



**Comptroller General
of the United States**

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

Decision

Matter of: Russell Enterprises of North Carolina, Inc.

File: B-292320

Date: July 17, 2003

Leonard W. Childs, Jr., Esq., Childs & Associates, for the protester.

Byron W. Waters, Esq., Department of Agriculture, for the agency.

Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Selection of a higher priced, higher rated quotation was reasonable, where the solicitation provided for a “best value” selection decision considering both price and non-price factors, including past performance, and the contracting officer’s best value selection decision reasonably determined that the awardee’s superior record of past performance outweighed the protester’s slightly lower price.

DECISION

Russell Enterprises of North Carolina, Inc. protests an award to Dennis Cantrell under request for quotations (RFQ) No. RFQ 8-3-03-20, issued by the Department of Agriculture, Forest Service, for road maintenance in the Oconee Ranger District, Georgia. The protester challenges the agency’s evaluation and selection decision.

We deny the protest.

The Forest Service issued the RFQ on April 7, 2003, requesting quotations for fixed prices-per-mile to smooth and shape the surface of 65 miles of gravel road and to clean and shape 20 miles of drainage ditches along the road. The government estimate for this work was \$10,000.

The Forest Service conducted this procurement under the simplified acquisition procedures prescribed in Federal Acquisition Regulation (FAR) Part 13. The RFQ stated that the agency would use a “best value” evaluation plan considering the following three factors: price, past performance and availability of equipment. The RFQ requested minimal information from vendors: prices, identification of the make and year of the equipment that the vendor would use, and section K representations.

No past performance information was requested inasmuch as the agency was familiar with the vendors solicited.

The agency sent the RFQ to four small business concerns and received the following three quotations: Vendor A--\$13,525; Cantrell--\$9,325; and Russell--\$8,725.¹

The contracting officer first determined that the price quoted by Vendor A was unreasonably high and eliminated that quotation from the competition. Agency Report, Tab 8, Contracting Officer's Abstract of Quotes and Selection Decision, at 2. The contracting officer then evaluated the remaining two quotations. Cantrell's price was \$600 higher than Russell's price. Under the equipment factor, both vendors committed a vehicle of the same or similar model required by the RFQ, and the contracting officer did not identify an evaluation advantage for either vendor.

The contracting officer rated Russell "good" and Cantrell "excellent" under the past performance factor. Russell's past performance rating was based on two mowing contracts² and Cantrell's was based on contracts for mowing, trail maintenance, trail construction, road maintenance, road construction and other projects. Essentially, the contracting officer rated Russell lower than Cantrell under past performance because Russell had experienced some difficulties in performance and Cantrell had not. The contracting officer found that although Russell had generally completed its contracts on time at an acceptable quality level, Russell had equipment problems and occasionally had to redo work, whereas Cantrell had a record of outstanding quality of work regardless of the type of project, with very little contract administration required and few equipment problems. Agency Report, Tab 7, Best Value Determination.

The contracting officer made a best value trade-off determination comparing the evaluated differences in price and past performance of the two quotations. Agency Report, Tab 7, Best Value Determination; Tab 8, Contracting Officer's Abstract of Quotes and Selection Decision, at 2. The contracting officer determined that the Forest Service likely would spend less time administering a contract with Cantrell while receiving high quality results. The contracting officer recognized that

¹ Russell's quotation additionally stated a prompt payment discount, which Russell states the agency did not consider in evaluating Russell's price. FAR § 13.101(b)(3) encourages agency to obtain such discounts, but states that "[p]rompt payment discounts shall not be considered in the evaluation of quotations." (We note that the discount, if obtained here, would amount to a savings of \$87.25.)

² The contracting officer did not have any performance history for road maintenance contracts performed by Russell, but determined that this limited contract history was not a "detracting factor" in the evaluation. Agency Report, Tab 7, Best Value Determination.

Cantrell's price was \$600 higher than Russell's price, but determined that the additional price was "very slight" and did not offset the value associated with Cantrell's better past performance record. The contracting officer selected Cantrell's quotation as representing the best value to the government. Agency Report, Tab 7, Best Value Determination.

Russell essentially alleges that the Forest Service's best value determination is unreasonable because the agency evaluation did not consider all of the evaluation factors stated in the RFQ, and did not reasonably evaluate the factors it did consider.

Simplified acquisition procedures are designed to, among other things, reduce administrative expenses, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors. FAR § 13.002; 41 U.S.C. § 253(g)(1) (2000). When using these procedures, an agency must conduct the procurement consistent with a concern for fair and equitable competition and must evaluate quotations in accordance with the terms of the solicitation. In reviewing protests of an allegedly improper simplified acquisition evaluation and award selection, we examine the record to determine whether the agency met this standard and exercised its discretion reasonably. Sawtooth Enters., Inc., B-281218, Dec. 7, 1998, 98-2 CPD ¶ 139 at 3.

Here, the agency's evaluation was reasonable and consistent with the factors stated in the RFQ. Contrary to the protester's allegations, the record shows that the agency's evaluation and best value determination considered all three evaluation factors stated in the RFQ.

Specifically, under the equipment factor, the record shows that the quotations committed the same equipment, and the record provides no basis to conclude that the availability of equipment under one quotation was superior to the other's. Under the price factor, the contracting officer reasonably considered Russell's quotation's \$600 advantage over Cantrell's to be "very slight." Under the past performance factor, Cantrell had the advantage of a superior performance history, which the contracting officer determined showed that less contract administration had been required under contracts with Cantrell than under those with Russell. Although Russell disagrees with the agency's judgment in this regard, it has not shown that the evaluation was based on incorrect information or was otherwise unreasonable. The agency's evaluation identified incidents in Russell's past performance that were of concern to the agency, such as work needing to be redone and interim delays due to equipment problems. It also identifies that Cantrell experienced few or no such performance difficulties, and that Cantrell's cooperation with the government exceeded the minimum requirements and the government's expectations. The protester does not refute these facts.

Rather than providing evidence to show that Russell's past performance was better (or that Cantrell's was worse) than evaluated, the protester merely alleges that the difference in past performance of these two vendors is not as great as the evaluation

suggests, and that the contracting officer's review and documentation of the vendors' performance histories were insufficient. We disagree. Consistent with the lesser documentation requirements for procurements conducted under simplified acquisition procedures, the record here sufficiently documents the past performance differences. Given these differences and the slight price difference, we find the agency's tradeoff analysis to be reasonable.

The protest is denied.

Anthony H. Gamboa
General Counsel