the 10 contracts RCL cited in its FACTS sheets or in its contracts spreadsheet was a government contract, each of the 4 contracts for which Melton submitted a FACTS sheet, as well as each of the 7 additional contracts included in Melton's contracts spreadsheet, were government contracts. Melton received an overall high confidence rating based on the agency's consideration of three very relevant contracts and one not relevant contract. One of Melton's very relevant

contracts (F09603-00-D-0277) was an \$8.6 million, 5-year contract for the depot level overhaul of 154 MB-2 and U-30 aircraft tow tractors, two of the three tractors to be overhauled under the RFP. The Air Force received several past performance questionnaire responses for this contract, including one with exceptional ratings, one with very good and exceptional ratings, and one with satisfactory, very good, and exceptional ratings. The questionnaire responses noted that Melton was quick to spot potential problems, responsive to government requests, and easily accommodated emergency repairs. The second very relevant contract (F09603-03-D-0003) was an \$14 million, 7-year contract for the depot level overhaul of 108 runway multipurpose vacuum sweeper vehicles. The Air Force received several past performance questionnaire responses for this contract, including one with exceptional ratings, one with nearly all exceptional ratings, one with satisfactory, very good and exceptional ratings, and one with satisfactory ratings. The questionnaire responses noted that Melton was a very cooperative, excellent company to work with, and that its work was of high quality and performed with attention to detail and on-time delivery. The third very relevant contract (F09603-98-D-0089) was an \$8.1 million, 6-year contract for the depot level overhaul of 198 runway multipurpose vacuum sweeper vehicles. The Air Force received several past performance questionnaire responses for this contract, including one with excellent ratings, one with excellent and very good ratings, and two with satisfactory ratings. The questionnaire responses noted that Melton had performed the overhauls in accordance with the contract delivery schedule. PCAG Report at 15-20; Melton Past Performance Questionnaire Responses.

While RCL's evaluated price (\$9,831,617) was lower than Melton's (\$10,624,370), the Air Force determined that Melton's superiority under the significantly more important past performance factor--reflected in Melton's high confidence rating as contrasted with RCL's significant rating--warranted the price premium associated with award to Melton. In this regard, the source selection authority (SSA) noted that, while RCL had only limited government contracting experience--with only one government contract, under which RCL's inexperience with government contracting had been noticeable during the early stages of the contract--Melton had a "vast amount," over 10 years, of government contracting experience. The SSA further noted that Melton had a 100 percent weighted delivery score, with a green quality rating, and no deficiency reports in the government databases; the agency had received numerous favorable comments regarding Melton's expertise and performance capabilities; and Melton had experience with two of the three models of tow tractors that were to be overhauled under the contemplated contract. According to the SSA, Melton's vast government contracting experience, which included compelling evidence of Melton's capacity to manage a long-term, high dollar value contract with the logistical and programmatic features of the effort contemplated here, greatly reduced the risk that it would fail to meet the required schedule. In this regard, the SSA noted that schedule was extremely important because of the critical role of the aircraft tow tractors in supporting aircraft operations and the wartime effort. Source Selection Decision.

Upon learning of the resulting award to Melton, RCL filed this protest with our Office. RCL primarily asserts that the past performance evaluation was improper.

We will review an agency's past performance evaluation only to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations. The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 10; Hanley Indus., Inc., B-295318, Feb. 2, 2005, 2005 CPD ¶ 20 at 4. A protester's mere disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5. Here, we find that the overall past performance evaluation was reasonable. We discuss RCL's most significant arguments below.

RCL asserts that any consideration by the Air Force of the relative amount of an offeror's government contracting experience was improper because the stated evaluation criteria did not expressly include this consideration. This argument is without merit. While solicitations must identify the evaluation factors and significant subfactors, they are not required to identify all areas of each that might be taken into account, provided that any unidentified areas are reasonably related to or encompassed by the stated criteria. Eomax Corp., B-311391, June 23, 2008, 2008 CPD ¶ 130 at 3; MCA Research Corp., B-278268.2, Apr. 10, 1998, 98-1 CPD ¶ 129 at 8. Here, as noted above, the Evaluation Basis for Award section of the RFP provided with respect to the stated basis for the relevancy ratings that "magnitude of effort and complexities' in the above definitions denotes not only technical features and characteristics but also programmatic and logistical considerations including but not limited to quantities produced, dollar values, type of contract, length of effort, type and complexity of data provided, etc." RFP, Evaluation Basis for Award, § (b). We think the references in this language to "programmatic and logistical considerations," as well as to "type of contract," were sufficient to encompass consideration of whether an offeror had experience performing government contracts. See Aviation Constructors, Inc., B-244794, Nov. 12, 1991, 91-2 CPD ¶ 448 at 5. Indeed, the reported difficulties and steep learning curve that RCL initially encountered on its only referenced government contract as a result of its inexperience with government contracting demonstrate a valid need for the agency to consider the extent of government contracting experience.¹

¹ We agree with the agency that the RFP's provision for consideration of the "source" of the past performance information also was sufficiently broad to encompass consideration of whether the source was government databases and government-completed past performance questionnaire responses. RFP, Evaluation Basis for Award, § (b).

RCL maintains that the SSA's reference to Melton's 10 years of government contracting experience reflects an evaluation inconsistent with the RFP's 3-year relevance period, and inconsistent with the agency's refusal to consider one of RCL's contracts--a \$17.5 million, 7-year FedEx contract for the remanufacture of tow tractors and loaders (No. 97-1028). This argument is without merit. The agency notes that performance on one of the contracts listed by Melton, a contract determined to be very relevant, commenced in January 1998 and continued until October 2004. Agency Legal Memorandum at 4-5. Since performance under this contract continued into the 3-year relevancy period (measured from the August 21, 2007 RFP issuance), under the terms of the solicitation, the contract was eligible for consideration in the past performance evaluation. The SSA's reference to 10 years of government contracting experience therefore was reasonable. As for RCL's FedEx contract No. 97-1028, the agency determined that it was not relevant because RCL's proposal indicated that the contract ended on June 31, 2004, more than 3 years prior to the issuance of the solicitation; the contract thus fell outside the 3-year relevance period established by the RFP, and the agency properly declined to consider it. RFP, Proposal Requirements, §§ (c)(1), (c)(3); RCL Proposal Contracts Spreadsheet.²

RCL asserts that Melton's higher past performance rating was not sufficient to offset RCL's lower price. However, where, as here, the RFP allows for a price/technical trade-off, the selection official has discretion to select a higher-priced but technically higher-rated proposal, if the official reasonably determines that it is justified. 4-D Neuroimaging, B-286155.2, B-286155.3, Oct. 10, 2001, 2001 CPD ¶ 183 at 10. Here, given that the RFP provided that past performance was significantly more important than price, and that the price difference between the two proposals--of which the agency was fully aware--was not considered substantial, the Air Force reasonably decided to make award to Melton based on its higher past performance rating. See J. Womack Enter., Inc., B-299344, Apr. 4, 2007 2007 CPD ¶ 69 at 9-10.

The protest is denied.

Gary L. Kepplinger
General Counsel

² RCL asserts that this contract should have been deemed recent because there was a 2-year warranty period that should have been considered to extend the contract term beyond the June 2004 end date. Again, however, RCL's proposal itself listed the end date for the contract as June 31, 2004, and RCL furnished no information about the warranty under this contract after being advised during discussions that the contract was not considered recent. Thus, even if the solicitation 3-year relevancy period were susceptible of the interpretation that a warranty period could effectively extend the contract beyond the date of final delivery, nothing in RCL's proposal, as amended, called into question the June 2004 end date.