



**GAO**

Accountability \* Integrity \* Reliability

**Comptroller General  
of the United States**

**United States Government Accountability Office  
Washington, DC 20548**

**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This version has been approved for public release.

## Decision

**Matter of:** LOTOS S.r.l.

**File:** B-411717.5

**Date:** November 19, 2015

---

Herman M. Braude, Esq., and Edward Manchester, Esq., Braude Law Group, PC, for the protester.

Kenneth J. Rich, Sr., Esq., Department of the Navy, Naval Facilities Engineering Command, for the agency.

K. Nicole Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### **DIGEST**

In a procurement conducted under two-phase design-build selection procedures, protest of agency's decision to eliminate protester's phase one proposal from further competition is denied where the record shows that the agency reasonably found the proposal unacceptable under the solicitation's technical approach factor.

---

### **DECISION**

LOTOS S.r.l., located in Catania, Italy, protests the exclusion of its proposal from the second phase of competition, under request for proposals (RFP) No. N33191-15-R-0821, issued by the Department of the Navy, Naval Facilities Engineering Command, for design-build and design-bid-build services to be performed in Sigonella, Italy. LOTOS argues that the agency improperly evaluated its phase one proposal and unreasonably eliminated it from phase two of the competition.

We deny the protest.

### **BACKGROUND**

The agency issued the RFP on March 11, 2015, contemplating the award of approximately five indefinite-delivery/indefinite-quantity contracts, under a multiple-award construction contract, for a one-year base period and four one-year option periods. RFP at 18. The RFP sought the performance of construction projects located in the Sigonella area of operation, including the construction,

renovation, repair, and demolition of facilities, waterfronts, airfields, and other related infrastructure, and provided that the agency would issue fixed-price task orders to the awardees for specific projects. RFP at 9.

The RFP provided for awards to be made on a best-value basis, using a two-phase evaluation process, and considering the following factors: (1) technical approach; (2) experience; (3) past performance; (4) safety; (5) technical solution; and (6) price. Id. at 18. The RFP established that the technical approach, experience, and past performance factors would be considered during phase one, and required that proposals set forth full, accurate, and complete information as required by the RFP. RFP at 17-18. The RFP advised offerors that a proposal found unacceptable under the technical approach factor during the first phase of the competition would not be considered during phase two.<sup>1</sup> Id. at 18.

As relevant here, the RFP indicated that, under the technical approach factor, the agency would evaluate the composition and management of the firms proposed as the design-build team. Id. at 19. In this regard, the RFP directed offerors to provide a narrative describing the proposed primary construction and design firms, the rationale for the proposed arrangement, and the roles, responsibilities, and contractual relationships between the firms. Id. As part of the narrative, offerors were to include a simple organizational chart that clearly identified the lines of authority between the firms. Id. The RFP advised offerors that the assessment of an offeror's technical approach would be used as a means to evaluate the organizational structure and teaming relationships proposed by the offeror. Id.

In response to the RFP, the agency received fourteen proposals. Agency Report (AR) at 2. On June 16, the agency notified unsuccessful offerors, including LOTOS, that their proposals would not be considered during the second phase of the competition, and provided LOTOS with a debriefing on June 19. Id. On June 29, LOTOS filed a protest with our Office, alleging that the agency had misevaluated its proposal. Subsequently, the agency notified our Office of its decision to take corrective action by reevaluating LOTOS' proposal and making a new source selection decision, if appropriate. Accordingly, we dismissed the protest as academic. LOTOS S.r.l., B-411717.1, July 28, 2015 (unpublished decision).

The source selection evaluation board (SSEB) reevaluated LOTOS' proposal, rating LOTOS unacceptable under the technical approach and experience factors, and assigning LOTOS' proposal a limited confidence rating under the past performance factor. AR at 3. As relevant here, the technical approach factor was rated unacceptable based on two deficiencies identified by the SSEB: (1) LOTOS failed to

---

<sup>1</sup> The RFP provided that proposals would receive an acceptable or unacceptable rating under the technical approach factor. RFP at 18.

provide a narrative that described the roles, responsibilities, and contractual relationships between the proposed firms; and (2) LOTOS did not provide an organizational chart that illustrated the lines of authority between the proposed entities. AR, Tab 5, Technical Re-Evaluation Report at 6. Following the reevaluation, on August 5, the agency notified LOTOS that its proposal was excluded from the second phase of the competition, and subsequently provided LOTOS with a debriefing. AR, Tab 6, Notification of Non-Selection; AR at 2. This protest followed on August 20.

## DISCUSSION

LOTOS challenges the agency's assignment of an unacceptable rating to its proposal under the technical approach factor, arguing that the two deficiencies identified by the SSEB were not justified because its proposal contained all of the information sought by the RFP.<sup>2</sup> Comments on AR at 2. Based on our review of the record, there is no basis for finding the agency's evaluation unreasonable.

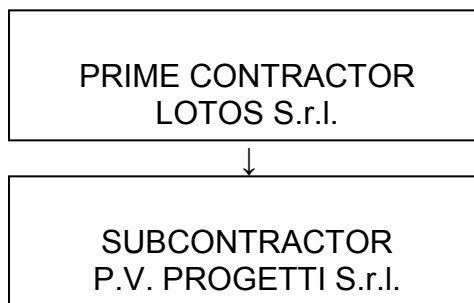
The evaluation of an offeror's proposal is a matter largely within the agency's discretion. Frontline Healthcare Workers Safety Found., Ltd., B-402380, March 22, 2010, 2010 CPD ¶ 91 at 5. In reviewing a protest that challenges an agency's evaluation of proposals, our Office will not reevaluate proposals, but, rather, will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Ocean Servs., LLC, B-406087, B-406087.2, Feb. 2, 2012, 2012 CPD ¶ 62 at 5. A protester's disagreement with the agency's evaluation, without more, provides no basis to question the reasonableness of the evaluators' judgments. Mike Kesler Enters., B-401633, Oct. 23, 2009, 2009 CPD ¶ 205 at 2-3.

As noted above, the SSEB found LOTOS' proposal unacceptable under the technical approach factor, based on two deficiencies identified in LOTOS' technical proposal. AR, Tab 5, Technical Re-Evaluation Report at 6. The SSEB found that the narrative in LOTOS' technical proposal did not include descriptions of the roles, responsibilities, or contractual relationships of the prime construction firm, LOTOS,

---

<sup>2</sup> LOTOS also challenged the ratings assigned to its proposal under the experience and past performance factors, as well as the SSEB's conclusion that its cover sheet was insufficient. The solicitation provided that proposals rated unacceptable under the technical approach factor during the first phase of the evaluation would be excluded from consideration during the second phase of the evaluation. RFP at 18. As such, because the record supports the assignment of an unacceptable rating to LOTOS' proposal under the technical approach factor during the first phase of the evaluation, we need not address the other arguments raised by the protester. AR, Tab 5, Technical Re-Evaluation Report at 6.

and the proposed design firm, P.V. Progetti S.r.l. (P.V.), as required. The SSEB noted, for example, that LOTOS' proposal lacked a description of the communication structure between the firms, the tasks each firm would complete for any given project, and the contractual relationship that defines the relationship between the firms. AR, Tab 5, Technical Re-Evaluation Report at 6. In addition, the SSEB concluded that the organizational chart provided in LOTOS' proposal, which indicated little more than the fact that LOTOS would be the prime contractor with P.V. as its subcontractor, failed to identify relationships in sufficient detail to allow the agency to evaluate the organizational structure and teaming relationships between the design firm and the offeror. Id. The organizational chart consisted of the following diagram:



AR, Tab 13b, LOTOS Technical Proposal at 3.

Regarding LOTOS' failure to provide the required narrative describing the roles, responsibilities, and relationships of its team members, LOTOS asserts that it provided all of the required information. LOTOS, however, fails to support its assertion with references to its proposal. Comments on AR at 2. This failure is not surprising because LOTOS' technical proposal was almost completely comprised of descriptions of the individual firms' qualifications and previous work experience, and included few, if any, details about the assignment of roles and responsibilities among the proposed firms, or the firms' contractual relationship. In other words, while the proposal provided information about LOTOS and about P.V., the proposal provided very little detail about how the two firms would work together.

It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. Mike Kesler Enters., supra. An offeror that does not affirmatively demonstrate the merits of its proposal risks rejection of its proposal. HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5. Proposals with significant informational deficiencies may be excluded, whether the deficiencies are attributable to either omitted or merely inadequate information addressing fundamental factors. Americom Gov't Servs., Inc., B-292242, Aug. 1, 2003, 2003 CPD ¶ 163 at 4.

Additionally, LOTOS' argument that the SSEB used unstated evaluation criteria in assigning a deficiency to its proposal based on its failure to provide a sufficient

organizational chart is nothing more than disagreement with the agency's evaluation and is therefore without merit. Comments on AR at 2. The RFP required offerors to provide a simple organizational chart that clearly identified the lines of authority between the proposed firms as part of a detailed narrative that would be used to evaluate the organizational structure and teaming relationships proposed by the offeror. Id. at 19. In that context, it is reasonable for the agency to have expected more information than that provided by LOTOS in its narrative description and accompanying organizational chart, which depicted nothing more than two boxes showing the prime contractor sitting above its subcontractor. As discussed above, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. Mike Kesler Enters., supra. Here, LOTOS simply failed to provide sufficient information to allow the agency to carry out a meaningful evaluation of the structure and teaming relationships between the design firm and offeror. AR, Tab 5, Technical Re-Evaluation Report at 6. As such, we have no basis to question the reasonableness of the agency's evaluation of LOTOS' proposal under the technical approach subfactor, or the ensuing elimination of LOTOS' proposal from phase two of the competition.

The protest is denied.

Susan A. Poling  
General Counsel