



Decision

Matter of: Jungang Automotive Company

File: B-402623.2

Date: June 17, 2010

Kwon Yungwon for the protester.
Maj. Timothy A. Furin, Esq., Department of the Army, for the agency.
Christina Sklarew, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Exclusion of the protester's proposal from competitive range is unobjectionable where the agency reasonably found the proposal to be technically unacceptable.

DECISION

Jungang Automotive Company protests the rejection of its proposal under request for proposals (RFP) No. W91QVN-09-R-0084, issued by the Department of the Army for maintenance, repair, and warehousing of war reserve material and in-use assets at six different air bases in the Republic of Korea.

We deny the protest.

The RFP provided for the award of a fixed-price, indefinite-delivery, indefinite-quantity contract to the offeror that submitted the lowest-priced, technically acceptable offer. A detailed performance work statement (PWS) was provided, which described the various maintenance services required.

Two evaluation factors, technical and price, were identified, and the technical factor included the following subfactors: prior experience, personnel qualifications, and quality control plan. Offerors were also informed that the subfactors would be evaluated as either acceptable or unacceptable and that a proposal that received an unacceptable rating under any subfactor would be rated technically unacceptable overall. RFP at 50.

As amended, the RFP required offerors to show at least 2 years experience in

logistical support and maintenance of the types of equipment and services (Vehicle Maintenance, AGE [aerospace ground equipment], BEAR [basic expeditionary airfield resources], CDK [containerized deployable kitchen], ADR [airfield damage repair], RAP [racks, adapters, pylons], Tanks, Fire Protection, TMO/P&C [traffic management office/purchasing and contracting], Medical, CBRN [chemical, biological, radiological, and nuclear], Fuels, and MRE [meals-ready-to-eat]) contained in the PWS or like equipment.

RFP amend. 9, at 2.

In addition, the solicitation required offerors to submit resumes for a number of management positions, including a fuel tanks manager and an aerospace ground equipment shop foreman. Resumes were required to “clearly identify type of experience, length of work experiences, employer and any other relevant information that demonstrates experience required in this solicitation.” Id. The RFP informed offerors that the fuel tanks manager must have at least 5 years experience in fuel tank management and that this management position could be combined with the racks, adaptors, pylons and guns shop foreman position. Id. at 3. The RFP required that the aerospace ground equipment shop foreman have at least 3 years experience in the repair of vehicles, generators, or heaters and air conditioners. Id.

The Army received a number of proposals, including Jungang’s, which were evaluated by the agency’s technical evaluation board (TEB). Jungang’s proposal was found to be unacceptable under the prior experience and personnel qualifications subfactors. Agency Report (AR), Tab 17, TEB Report, at 1. Specifically, under the prior experience subfactor, the TEB found that Jungang’s proposal only addressed vehicle maintenance experience and did not show experience with the other types of equipment and services required by the PWS. The TEB also found, under the personnel qualifications subfactor, that Jungang’s proposed fuel tanks manager did not satisfy the RFP’s requirement for 5 years of fuel tanks management experience, and its proposed aerospace ground equipment shop foreman did not have 3 years of experience.

The contracting officer agreed with the TEB that Jungang’s proposal was unacceptable, and the protester’s proposal was excluded from the competitive range. Contracting Officer’s Statement at 3.

Jungang protests that its proposal should have been found technically acceptable. The protester argues that its proposal demonstrates the firm’s vehicle maintenance experience, which satisfies the RFP’s requirement to show experience with “like equipment.” With respect to its fuel tanks manager, Jungang argues that it proposed someone who would serve as both the fuel tanks manager and the racks, adaptors, pylons and guns shop foreman, which was allowed by the RFP. Jungang also argues

that this person demonstrated 3 years of experience as a fuel tanks technician, and complains that the resume of its proposed aerospace ground equipment shop foreman showed the requisite 3 years of experience.

In reviewing protests challenging the evaluation of proposals and exclusion of proposals from a competitive range, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. An offeror's mere disagreement with the agency's judgment concerning the adequacy of the proposal is not sufficient to establish that the agency acted unreasonably. Realty Executives, B-237537, Feb. 16, 1990, 90-1 CPD ¶ 288 at 3.

Here, we find that the Army reasonably evaluated Jungang's proposal to be unacceptable under the prior experience and personnel qualifications subfactors. With respect to the experience subfactor, as noted above, the RFP required offerors to demonstrate their experience performing logistical support and maintenance services for a variety of equipment, including vehicles. Jungang's proposal, however, described experience for services that were only related to vehicle maintenance. See Protester's Technical Proposal at 5-21. The protester's proposal simply does not address experience in a number of the areas required by the RFP.¹ In this regard, we do not agree with the protester's arguments that vehicle maintenance is relevant to experience in the other required work areas and that "maintenance experience" can be satisfied by an offeror's management ability with qualified technicians and mechanics. Vehicle maintenance was only one type of experience that the RFP sought, and is different from experience such as maintenance of basic expeditionary airfield resources and containerized deployable kitchens or airfield damage repair. In short, contrary to the solicitation's instruction, Jungang did not establish experience in all of the areas sought by the RFP.²

¹ Although the PWS lists specific "common tasks" (such as maintenance or inspections) to be performed on all war reserve material, it then separately lists tasks that are specific to each of the various types of services required. For example, separate from vehicle maintenance tasks, the PWS describes required tasks for aircraft fuel tanks, basic expeditionary airfield resources, aircraft damage repair, and fire protection. PWS at 10-24.

² In its comments, Jungang appears to contend that the RFP was unduly restrictive, speculating that no contractor could have experience in all the areas sought by the RFP. This allegation is untimely, since a challenge to the terms of a solicitation such as this must be raised prior to the time set for receipt of initial proposals in order to be timely under our bid protest regulations. 4 C.F.R. § 21.2(a) (2010).

With respect to the personnel qualifications subfactor, the Army found that Jungang's fuel tanks manager and aerospace ground equipment shop foreman failed to satisfy the minimum experience requirements. Specifically, with respect to the fuel tanks manager position, the Army found that Jungang's manager had only 4 years of fuel tanks management-level experience, and not the 5 years required by the RFP.³ Jungang contends that this individual had 6 years of experience by aggregating this individual's experience as a supervisor of a tank shop (4 years) and as a quality control inspector (2 years). The Army states that a quality control inspector is not a management level position that would satisfy the RFP requirement for "experience in fuel tanks management." RFP amend. 9, at 3. Although Jungang disagrees with the agency, its disagreement does not show that the agency's evaluation is unreasonable.

With respect to Jungang's aerospace ground equipment shop foreman, the Army found that the protester's proposed foreman had only 2 years and 9 months experience, which was less than the minimum 3 years of experience required by the RFP. Jungang argues that its proposed foreman also has more than 4 years of experience as a foreman of the basic expeditionary airfield resources shop. The Army responds that the basic expeditionary airfield resources shop experience is different from that of the aerospace ground equipment shop. We have no basis to question the agency's judgment in this regard, as the protester does not explain why basic expeditionary airfield resources shop experience should be accepted as aerospace ground equipment shop experience. Moreover, the RFP treats the services for these two shops separately. See, e.g., PWS at 17 (specific aerospace ground equipment tasks), 18 (basic expeditionary airfield resources tasks).

In conclusion, we find that the Army reasonably evaluated Jungang's proposal as being unacceptable under the prior experience and personnel qualifications subfactors. Given that the RFP expressly provided that a rating of unacceptable under any subfactor would result in an overall technical unacceptable rating, we find the Army's rejection of Jungang's proposal to be unobjectionable.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

³ As permitted by the RFP, Jungang proposed one person to serve as both the fuel tanks manager and the racks, adapters, pylons and guns shop foreman.