



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

241128

Decision

Matter of: Tri-Services, Inc.

File: B-256239.2

Date: August 12, 1994

DECISION

Tri-Services, Inc. protests the award of a contract to Rohman Services, Inc. under request for proposals (RFP) No. F01600-93-RA012, issued by the Department of the Air Force for test, measurement, and diagnostic equipment repair, calibration, and certification services.

We dismiss the protest.

The RFP, issued as a total small business set-aside, contemplated the award of a fixed-price requirements contract for a base and four option years. The RFP provided that award would be made to the responsible offeror, whose offer, conforming to the solicitation, was determined to be most advantageous to the government, cost and other factors considered. Technical factors were said to be more important than price.

Offerors were informed that the evaluation of proposals would be conducted under the streamlined source-selection procedures of Air Force Regulation 70-30, which provides for the evaluation of technical proposals under a color/adjectival rating scheme,¹ and for the evaluation of proposal risk to assess the risk associated with an offeror's proposed approach and performance risk to assess the probability of success based on an offeror's past and present performance.²

The RFP requested the submission of technical and cost proposals, and contained detailed instructions regarding the preparation of proposals. The RFP included pricing schedules for the base year and each of the four option years, and specified that "price proposals shall include the price in the format contemplated" by these schedules.

¹The color/adjectival ratings were blue/exceptional, green/acceptable, yellow/marginal, and red/unacceptable.

²The evaluation ratings for proposal risk and performance risk were high, moderate, and low.

The RFP cautioned that the submission of "[a]n incomplete price proposal . . . may be grounds for eliminating a proposal from [the] competition," and that "[o]fferors must offer on all items including, but not limited to, the options. Any offer which fails to cite a unit price for each shall be rejected as nonresponsive." The RFP also incorporated by reference Federal Acquisition Regulation (FAR) § 52.217-5, Evaluation of Options, which states in pertinent part that "the [g]overnment will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement."

The Air Force received five proposals, including the proposals submitted by Tri-Services and Rohman, by the RFP's closing date of June 29. The proposals of Tri-Services, Rohman, and another offeror were included in the competitive range, while the proposals of the remaining two offerors were excluded from the competitive range.

Discussions were conducted, and best and final offers (BAFOs) received. The BAFO of Rohman was evaluated as "green/acceptable" with "low" proposal risk at a total price of \$2,207,276, while the BAFO of the third offeror included in the competitive range was evaluated as "green/acceptable" with a "moderate" proposal risk at a price of \$2,472,929. The BAFO of Tri-Services was evaluated as "green/acceptable" with "low" proposal risk. The agency found, however, that while Tri-Services had submitted a price proposal with its initial proposal that was complete in all respects, it did not submit any pricing for the fourth option year with its BAFO, as required by the solicitation. For evaluation purposes, the agency estimated Tri-Services's total price as either \$2,318,679 or \$2,322,475, with the first figure based on the assumption that Tri-Services's fourth option year price would be the same as that set forth in its initial proposal, and the latter figure based on the assumption that Tri-Services's fourth option year price would be the same as that proposed for the third option year in its BAFO.

The agency determined that the slight technical superiority of Tri-Services's proposal was not worth its higher price, and selected Rohman's proposal as that which represented the best overall value to the government.¹ Although, as stated previously, this was a small business set-aside, award was made to Rohman on December 30 without prior notification to offerors because the agency made a written determination pursuant to FAR § 15.1001 that the urgency of the

¹For the purposes of determining which proposal represented the best overall value to the government, the agency considered Tri-Services's price at the \$2,318,679.74 amount.

requirement necessitated award without delay. Tri-Services and the other unsuccessful offerors were notified of the award by letters dated December 30.

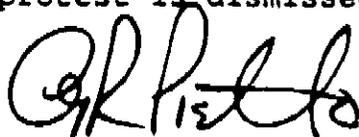
Tri-Services protests that the agency's selection of Rohman for award was unreasonable in view of the agency's determination that Tri-Services's technical proposal was slightly superior. Tri-Services also protests that agency's affirmative determination of Rohman's responsibility was unreasonable and evidenced bad faith, and that the agency acted improperly by failing to provide Tri-Services with pre-award notice that Rohman was the apparent successful offeror.

The Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551, 3553(a) (1988), requires that a protester be an interested party before we will consider its protest. Our Regulations define an interested party entitled to pursue a protest as a "offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract. 4 C.F.R. § 21.0(a) (1994). A party is not interested to maintain a protest if it would not be in line for award if the protest were sustained. 4 C.F.R. § 21.0(a) and 21.1(a); PB Inc., B-239010, July 24, 1990, 90-2 CPD ¶ 69.

As noted above, Tri-Services failed to submit any pricing for the fourth option year as required by the RFP. The submission of such information was a material requirement of the RFP, and Tri-Services's failure to submit prices for the fourth option year rendered its BAFO unacceptable. Siegels, Inc., B-231030, Apr. 28, 1988, 88-1 CPD ¶ 416. This is so because in negotiated procurements, any proposal that fails to conform to the material terms and conditions of the solicitation should be considered unacceptable and cannot form the basis for an award. Sonshine Enters., B-246268, Feb. 26, 1992, 92-1 CPD ¶ 232. Among other things, the failure to provide required option year prices causes doubt as to whether the offeror has obligated itself to provide the option year services. See, e.g., UpSide Down Prods., B-243308, July 17, 1991, 91-2 CPD ¶ 66. We note that here the Air Force was under no obligation to reopen discussions to allow Tri-Services the opportunity to correct this material deficiency that Tri-Services first introduced in its BAFO. See Armament Eng'g Co., B-230204, May 27, 1988, 88-1 CPD ¶ 505. Because there is another acceptable offeror

who would be in line for award if Rohman's proposal were rejected, Tri-Services is not an interested party for the purposes of pursuing this protest. Collins & Aikman Corp., B-247961, July 22, 1992, 92-2 CPD ¶ 41.

The protest is dismissed.



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