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

Decision

Matter of: Quarles Janitorial Services, Inc.

File: B-251095; B-251095.2

Date: March 3, 1993

Alan M. Grayson, Esq., for the protester.
Arnold R. Finlayson, Esq., Devon E. Hewitt, Esq., and Alex D. Tomaszczuk, Esq., Shaw, Pittman, Potts & Trowbridge, for Crestmont Cleaning Service & Supply Co., an interested party.
John A. Dodds, Esq., Department of the Air Force, for the agency.
Richard P. Burkard, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protester's proposal was properly rejected as technically unacceptable and outside the competitive range where agency reasonably found that the proposal, which did not follow the format specified in the solicitation's instructions, failed to address the essential tasks to be performed under the contract and would require major revisions to become technically acceptable.

2. Protester whose proposal was properly eliminated from the competitive range is not an interested party to challenge award of the contract where there was at least one other proposal besides the awardee's determined to be within the competitive range.

DECISION

Quarles Janitorial Services, Inc. protests the rejection of its offer and the award of a contract to Crestmont Cleaning Service & Supply Co. under request for proposals (RFP) No. F44600-92-R-0005, issued by the Department of the Air Force for mess attendant services at Langley Air Force Base, Virginia. Quarles contends that the Air Force improperly concluded that its proposal was technically unacceptable and that the agency failed to conduct an adequate price evaluation of the awardee's proposal. The protester also alleges in a supplemental protest that Crestmont was given information not available to the other offerors which provided it with an unfair competitive advantage. We have consolidated the protests for purposes of this decision.

We deny the protest in part and dismiss it in part.

The procurement was conducted competitively pursuant to section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. III 1991).[1] The RFP contained workload estimates and sought prices for a base and 4 option years. Section C of the solicitation contained the performance work statement (PWS), and section C-5 of the PWS listed the following specific tasks to be performed: (1) subsistence and material handling; (2) food preparation; (3) service of food; (4) cashier services; (5) sanitation requirements; (6) housekeeping; (7) grounds maintenance; and (8) food service equipment maintenance. Each of these tasks was further subdivided; the list of tasks under section C-5 was approximately 14 pages in length.

The RFP instructed offerors to provide separate technical and "contract pricing" proposals. The RFP stated that technical proposals "shall consist of a paragraph-by-paragraph description" of the PWS requirements and provided that if the section C requirements were not addressed sequentially in the proposal, proposals were to include "an index relating each paragraph" of section C to applicable portions of the technical proposal.

The RFP further provided that the award would be made "on a technically acceptable, realistically low price basis." It stated that the "purpose of the technical evaluation is solely to ensure the contractor demonstrates a complete understanding of the PWS to ensure the minimum needs of the government are met." Technical proposals were to be evaluated in the following four areas: (1) ability to understand and meet the requirements of the PWS; (2) staff and personnel qualifications; (3) offeror qualifications; and (4) quality control plan. Price was to be evaluated to determine whether it was "realistic, reasonable, and complete."

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[1]Section 8(a) of the Small Business Act authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. Federal Acquisition Regulation (FAR) § 19.805 and 13 C.F.R. § 124.311 (1992) provide for and govern competitively awarded contracts set aside for section 8(a) qualified concerns. We review competitive 8(a) procurements to ensure that they conform to applicable federal procurement regulations. See Morrison Constr. Servs. Inc., 70 Comp. Gen. 139 (1990), 90-2 CPD ¶ 499; New Life Group, Inc., B-247080.2, May 22, 1992, 92-1 CPD ¶ 463.

Five offerors submitted proposals by the September 18, 1992, closing date. The technical evaluators concluded that two of the five--Crestmont and Dimaya Enterprises, Inc.--submitted technically acceptable proposals. The evaluators concluded that Quarles' proposal was unacceptable, would require "a major revision to make it acceptable," and was not considered to be within the competitive range.[2] Specifically, the evaluators found that Quarles' proposal did not address any of the PWS requirements set forth in section C-5. They concluded that, in light of the omissions, it was "impossible to evaluate the offeror's ability to perform." The agency awarded the contract to Crestmont based on its low-priced acceptable initial proposal.

Quarles complains that the evaluators did not carefully read its proposal since, according to the firm, its proposal does address the PWS requirements. Quarles states that its technical proposal "is 91 pages[3] of dense information addressing every aspect of the work to be performed." The protester asserts further that "[i]t would be very difficult indeed to prepare a 91-page technical proposal and never touch upon the work to be performed under the contract."

The evaluation of proposals and the resulting determination as to whether an offeror is in the competitive range are matters within the discretion of the procuring agency, since that agency is responsible for defining its needs and deciding on the best methods of accommodating them. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. We will question the agency's technical evaluation only where the record shows that the evaluation does not have a reasonable basis or is inconsistent with the RFP. JEM Assocs., B-245060.2, Mar. 6, 1992, 92-1 CPD ¶ 263. The fact that the protester disagrees with the agency does not itself render the evaluation unreasonable. Id. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, the agency is not required to include the proposal in the competitive range. See DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36.

From our review of the record, we find that the agency's evaluation of Quarles' proposal and conclusion that the proposal was not within the competitive range were reasonable and consistent with the terms of the RFP. The

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[2]In addition, Quarles offered a higher price than each of the two firms which submitted proposals determined to be within the competitive range.

[3]The RFP stated that technical proposals shall be limited to 75 pages in length.

RFP clearly instructed offerors that the PWS requirements must be addressed to demonstrate the offeror's understanding and ability to meet those requirements. Quarles simply disregarded this instruction in the preparation of its proposal and, as a result, the proposal failed to address the PWS requirements.

Quarles does not argue that its proposal addressed the requirements sequentially or provided an index relating the PWS requirements to the applicable portions of its proposal. While Quarles generally claims that all of the PWS requirements were addressed on pages 8-14 of the Quality Control Plan of its proposal, this assertion is contradicted by the record. The referenced pages contain a checklist, entitled "quality control daily inspection sheet." The vast majority of the items on the checklist relate only to cleaning. The protester is simply incorrect that the checklist items address the specific tasks listed in section C-5 of the PWS.

In addition to its general statement, Quarles' protest submissions discuss specifically only one of the eight tasks in question, "food service equipment maintenance." Contrary to the protester's assertions, Quarles' proposal does not in fact address even this requirement. The food service equipment maintenance requirement stated that the contractor "shall perform minor maintenance on all food service equipment." It provided further that "Minor maintenance (operator care and maintenance) includes cleaning, adjusting, oiling, and greasing equipment, tightening nuts and bolts, and performing other user maintenance recommended by the manufacturer."

The protester points to four different portions of its proposal which purport to address this requirement; two sections discuss cleaning of equipment, one discusses "washing," and the last section, entitled "equipment cleaning," states that "it is necessary to take a few minutes daily to clean and check our equipment" in order to control bacteria. While clearly the proposal addressed cleaning of equipment, it addressed neither maintenance of equipment in general nor the specific tasks involved.

In sum, the record supports the agency's conclusion that the protester's proposal did not address PWS requirements as required by the RFP. This significant deficiency effectively precluded an assessment of whether the firm understood the requirements, which, according to the RFP,

was the "purpose of the technical evaluation." See American Body Armor & Equip., Inc., B-241517.2, Apr. 30, 1991, 91-1 CPD ¶ 423. Thus, we have no basis to object to the agency's conclusion that the proposal was unacceptable and would require major revisions to become acceptable. Under these circumstances, the agency properly considered Quarles' proposal to be outside the competitive range.

Quarles also challenges the evaluation of Crestmont's proposal and speculates that Crestmont was given information concerning the agency's requirements that other offerors were not given. The Air Force contends that since Quarles' proposal was not in the competitive range, it is not an interested party to challenge the award to Crestmont.

Quarles argues that it should be considered an interested party since the evaluation record shows that the agency would not award the contract to the second low offeror, Dimaya, if Quarles' protest were sustained and Crestmont were eliminated from the competition. In this regard, the protester asserts that the agency concluded that Dimaya's initial price proposal contained "obvious and profound" flaws. Thus, Quarles argues that if Crestmont were eliminated, the agency could not make award to Dimaya based on its initial proposal but would have to conduct discussions with the firm and, under those circumstances, it should also conduct discussions with it. Under this scenario, Quarles could improve its proposal and thus have a reasonable chance for award.

Under our Bid Protest Regulations, we will only consider a protest by an interested party, i.e., an actual or prospective offeror whose direct economic interest would be affected by the award or by the failure to award a contract. 4 C.F.R. § 21.0(a) (1992); AMEWAS, Inc.--Recon., B-247656.2, June 24, 1992, 92-1 CPD ¶ 541. A party is not interested to maintain a protest if it would not be in line for award if its protest were sustained. NES Gov't Servs., Inc., B-248638.3; B-247111.4, Nov. 24, 1992, 92-2 CPD ¶ 369. For the reasons set forth below, we agree with the agency that Quarles is not an interested party to challenge the evaluation of Crestmont or the award to that firm.

First, we have considered that Quarles' proposal was properly excluded from the competitive range and therefore the agency is not required to hold discussions with that firm. See Electronic Sys. USA, Inc., B-246110, Feb. 14, 1992, 92-1 CPD ¶ 190. Second, with respect to Dimaya's proposal, the Air Force found that it was acceptable although it contained "minor deficiencies" which could have been corrected through discussions, and the Air Force concluded that the firm was within the competitive range. While it appears that these deficiencies would have

precluded Dimaya from receiving the award based upon its initial proposal, we have no basis to object to the agency's decision to include the firm in the competitive range.

Since Quarles' proposal was properly eliminated from the competitive range, and there was at least one other proposal besides the awardee's in the competitive range, Quarles is not an interested party to challenge the award. GBF Med. Group/Safety Prod. Mktg., Inc.--Recon., B-250923.2, Nov. 24, 1992, 92-2 CPD ¶ 378. This is so because, if we were to sustain the protest with respect to Crestmont and that firm were eliminated from the competition and the agency were to conduct discussions, discussions would be held with Dimaya, not Quarles. Under the circumstances, the protester would still not be eligible for the award of this contract. We therefore dismiss these protest grounds. See ASEA Inc., B-216886, Feb. 27, 1985, 85-1 CPD ¶ 247.

The protest is denied in part and dismissed in part.

Robert P. Murphy
for James F. Hinchman
General Counsel