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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Landscapes Inc.

File: B-406835

Date: September 10, 2012

Jennifer Winn, for the protester.

Doug Beck, Esq., Department of the Army, for the agency.

Frank Maguire, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where protester's proposal was reasonably evaluated as unacceptable under experience evaluation factor.

DECISION

Landscapes Inc. protests the Department of the Army, U.S. Army Corps of Engineers' (Corps) award of a contract to Davis Contracting, under request for proposals (RFP) No. W912BV-12-D-0008, for various maintenance services at facilities in Big Hill and Elk City, Kansas. Landscapes asserts that its proposal was improperly found technically unacceptable.

We deny the protest.

BACKGROUND

The RFP provided for award of an indefinite-delivery, indefinite-quantity contract, for a base year with four option years, for seven categories of services, including mowing, janitorial work, park cleaning, pumping of sanitary facilities, herbicide application, snow removal, and tree maintenance. The RFP included detailed, comprehensive descriptions of the work to be performed and "performance standards" for each separate performance area. Award was to be made to the offeror whose proposal offered the lowest evaluated price and met or exceeded the acceptability standards for two non-cost factors, experience and past performance.

With regard to the experience factor, the RFP required offerors to provide a minimum of at least two "experience records" demonstrating experience of the

offeror and proposed subcontractors with regard to the specific categories of services set forth in the statement of work, including, as pertinent here, janitorial work and park cleaning. RFP at 175. Specifically, the RFP provided that to receive an acceptable rating for experience, the offeror must meet the following “minimum acceptability standards” (as pertinent here):

- (1) The contractor shall respond with a minimum of two (2) experience records of projects similar to the work required by this solicitation. All projects must be at least 50% complete and completed within the last 3 years.
- (2) Experience must include similar or like work of equal or greater magnitude of the scope of work for this requirement.

RFP at 177 (emphasis added). Further, the RFP cautioned that “[f]ailure to demonstrate the minimally acceptability [sic] standards under this factor will result in an ‘Unacceptable’ rating and possible elimination from further consideration for contract award.” Id.

The Army received proposals from Landscapes and Davis Contracting by the closing time. Discussion letters were sent to both offerors, listing deficiencies and uncertainties, and requesting revised proposals. In this regard, since Landscapes’ initial proposal had not indicated the performance areas to which the submitted experience records applied, the discussion letter to Landscapes advised that:

1. The description of the work experiences provided is not clear and does not describe the services or projects. Section M [of the RFP] provides information for submitting Tab D, Factor 1, Experience Record. Please resubmit two experience records for each maintenance requirement (Mowing, Janitorial, Park Cleaning, Pumping of Sanitary Facilities, Herbicide Application, Snow and Ice Removal and Tree Removal as mentioned in Section M.

3.¹ Experience records were required for Janitorial or Park Cleaning requirements. Please submit your experience records.

AR, Tab 10, Discussion Letters. While Landscapes furnished additional performance records and detail in its revised proposal, the protester still did not

¹ There is no item 2. in the discussion letter.

indicate which experience record applied to which performance area. AR, Tab 13, Landscapes Revised Proposal.²

The agency found Landscapes' revised proposal to be unacceptable under the experience factor, due to its failure to include two acceptable experience records under the park cleaning category. AR, Tab 16, Source Selection Decision Document (SSDD). Specifically, the agency concluded that a Landscapes contract with AT&T in Wichita, Kansas for facility management, including interior and exterior building maintenance at 42 facilities, was an acceptable experience record under the park cleaning performance category. However, the agency concluded that a second contract with Chapel Ridge for interior building maintenance of vacant apartments in Haysville, Kansas was not an acceptable experience record with respect to the park cleaning requirement. SSDD at 2-3. According to the agency, the Landscapes proposal was unacceptable for park cleaning because:

Chapel Ridge was not of sufficient magnitude and similarity in type of work to meet the experience level for this requirement. The magnitude of Chapel Ridge was only \$10,000, [while] the magnitude of the present requirement is exponentially greater. Additionally, Chapel Ridge involved work that is mostly dissimilar from the Solicitations' Park Cleaning requirement. Chapel Ridge was mostly comprised of window cleaning, carpet/spot cleaning, dusting/cleaning of countertops, cleaning and sanitizing of bathroom fixtures and kitchen appliance and trash removal.

SSDD at 2-3. After concluding that the Landscapes proposal was technically unacceptable, the agency made award to Davis Contracting. This protest followed.

DISCUSSION

Landscapes challenges the agency's determination that its proposal was technically unacceptable. In this regard, the evaluation of proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating them. Encorp-Samcrete Joint Venture, B-284171, B-284171.2, Mar. 2, 2000, 2000 CPD ¶ 55 at 4. In reviewing an agency's evaluation, we will not reevaluate proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Id. Here, we find that the evaluation was reasonable.

² In contrast, the awardee did specifically indicate the experience categories it thought were related to each of its proposed experience records. AR, Tab 12, Davis Contracting Final Revised Proposal, at 55-58.

Landscapes asserts that the agency's rejection of its Chapel Ridge experience to meet the park cleaning experience requirement was unreasonable. According to the protester, both janitorial work (as performed in the Chapel Ridge apartments) and park cleaning fall under the North American Industry Classification Systems (NAICS) code 561210, "Facilities Support Services," and thus janitorial work experience should be acceptable to meet the park cleaning requirement.

Regardless of whether Landscapes is correct with respect to the applicable NAICS codes for these services, its argument is unpersuasive here. As noted by the agency, the solicitation not only placed janitorial work (as performed in the Chapel Ridge apartments) and park cleaning in separate categories of services, it also defined the services in materially different ways. In this regard, the solicitation park cleaning performance requirements included such work as cleaning vault toilets, picnic shelters, camping sites, and trailer dump stations; groundskeeping on beaches, fishing areas, and nature and hiking areas; and high pressure washing. RFP at 57-59. In contrast, the janitorial work performance requirements included such work as dusting furniture; cleaning and waxing floors; cleaning and vacuuming carpets; cleaning light fixtures, mirrors and windows; and groundskeeping. Id. at 57. Although there may be some overlap, it appears that the janitorial requirements are largely performed indoors while the park cleaning requirements are largely performed outdoors.

Further, and more importantly, Landscape's description of its actual Chapel Ridge interior building maintenance experience makes clear the difference between that work and the park cleaning required here. According to Landscapes' proposal, its Chapel Ridge interior maintenance work involved being "[o]n-call for clean-up of vacant apartments between tenants." Landscapes Revised Proposal at 8. Further, according to the proposal, "[c]lean-up services include window cleaning, carpet/spot cleaning, dusting/cleaning of countertops, cleaning and sanitizing of bathroom fixtures and kitchen appliances and trash removal." Id. Given the terms of the solicitation, we find reasonable the agency's determination that such services are materially different than park cleaning.

Furthermore, we see nothing unreasonable in the agency's determination that the Chapel Hill interior building maintenance experience involved a materially lesser magnitude of work. In this regard, while Landscapes listed the annual value of the Chapel Hill interior maintenance work as \$10,000, the record indicates that the government estimate for park cleaning here is in excess of \$80,000 per year. AR, Tab 17, Government Estimate at 3-5. Further, although the protester's Chapel Ridge experience was found to be of similar magnitude with regard to the janitorial work category--based on the fact that there were 108 apartments in the complex--the agency reasonably concluded that the work was not of a similar magnitude with respect to park cleaning, where magnitude was measured by contract dollars. As a

result, we find no basis to question the agency's determination that Landscapes' proposal was unacceptable under the experience factor.

The protest is denied.

Lynn H. Gibson
General Counsel