



Comptroller General
of the United States

3521310

Washington, D.C. 20548

Decision

Matter of: Management & Industrial Technologies
Associates

File: B-257656

Date: October 11, 1994

Carolyn H. Evans for the protester.
Lee Wolanin, Esq., Department of Transportation, for the
agency.
Katherine I. Riback, Esq., and Paul Lieberman, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Protester's proposal which failed to satisfy several minimum
requirements of the RFP was properly rejected as
unacceptable.

DECISION

Management & Industrial Technologies Associates (MITA)
protests the award of a contract to Acquisition Management
Institute (AMI) under request for proposals (RFP) No. DTRS-
57-94-R-00010, issued by the Department of Transportation
(DOT). MITA contends that the DOT improperly rejected its
proposal.

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

The agency issued the RFP on February 3, 1994, seeking
proposals for a firm, fixed-price contract to develop,
present, and revise, as necessary, a training course on the
government procurement process for contracting officer
technical representatives (COTR).

The RFP stated that award would be made to the responsible
offeror whose proposal was considered most advantageous to
the government, price and other factors considered. The RFP
provided that technical factors would be more important than
price, and listed the following technical factors:

- (1) "Technical/Managerial Approach;" (2) "Key Personnel;"
- (3) "Experience and Past Performance;" and
- (4) "Videotaping." The first two technical factors were of
equal, but greater weight, than the remaining two technical
factors which were also equal in weight.

The RFP instructed offerors to submit separate technical and price proposals. According to the RFP, the technical proposals were to be divided into four sections, each representing a designated technical factor. Offerors were cautioned to address each technical factor in an explicit and comprehensive manner within the page limits that were set for each section. In the "Technical/Managerial Approach" section, offerors were to provide their approach for conveying the subject matter; additionally, offerors were to submit a sample of proposed course materials and a proposed syllabus for one 5-day session. In the "Key Personnel" section, offerors were asked to describe their staffing plan and provide resumes for all proposed key personnel.¹ In the "Experience and Past Performance" section, offerors were asked to discuss their corporate experience in developing and presenting similar government acquisition training courses; offerors were instructed to provide the titles of courses that the company had offered, plus location, date, type of audience, and a point of contact. In the last section, "Videotaping," offerors were requested to submit a standard VHS tape of the proposed instructor(s) conducting a government training class.

The RFP also provided that the agency intended to evaluate proposals and make award without conducting discussions, unless the contracting officer determined that discussions were necessary, and cautioned offerors that initial proposals should contain the offeror's most favorable price and technical terms.

On February 24, MITA requested a 2-day extension to the closing date for submission of initial proposals because it needed additional time to prepare its videotape. This request was denied by the agency. Five offers were submitted by the March 7 closing date, and were forwarded to the technical evaluation team (TET) for review. AMI's proposal was found to exceed minimal requirements while two other proposals were found to meet the minimum requirements. MITA's proposal was found technically unacceptable because it did not satisfy the minimum RFP requirements with regard to several of the technical criteria. In particular, MITA failed to propose a course designer/technical writer, which the RFP designated as a key personnel position and failed to demonstrate corporate experience in developing and presenting similar government acquisition courses. DOT awarded the contract to AMI without discussions on June 3.

¹The positions of instructor and course designer/technical writer were designated as key personnel positions under the RFP, and education and experience requirements for these positions were included in the RFP.

This protest to our Office followed. MITA contends that the agency improperly evaluated its proposal and that the evaluators were biased in favor of AMI.

The evaluation of proposals is 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 by itself render the evaluation unreasonable. Id.

The record provides no basis to question the assessed deficiencies in MITA's proposal that resulted in its rejection as unacceptable. The RFP clearly stated that the requirements of each technical factor must be addressed to demonstrate the offeror's understanding and ability to meet those requirements. MITA simply disregarded this instruction in the preparation of its proposal and, as a result, the proposal completely failed to address, or failed to adequately address, various solicitation requirements.

Under the "Technical/Managerial Approach" factor, MITA's two-instructor approach was considered an advantage. However, this section had a limit of 20 pages and MITA submitted 4 pages on training methods and techniques, and approximately 200 pages of sample course material. MITA states that it intended that the agency "evaluate any 16 pages that they chose." The agency only considered the first 16 pages of MITA sample course material. One evaluator concluded that MITA's "[c]lass schedule without explanation is difficult to interpret from only 16 pages of Attachment J.2 (the sample course material)." The agency removal of the pages that exceeded the page limit from MITA's proposed sample course materials was proper. See Infotec Dev., Inc., B-238980, July 20, 1990, 90-2 CPD ¶ 58. Based on our review, MITA's disregard for the designated page limit properly led to its proposal being considered deficient for this factor. Id.

Regarding the "Key Personnel" factor, MITA failed to designate a course designer/technical writer. This was considered a deficiency since this position was designated a key personnel position under the RFP. MITA acknowledges that it did not provide a course designer, but asserts that it did not view this as a necessary position, since any

revisions would be accomplished by the instructors. Given the key personnel requirements identified in the RFP, MITA's excuse for not offering a course designer position was not acceptable.²

Concerning the "Experience and Past Performance" factor, the TET noted that MITA's proposal did not demonstrate corporate experience in developing and presenting similar government acquisition courses. MITA asserts that this information was included in the resumes of MITA's instructors in the "Key Personnel" section, but admits that it did not demonstrate any experience as a corporate entity in providing COTR training. MITA's apparent sole reliance on the experience of its key personnel was misplaced since the RFP called for the evaluation of the corporate experience separately from the experience of the individual employees. Since a firm's experience is usually considered to be different from its employees' individual experience, where, as here, the RFP provided for separate evaluation of these areas, the agency's evaluation in this regard was reasonable and proper. Crimson Enters., Inc., B-243193.4, June 12, 1992, 92-1 CPD ¶ 512.

Regarding the "Videotaping" factor, the TET noted that MITA's two-instructor approach was not apparent from the videotape, notwithstanding that the RFP required that the proposed approach be evident from the videotape. In response, the protester complains that the agency's denial of its request for a 2-day extension in the submission of initial proposals, contributed to the admitted poor quality of its videotape. This protest ground is untimely as it concerns an apparent solicitation impropriety, which must be filed prior to the closing time for receipt of initial proposals. Topley Realty Co., Inc., 65 Comp. Gen. 510 (1986), 86-1 CPD ¶ 398. In any case, the RFP permitted offerors 32 days to submit their proposals. A minimum 30-day response period for receipt of proposals for all but a limited number of procurements. Federal Acquisition Regulation § 5.203(b); Hadson Defense Sys., Inc.; Research Dev. Labs., B-244522; B-244522.2, Oct. 24, 1991, 91-2 CPD ¶ 368.

Regarding MITA's allegation that contracting officials were biased against it and in favor of AMI, the protester has

²To the extent that MITA is now objecting to the designation of course designer/technical writer as a key personnel position, this aspect of the protest is untimely. Our Bid Protest Regulations require that protests based upon alleged improprieties in an RFP which are apparent prior to the closing time for receipt of initial proposals be filed prior to that date. 4 C.F.R. § 21.2(a)(1) (1994).

presented absolutely no evidence of such bias. Rather, MITA merely infers bias because its proposal was rejected as unacceptable. We will not attribute bias in the evaluation of proposals on the basis of inference or supposition. TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37. Accordingly, we find this allegation without merit.

In sum, the record supports the agency's determination to reject the protester's proposal as it did not adequately address RFP requirements.

The protest is denied in part and dismissed in part.

for James A. Spangenberg
Robert P. Murphy
Acting General Counsel