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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Lincoln Property Company
File: B-247664
Date: May 22, 1992

Bill Hickey for the protester,
Patricia S. Grady, Esq., Gary F. Davis, Esq., and Dennis
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agency.
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participated in the preparation of the decision.

DIGEST

Determination to exclude protester's proposal from the competitive range was proper where record shows that the technical evaluation panel reasonably downgraded proposal, resulting in a significantly lower rating relative to the scores of the four highest rated offerors included in the competitive range (whose proposals each offered a lower price than the protester), and where agency reasonably determined protester's proposal lacked a reasonable chance of being selected for award.

DECISION

Lincoln Property Company protests the exclusion of its proposal from the competitive range after the evaluation of initial offers under request for proposals (RFP) GS-11P-91-EGC-0116, issued by the General Services Administration (GSA) for construction quality management (CQM) services for the new Federal Bureau of Investigation (FBI) Washington Field Office.

We deny the protest.

The RFP, issued on August 30, 1991, contemplated the award of a firm, fixed-price contract. The solicitation provided that technical factors would be weighted more heavily than price, and that technical proposals were to be evaluated for award based on four evaluation factors: (1) experience and past performance on similar projects; (2) key personnel and operating personnel; (3) management approach; and

(4) capabilities of offeror. The RFP provided that the first two evaluation criteria were of equal importance and were weighted significantly greater than the third criterion; the third criterion was weighted significantly greater than the fourth criterion. Offerors were advised to assure the "completeness and suitability [of proposals] for both evaluation purposes and the cohesiveness of the resulting contract." Award was to be made to the responsible offeror whose offer, conforming to the solicitation, was most advantageous to the government, technical factors and price considered. The RFP also provided that the competitive range would be established based upon evaluations of both technical factors and price.

Thirteen firms submitted proposals by the September 30 closing date. After the evaluation of initial technical proposals, Lincoln's technical proposal was ranked seventh out of 13. Lincoln's price proposal was the fourth highest of all of the proposals submitted. Although Lincoln's proposal was found to present an "impressive portfolio of past projects similar in size and complexity to this project," the technical evaluators significantly downgraded the key and operating personnel section of the firm's proposal. The evaluators found that Lincoln's proposal failed to list each proposed individual's past responsibilities on similar projects, as required by the RFP, and that the "Senior Management Advisory Committee" proposed by the protester, which was not required by the RFP, "mirrored" the responsibilities required of the firm's proposed construction executive and other key personnel, causing the evaluators to question the firm's proposed organizational structure and "who's really in charge." The agency determined that correcting this section of the proposal to provide the required information would require a "total resubmission of this section." Additionally, the evaluators downgraded Lincoln's proposal under the management approach criterion because similar responsibilities were proposed for key personnel and the advisory committee. Lincoln's proposal also was found deficient for failing to satisfactorily explain how it proposed "to deal with non-compliant performance of the construction contractor and provide feedback and follow-up work," as required by the RFP.

The GSA evaluators recommended that four firms, whose proposals were rated significantly higher technically and offered a lower price than Lincoln, be included in the competitive range. The contracting officer adopted the technical evaluation panel's recommendation and excluded Lincoln (and two firms rated higher technically than the protester) from the competitive range based on the determination that Lincoln's proposal needed major revision and, in relation to the technical scores and prices offered

by the offerors whose proposals were included in the competitive range (which all received technical scores at least 10 percent higher than the protester's score), Lincoln did not have a reasonable chance of being selected for award. On February 21, Lincoln filed its protest with our Office challenging that determination.

Lincoln protests the agency's technical evaluation. First, the protester argues that since its proposal's resumes listed each individual's proposed duties and generally stated that each individual had performed the same duties on the identified previous projects, the firm was not required to specifically list each individual's past duties on each of the projects. Second, Lincoln contends that the "Senior Management Advisory Committee" is advisory in nature and does not share the responsibilities of the firm's proposed key personnel. Third, the protester asserts that its blanket statement in its proposal that the firm's "intention . . . [is] to be fully-responsive . . . [and that] the offeror agrees to fully comply with all requirements of the solicitation whether or not an item is specifically discussed in the offer" renders the proposal technically acceptable and warrants a higher technical score than that received by Lincoln. The protester essentially argues that its proposal should have been included in the competitive range on the basis that: "(1) Lincoln could have addressed GSA's concerns without major revision to its proposal; and (2) prior proposals submitted by Lincoln in response to other GSA solicitations have been found technically acceptable even though they have included, as here, a general statement of the past responsibilities and experience of its proposed workforce.

In a negotiated procurement, the purpose of a competitive range determination is to select those offerors with which the contracting agency will hold written or oral discussions. Federal Acquisition Regulation (FAR) § 15.609(a); Anthony Hernandez, CPA, P.C., B-246104, Feb. 4, 1992, 92-1 CPD ¶ 146. The competitive range is to be "determined on the basis of cost or price and other factors that were stated in the solicitation and shall include all proposals that have a reasonable chance of being selected for award." FAR § 15.609(a). Even where proposal deficiencies are minor and readily correctable through the clarifications or discussions, the agency may properly exclude a proposal from the competitive range where, relative to other acceptable offers, the proposal has no reasonable chance of being selected for award. See Wordpro, Inc., B-242100.2, Apr. 24, 1991, 91-1 CPD ¶ 404; Hummer Assocs., B-236702, Jan. 4, 1990, 90-1 CPD ¶ 12. In reviewing protests concerning competitive range determinations, we will examine the agency's evaluation as a

whole to ensure that it has a reasonable basis. American Contract Health, Inc., B-236544.2, Jan. 17, 1990, 90-1 CPD ¶ 59. Based on our review of the record, including the RFP, the evaluation documents, the protester's proposal, and the submissions of the parties, we find that the competitive range determination and the evaluation of the protester's proposal were reasonable.

Our review of the record shows that the majority of the weaknesses the evaluation panel found in the protester's proposal concerned the protester's failure to satisfy the RFP's personnel requirements. In the major area of key and operating personnel (one of the two equally weighted, paramount evaluation factors for award), the RFP required offerors to provide:

"for each person a one-page resume giving the following specific information . . . [including] a description of duties and responsibilities projected for the key personnel named to perform under the contract. Each resume must clearly demonstrate these responsibilities on at least two, but no more than five, similar projects on which he/she was employed during the last five (5) years."

In response to this requirement, Lincoln provided resumes for its proposed key and operating personnel which generally described each individual's proposed responsibilities and stated that the individual's "responsibilities for the FBI project are similar to those he has recently completed for the following [3-5] projects." Despite the RFP's specific instructions that "[e]ach resume must clearly demonstrate these responsibilities" (emphasis added), Lincoln's proposal failed to state the individuals' actual positions, duties, or responsibilities on "recent projects," and no information was given regarding the time periods or dates of the individuals' involvement in those projects.

We do not share the protester's view that it was unreasonable for the agency to downgrade Lincoln's offer for failing to provide the required information, since without that information, the agency was precluded from evaluating the proposed personnel to determine whether the individuals actually had the required similar experience to fulfill the requirements of the proposed positions. The protester's blanket statements of compliance, that the proposed personnel's duties are "similar" to past duties, or that the firm's "intention" is to comply with all RFP requirements, were insufficient to comply with the RFP's requirement to demonstrate the proposed personnel's qualifications. The offeror must demonstrate the technical sufficiency of its proposal, and a blanket offer of compliance with

solicitation requirements is not sufficient to meet a solicitation requirement for specific information which an agency deems necessary for evaluating the technical acceptability of proposals. AMDATA, Inc., B-239216, Aug. 13, 1990, 90-2 CPD ¶ 123. The protester, without providing the required demonstration of its personnel's past responsibilities, failed to show that the proposed individuals had the required experience. By choosing to ignore the RFP's specific instructions to clearly demonstrate its proposed personnel's qualifications and relevant experience in the duties and responsibilities proposed, Lincoln assumed the risk that, as occurred here, the evaluation panel would not find sufficient details to adequately evaluate each individual's experience as relevant to the required services.¹ Anthony Hernandez, CPA, P.C., supra. Here, the agency, at best, would have to speculate whether the firm is or is not in compliance with the RFP's personnel requirements and, if not, how many of the initially proposed individuals would have to be substituted.²

Further, our review of the record shows that the agency reasonably questioned the role of the proposed advisory committee (composed of high-level management personnel), vis-a-vis the role of the key personnel required by the RFP, and the effect on ultimate authority. The RFP stated that

"key personnel shall be those persons who will have major project responsibilities and/or who will provide unusual or unique capabilities; the availability of these individuals is considered critical to the accomplishment of required services."

¹As for Lincoln's contention that the firm's similarly worded proposals have been accepted by other GSA offices under different solicitations, this statement does not excuse Lincoln's failure to satisfy the technical requirements of the current RFP since each procurement stands on its own. See GMI Indus., Inc.--Recon., B-231998.2, Mar. 23, 1989, 89-1 CPD ¶ 297.

²As for the protester's argument that the RFP's page limitation on each resume precluded it from listing additional information for each individual, the protester now essentially admits that it could have succinctly provided the required information in slightly more space than it took to include its blanket statement that each individual had recent, similar experience.

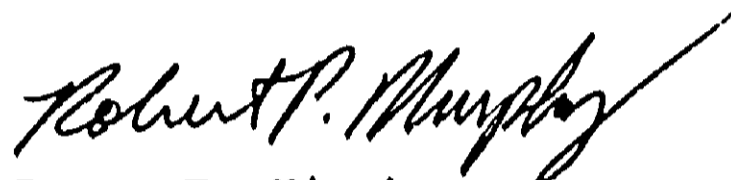
Although the protester now states that the "Senior Management Advisory Committee" was only to act as a "sounding board," which would be involved on an "as needed" basis, presented the three of the individual committee members also were proposed for specific key personnel positions (e.g., the construction executive, quality control superintendent and construction manager). The proposal also stated that the role of the committee was to "monitor the progress of the work," which, we believe, the agency reasonably concluded generally involves much of the administrative duties specified in the RFP for the construction executive quality control superintendent and the construction manager. We think it also is important to point out, as one evaluator found, that although the RFP stressed the importance of the availability of key personnel, Lincoln's construction executive, who appears to have the highest management authority on the project on a daily basis and, as required by the RFP, was to be the major point of contact, was only proposed on a part-time basis. We find that the evaluation panel acted reasonably in downgrading the protester's proposal in the area of proposed key and operating personnel, one of the two equally most important evaluation factors for award, given the omission of information regarding the firm's proposed personnel's past responsibilities and experience, discussed in detail above, and the questions regarding the role and authority of its proposed advisory committee. Id.; Electronet Information Sys., Inc., B-233102, Jan. 24, 1989, 89-1 CPD ¶ 68.

With respect to management approach, the evaluation panel, for the reasons stated above regarding the unclear role of the advisory committee, found that the protester's proposal failed to provide a clear explanation of its proposed management structure and "lines of authority." Although the protester's proposal was not significantly downgraded for its proposed management approach, we find that the deficiency cited by the agency is reasonable since, as stated above, we find that the proposal was, at best, ambiguous regarding the actual role and authority of the committee, especially since the various personnel flow charts included in the protester's proposal rank the advisory committee in an authoritative position equal to the construction executive, which was not contemplated by the RFP. As for the cited deficiency regarding Lincoln's failure to satisfactorily explain its proposed approach to non-complying work procedures, although, as the protester points out, the RFP did not specifically require information regarding "non-complying" work procedures, it did require a description of the proposed "work procedures." We find that this RFP instruction reasonably encompassed the requirement for the offeror to explain how it proposed to handle instances of non-compliance in the work of the construction

contractor's personnel and subcontractors (which was stated as a responsibility of the CQM and which information was provided by the other offerors in the competitive range), and therefore find that the protester's proposal was reasonably downgraded in this area.

Given the solicitation's emphasis on technical merit, the disparity between the protester's technical score relative to the scores of the four highest rated offerors which constitute the competitive range, and the protester's higher proposed price, we find that the protester's proposal lacked a reasonable chance of being selected for award, notwithstanding the possibility that some of the deficiencies might have been cured through discussions. Wordpro, Inc., supra. Accordingly, the contracting officer reasonably excluded the proposal from the competitive range. FAR § 15.609(a); Anthony Hernandez, CPA, P.C., supra.

The protest is denied.


for James F. Hinchman
General Counsel