

Goddard



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sach Sinha & Associates, Inc.
File: B-236911
Date: January 12, 1990

DIGEST

1. Protester is an interested party under Bid Protest Regulations to protest that agency improperly evaluated its proposal and that request for proposals (RFP) was improperly canceled on the basis that no acceptable proposals were received, even though the protester's proposal was among the lowest ranked and highest priced.

2. Agency reasonably found protester's proposal was unacceptable because it failed to offer personnel with direct relevant experience as required by the RFP. The protester's assertion that the failure to have the specified experience is not deficient since the personnel it offered have broad experience in related fields and may utilize this experience for their assignments under the RFP is merely an attempt by protester to rewrite the solicitation and restate the agency's needs.

3. Agency reasonably rejected the protester's proposal as technically unacceptable where the protester's proposed personnel did not meet the agency's specific education and experience requirements and the protester did not indicate that it could or would offer different personnel meeting these requirements.

DECISION

Sach Sinha and Associates, Inc. (SSAI), protests the rejection of its proposal as technically unacceptable and the cancellation of request for proposals No. M67004-89-R-0105, a 100 percent small disadvantaged business set-aside, issued by the United States Marine Corps for support of the collective and joint training division of the Department of Defense Training and Performance Data Center, Orlando, Florida.

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We deny the protest.

Section M-4(a) of the solicitation provided that the evaluation and award selection process would combine technical and price proposal ratings with technical factors being weighted 60 percent and price weighted 40 percent. Section M-4(b) set out the following technical factors in descending order of importance: (1) technical/management approach, 30 percent (2) personnel resources and manning, 15 percent (3) corporate experience/facilities, 15 percent. Under the personnel resources and manning factor, among other things, offerors were required to demonstrate that the training and experience of the proposed personnel were "directly relevant to the research." The solicitation listed 7 job categories, which were delineated as key personnel: (1) senior management analyst, (2) management analyst (NGB) (National Guard), (3) management analyst (USMC) (Marine Corps), (4) management analyst (Land), (5) management analyst (Air), (6) senior computer systems analyst and (7) systems analyst.

The Marine Corps states that technical evaluations were performed on the eight proposals received, including SSAI's, but none of the proposals received a satisfactory rating for the personnel resources and manning factor since none proposed acceptable key personnel. Because all offerors failed this element of the technical evaluation, no further evaluation was undertaken and all offerors were notified that they were technically unacceptable. Inasmuch as no acceptable proposals were received, the offerors were also informed that the small disadvantaged business set-aside was being withdrawn and the requirement was being resolicited as a 100 percent small business set-aside. This decision was concurred with by the small and disadvantaged business utilization (SADBU) specialist.

SSAI contends that its proposed personnel have more than adequate backgrounds to perform their tasks, and that the rejection of SSAI's proposal for unacceptable key personnel was unreasonable. SSAI contends that the cancellation of the RFP is capricious and prejudicial to SSAI in that it makes it appear that small disadvantaged businesses are not capable of performing the contract.

The Marine Corps argues SSAI is not an interested party to protest because it lacks sufficient direct economic interest in the cancellation of the RFP. See 4 C.F.R. §§ 21.0(a) and 21.1(a) (1989). In this regard, the Marine Corps notes that SSAI submitted the second highest price and that several proposals were approximately half the price of SSAI's,

including a proposal from a firm much more nearly acceptable than SSAI's. The Corps argues that given this relative rating SSAI would not be in line for award under this RFP, and thus it is not an interested party to protest alleged irregularities in the procurement.

We disagree. SSAI's protest not only concerns the withdrawal of the small disadvantaged set-aside, but also questions the Corps' evaluation of its proposal. Were SSAI to prevail in its protest and show that its proposal was improperly found to be technically unacceptable, we could recommend reinstatement of the small disadvantaged business set-aside and reevaluation of SSAI's and the other offerors' proposals. See Transportation Research Corp., B-231914, Sept. 27, 1988, 88-2 CPD ¶ 290. In each of the cases cited by the agency to support its contention that SSAI is not an interested party, e.g., State Technical Inst. at Memphis, 67 Comp. Gen. 236 (1988), 88-1 CPD ¶ 135; Training Eng'g Aviation Management Corp., B-235553, May 26, 1989, 89-1 CPD ¶ 516; Computer Science Innovations Inc., B-231880, Sept. 27, 1988, 88-2 CPD ¶ 289; Hydroscience, Inc., B-227989, B-227989.2, Nov. 23, 1987, 87-2 CPD ¶ 501, even if we were to have sustained the particular grounds of protest, it would have made no economic difference to the particular protester as there was another offeror higher in relative ranking that would have taken precedence over that protester. The situation here, however, is distinguishable since, if we sustain SSAI's protest and find that SSAI's proposal was unreasonably evaluated, SSAI would have another opportunity for award based on a reevaluation of its proposal.

The Corps states that SSAI was found unacceptable because of the 7 key personnel offered by SSAI, only 2 individuals even remotely met the requirements of the RFP. Moreover, the Corps contends that firm employment commitments, required by the RFP, were not submitted by SSAI for any of the key personnel.

Our review of allegedly improper technical evaluations is limited to a determination of whether the evaluation was fair and reasonable and consistent with the evaluation criteria. We will question the agency's determination of the technical merit of proposals only upon a clear showing of unreasonableness or abuse of discretion. Jones & Co., Natural Resource Engineers, B-228971, Dec. 4, 1987, 87-2 CPD ¶ 555. Such a showing is not made by the protester's mere disagreement with the evaluation or its good faith belief that its own proposal should have been considered acceptable. See Sigma Sys., Inc., B-225373, Feb. 24, 1987, 87-1 CPD ¶ 205.

The RFP set out certain minimum qualifications for the 7 skilled experienced professional/technical personnel essential under the contract. For example, the qualification requirements for the management analyst (NGB) called for a "Bachelor's degree or higher in a business, engineering, or related science field." The RFP also called for

"broad knowledge combined with at least 5 years of directly relevant experience in training data as related to the U.S. Army including Army Reserve, and the National Guard. Detailed experience and knowledge in service training in the above service components as related to weapons training ranges, maneuver areas, and training facilities."

The resume of the individual SSAI offered for this position does not indicate any college degree, although one is required. Moreover, the individual's experience is in anti-submarine warfare and the individual's resume lists no Army, Army Reserve or National Guard experience. Consequently, we agree with the Corps that the experience which this individual possesses had no documented relevance to the land actions of the Army, Army Reserve and Army National Guard such that he could be reasonably found unsatisfactory.

The requirements in the solicitation for the management analyst (USMC) called for "broad knowledge combined with at least five years of directly relevant experience in training data as related to the U.S. Marine Corps, including the U.S. Marine Corps Reserve." Once again the individual offered by SSAI for this position has no stated experience at all in the Marines Corps or the Marine Corps Reserve. We agree with the Corps that although this individual had extensive experience with the Navy, that experience does not meet the RFP's specific requirement for directly relevant experience related to the Marine Corps.

The position for management analyst (Air) required "broad knowledge and experience in training data, including resources and capabilities, as related to military service training in air warfare weapons training used by the various Service components." The resume of the individual SSAI offered for this position shows experience at Air Force test flight centers but shows no training-related military experience whatsoever, despite the clear requirement in the RFP for experience in military service training. Here again SSAI has offered an individual who may possess excellent qualifications but not in the area of expertise for which the Corps was looking.

Although SSAI asserts that the Corps' position on the foregoing personnel does not take into account the fact that very experienced personnel can apply their experience in one arena to another, the RFP imposed specific experience requirements that had to be met. For instance, for the management analyst (NGB) position, the RFP calls for "broad knowledge," but also clearly requires "at least five years of directly relevant experience . . . relating to the U.S. Army." In this connection, we have held that an agency may reasonably require a contractor to offer personnel with direct relevant experience to be considered acceptable. SelectTech Servs. Corp., B-229851, Apr. 18, 1988, 88-1 CPD ¶ 375.

With regard to the senior computer systems analyst called for in the RFP, 5 years experience in "computer associated cartography, digital terrain models, spatial data sets, and image resources related to military uses of geographic information systems" was required. The Corps states that SSAI did not identify a resume to this labor category and the Corps only learned during the conference held on this protest which resume SSAI intended to offer for this position. The Corps submits, and nothing SSAI has presented would make us disagree, that a review of the resume SSAI states it offered for this position shows that the individual fails to exhibit experience in the above stated requirements.

Finally, with respect to the systems analyst position, SSAI contends that a resume submitted for the proposed labor category Database Development Manager/System Development was intended to identify the individual for this position. As the Corps points out, however, neither that nor any other resume indicated it was for the systems analyst position.

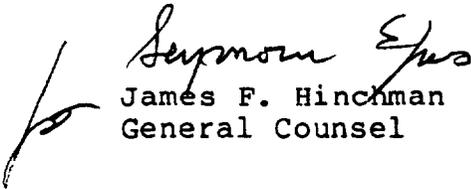
Based on our review of the record, we find the agency reasonably determined SSAI's proposed personnel were unacceptable overall.

SSAI argues that the Corps' decision to find SSAI technically unacceptable is improper since the Corps only evaluated the personnel resources and manning factor, which accounts for only 25 percent of the total technical evaluation points. However, the record shows that regardless of the designated weight of this factor, it was a minimum requirement of the Corps that the contractor have personnel that met the specific education and experience requirements set forth in the RFP. As explained by the Corps, it was a cornerstone of this project that the contractor provide individuals already firmly grounded in

the operations and training of the particular services and disciplines set forth in the RFP and that to allow a contractor to use personnel who are not subject matter experts would result in "an incredibly high" learning curve. Not only did SSAI's proposed personnel not come close to meeting the RFP requirement, but it does not claim that it could or would have offered different personnel that met these specific requirements; instead, it argues that the personnel it proposed could adequately perform the contract. Under the circumstances, the agency reasonably determined SSAI's proposal was unacceptable overall because of its unacceptable personnel, whether or not the rest of its technical proposal could have been considered acceptable. See tg Bauer Assocs., Inc., B-229831.6, Dec. 2, 1988, 88-2 CPD ¶ 549.

Since none of the eight proposals was found technically acceptable and since the SADBUs specialist approval was obtained, we find nothing improper in the cancellation of the RFP and withdrawal of this requirement from the small disadvantaged business set-aside program. Federal Acquisition Regulation (FAR) § 19.506 (FAC 84-48); Department of Defense FAR Supplement § 219.506 (1988 ed.).

The protest is denied.


James F. Hinchman
General Counsel