



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: ManTech Advanced Systems International, Inc.

File: B-240136

Date: October 26, 1990

David P. Metzger, Esq., Kirkland & Ellis, for the protester.
Del Stitner Dameron, Esq., McKenna, Conner & Cuneo, for Ball
Systems Engineering Division, an interested party.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the
agency.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of
the General Counsel, GAO, participated in the preparation of
the decision.

DIGEST

Protest that agency relaxed a solicitation requirement that proposed staff have at least 2 years programming experience using a certain specified type of data base management system by accepting an offer proposing a staff with different data base management system experience is sustained, where record shows that requirement was mandatory. Since the agency found the different experience acceptable and transition to performance by firm not meeting requirement is being achieved without problems, the experience requirement exceeded the agency's minimum needs and may have unduly restricted competition. The General Accounting Office therefore recommends that the agency resolicit, requiring only the experience necessary for performance.

DECISION

ManTech Advanced Systems International, Inc. protests the award of a contract to Ball Systems Engineering Division under request for proposals (RFP) No. DAHC90-89-R-0018. The solicitation, issued on August 21, 1989, by the United States Army Intelligence and Security Command, is for services, materials, and personnel to maintain and generate the necessary software and support documentation for the SCRIBELET and ACONITE systems located at Kunia, Hawaii. The protester primarily challenges the agency's evaluation of the awardee's proposed staff experience as required by the solicitation. We sustain the protest. We find that the agency improperly relaxed the specifications without issuing an amendment to

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afford all offerors an opportunity to respond to the relaxed requirements.1/

The solicitation was issued on an unrestricted basis and provided for the award of a fixed-price contract for a base year and 4 option years. Award was to be made to that responsible offeror whose offer conforming to the solicitation was determined to be the best overall response, price or cost, and other factors considered. Offerors were required to provide qualified personnel for the software maintenance of the systems. The RFP, in the statement of work, detailed the type and levels of experience required for each position on the maintenance support staff.

The RFP listed the following technical evaluation criteria: (1) SCRIBELET support staff; (2) ACONITE Programmers; and (3) Responsiveness to RFP. Factor one was equal to five times factor two and factor two was equal to three times factor three. Under each factor, subfactors were listed in descending order of importance. Under the SCRIBELET support staff the RFP listed the type of experience to be evaluated for the Senior Programmers Analysts, Site Manager/Senior Systems Analyst, and Systems Programmer/Data Base Administrator. Concerning the SCRIBELET support staff, the evaluation criteria required them to have at least 2 years programming experience using a hierarchical data base management system. The solicitation did not provide for the rating of cost, but offerors were advised that cost would be evaluated to determine the offeror's understanding of the project and the reasonableness and realism of the proposed cost.

Although the agency mailed 13 copies of the solicitation to prospective offerors, only offers from ManTech and Ball were received.

The agency's evaluators gave ManTech's initial technical proposal 82.5 points (out of a possible 100); they considered this firm, the incumbent contractor, to have submitted a proposal that demonstrated a complete understanding of all requirements. By contrast, evaluators gave Ball's initial technical proposal only 46.6 technical points and at one point described it as not demonstrating an acceptable level of technical competence to fulfill the technical approach and understanding the contract required. This was due largely to Ball's failure to explicitly state the amount of the specific required experience of any of its proposed personnel. The

1/ In view of our conclusion, we need not address ManTech's other grounds for objecting to the award to Ball.

agency determined that ManTech's as well as Ball's technical proposals needed clarifications and discussions were held with both offerors.

During the initial evaluation, the agency evaluators downgraded Ball because they could not determine the exact years of experience of its proposed personnel from their resumes. Because of this, if any experience was indicated, then the minimum experience was assumed. Specifically, under the general requirements for SCRIBELET support staff, Ball received 1.6 points out of a total of 10. Ball proposed 7 SCRIBELET support staff; none had hierarchical data base management system experience (they only had experience with a relational system), 5 had 2 years programming experience on IBM 370/4341 computer systems, and only 2 had experience developing/maintaining applications programs with the PL/1 language. Additionally, Ball received 0 points (out of a possible 15) for its proposed Data Base Administrator because of the lack of demonstrated experience.

During discussions, Ball was asked to clarify the experience of its proposed personnel and to also clarify their belief that relational data base management experience is equivalent to hierarchical. Ball, in its response, clarified the experience of its proposed personnel and explained in detail how the experience of its personnel with a relational system was not only equivalent to but exceeds that required to understand and work with a hierarchical system. The evaluators reviewed Ball's responses and, although they increased Ball's technical score with respect to other specific experience requirements, Ball received 0 points for failing to propose individual's with hierarchical experience.

After written discussions and best and final offers (BAFOs), evaluators gave ManTech a technical score of 71.11 and Ball a technical score of 53.71. Ball's price was significantly lower than ManTech's proposed price. Although ManTech scored higher technically and the experience level of its proposed personnel was considered superior to Ball's, the agency considered the personnel proposed by Ball to be highly satisfactory. The agency determined that the background and experience of Ball's personnel in other areas would enable them to perform at the incumbent's current level of proficiency in less than 6 months. Considering the cost savings, the agency concluded that the risk to the government of selecting Ball, knowing there would be a short orientation period or learning curve, was an acceptable risk.

Accordingly, award was made to Ball on June 5, 1990, and this protest followed.^{2/}

Mantech primarily alleges that Ball's proposal was improperly evaluated because it should have been found technically unacceptable for failure to offer personnel with hierarchical data base experience, qualified SCRIBELET programmers, a qualified Data Base Administrator, a qualified ACONITE programmer and PL/1 experienced staff. Mantech maintains that acceptance of Ball's proposal resulted in a relaxation or waiver of these requirements.

The agency states that in accepting Ball's proposal, it did not relax the criteria used to evaluate Ball and the award was made to the offeror which constituted the best overall value to the government. The agency contends that the evaluation was proper because Ball was downgraded for failing to provide employees with hierarchical data base management system experience. The agency maintains that personnel requirements were not mandatory and the source selection plan provided for a scoring procedure based on levels of experience.

The record shows that Ball persuaded the agency that its proposed employees had extensive experience in a relational data base system and, because of that experience, they had the potential to learn the requisite system in a relatively short period of time. Generally, when the government changes or relaxes its requirements, either before or after the receipt of proposals, it is required to issue a written amendment to afford all offerors an opportunity to respond to the revised requirements. AT&T Communications, 65 Comp. Gen. 412 (1986) 86-1 CPD ¶ 247.

The RFP's statement of work specifically provided with respect to the SCRIBELET software staff that as a minimum, "all members of the programming maintenance staff shall have 24 months programming experience on IBM 370/4341 computer systems developing and/or maintaining applications programs written in the PL/1 language using . . . a hierarchical data base management system." With respect to the Systems Programmer/Data Base Administrator for the SCRIBELET System, the statement of work required the proposed personnel to have an additional year of experience maintaining a hierarchical data base management system. Additionally, the statement of work specified that the required experience had to have been obtained within a specified period of time prior to the date

^{2/} Performance of this contract was not suspended because Mantech filed this protest more than 10 calendar days after award. See U.S.C. § 3553(d)(1) (1988).

of the RFP. The statement of work thus specifically provided minimum stated levels of experience that were required for each type of position. The evaluation language provided that to receive points in the experience category, the stated levels of experience had to be met within a specified period of time prior to issuance of the RFP. The Army contends that the acquisition plan and RFP called for a scoring procedure based on levels of experience and that Ball did not receive any points where it lacked required experience. We think the provisions in the statement of work were clearly mandatory and that the evaluation methodology provided for awarding points for experience in excess of the minimum and for experience that was more recent than the specified time period. We do not believe that it is reasonable to read the solicitation to provide merely for a reduction in technical score for an offeror's failure to propose staff meeting mandatory experience requirements.

The solicitation clearly required offerors to propose personnel with a certain level of experience in hierarchical data base management systems and offerors were to comply with this requirement in submitting their proposals. Further, the solicitation contained no provisions for a learning curve; proposed personnel were to be able to perform at a certain level at the time of contract award. All but two of Ball's proposed personnel were required by the RFP to meet the hierarchical experience requirement. We therefore think that this was a material requirement which was relaxed by the agency in accepting Ball's proposed staffing with only relational experience.

The record shows that relational and hierarchical data base management systems use clearly different approaches in processing information and that knowledge of one does not demonstrate knowledge of the other. The agency admits that there is a learning curve, but states that with Ball's proposed staffs' level of experience with relational systems, they were willing to accept the risk of performance problems. Ball states that relational systems are more complex, while ManTech argues that hierarchical systems are more complex and that hierarchical experts are in high demand and command relatively high salaries. The agency reports that Ball is currently successfully performing the contract and, although they are still learning the system, the agency states that Ball's performance has been fully successful.

From this record, we conclude that the experience requirements set forth in the statement of work exceeded the agency's minimum needs since the agency was willing to accept other experience, permit time to learn the system and, in fact, the work is being fully successfully performed on the basis of the

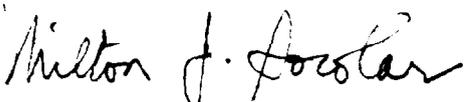
less restrictive experience requirements. Here, 13 solicitations were sent to firms and only two offerors submitted proposals. It is also clear that under this RFP, the staff and their experience is the essence of the offer.

In our view, the hierarchical experience requirement established the field of competition (and its parameters). Other prospective offerors may have been deterred from competing because of doubts as to their ability to meet the hierarchical requirements. In such circumstances an agency should revise the solicitation to reflect the relaxed requirements and permit all potential offerors an opportunity to compete on that basis. Consulting and Program Management, 66 Comp. Gen. 289 (1987), 87-1 CPD ¶ 229.

By letter of today to the Secretary of Army, we are therefore recommending that the agency resolicit, requiring only experience that is necessary for contract performance. Following the resolicitation, if Ball is not the successful offeror, the agency should terminate its contract with the firm. If Ball is again selected and offers lower rates than under its current contract, the contract should be modified accordingly.

We also find that Mantech is entitled to be reimbursed its protest cost, including reasonable attorney's fees. 4 C.F.R. § 21.6(d)(1) (1990).

The protest is sustained.


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