



United States Government Accountability Office
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Decision

Matter of: Dynamic Systems Technology, Inc.

File: B-411795

Date: October 23, 2015

Janice Davis, Esq., Davis & Steele, for the protester.
Richard B. O'Keefe Jr., Esq., Wiley Rein LLP, for the intervenor.
Maj. Christopher C. Cross, Department of the Army, for the agency.
Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably evaluated protester's proposed staffing approach as unacceptable where the protester relied on staff assigned to a contract at another agency or to another function to conduct mobile educational workshops, subject to the availability of such staff, thereby calling into question the likely availability of the required staff.

DECISION

Dynamic Systems Technology, Inc. (DysTech), of Fairfax, Virginia, protests the Department of the Army's award of a contract to Cybermedia Technologies, Inc. (CTEC), of Reston, Virginia, under request for task order proposals (RFTOP) No. PSS000-15-R-0002, for educational services. DysTech asserts that the agency unreasonably evaluated its proposal as unacceptable.

We deny the protest.

BACKGROUND

The solicitation contemplated a competition among small business concerns that hold indefinite-delivery/indefinite-quantity (ID/IQ) contracts under the Army's Personnel Services and Support Multiple Award Task Order Contract program. The solicitation provided for issuance of a task order, with a 60-day phase-in period, 10-month base period, two 12-month options, and an option to extend for 6 months, for education counseling, academic and career workshops, and higher education

track classes, for service members being separated from active duty (transitioning students).¹ Vendors were required to provide services at installations and satellite locations, and to provide workshops at mobile locations, inside (CONUS) and outside (OCONUS) the continental United States. Performance Work Statement § 1.4.5.

The solicitation provided that the task order would be issued to the offeror that submitted the lowest-priced, technically acceptable offer. RFTOP at 79. Proposals were to be evaluated under three evaluation factors: (1) technical, including elements (“questions in evaluating technical proposals”) for staffing approach, training plan, approach to minimizing turnover, ability to manage a dispersed workforce, and experience; (2) past performance; and (3) price. RFTOP at 79-80. The technical factor and elements were to be evaluated as acceptable or unacceptable; a rating of unacceptable under any element rendered the proposal ineligible for award.² *Id.* Regarding price, offerors were required to propose daily unit prices for the phase-in period, monthly prices for workload support, unit prices for higher track classes, unit prices for mobile component support, and travel expenses. RFTOP, Bid Schedule.

Six vendors responded to the solicitation. Following the evaluation, DysTech’s proposal was found unacceptable under the staffing element, and therefore ineligible for award. After a written debriefing, DysTech filed this protest with our Office.

¹ The solicitation anticipated issuance of a **task order** to a contractor under the Personnel Services and Support Multiple Award Task Order Contract program. The agency argues that we do not have jurisdiction because it awarded a task order to CTEC for less than \$10 million. *See* 10 U.S.C. § 2304c(e)(1)(B). The solicitation, however, provided for the award of a task order for a 60-day phase in period and a 10-month base period, with two 12-month option periods and an option to extend services for up to six months. While the total value of CTEC’s proposal for the phase-in, base period, and option periods was only \$9,413,550, when the option to extend services is considered, the total value increases to \$11,009,431, the “EVALUATED” price considered by the agency in its award determination. Price Evaluation at 1-2. Since the evaluated price here was more than \$10 million, our Office has jurisdiction to hear the task order protest. *See Serco, Inc.*, B-406061.1, B-406061.2, Feb. 1, 2012, 2012 CPD ¶ 61 at 6-7.

² The solicitation cautioned that “[a] negative response to any of these questions will be considered a failure to meet minimum requirements and proposal will be deemed ‘unacceptable.’” RFTOP at 79.

Discussion

DysTech asserts that the agency unreasonably found its proposal unacceptable under the staffing element. With respect to staffing, the solicitation provided that the government would evaluate whether the offerors' "labor mix, labor hours, qualifications and cross-utilization of proposed workforce . . . address the offeror's ability to perform all performance work statement requirements to include support at satellite locations and mobile workshop requirements." RFTOP at 79.

In addressing the mobile workshop requirement, DysTech's proposal provided as follows:

[DELETED]

Technical Proposal at 6. The agency rated DysTech unacceptable for the technical staffing element because it was concerned that DysTech's proposal to perform the mobile workshop requirement was contingent on **[DELETED]**. Source Selection Decision Document at 12. Further, DysTech's proposed staffing to meet the performance requirements at the installations and satellite locations was lower than the **[DELETED]**. *Id.* The agency thus questioned whether DysTech had the flexibility to support the mobile workshop requirements if resources **[DELETED]**. *Id.*

DysTech asserts that the agency based its conclusion that DysTech proposed too few individuals to support the mobile workshop requirement on a faulty reading of its proposal. DysTech notes that in Appendix A to its proposal it included a spreadsheet with **[DELETED]** hours indicated for mobile workshops; the protester asserts that these were additional hours, not included in installation support, and were more than sufficient to staff the 65 workshops the agency estimates vendors will be required to conduct. Regarding scheduling **[DELETED]** DysTech asserts that the agency's concern assumes that the mobile workshops will take place without advance planning. DysTech notes that to the contrary, the solicitation provides that the workshops will be scheduled in advance. According to DysTech, since the workshops will be scheduled in advance, it will have sufficient time and resources to schedule personnel without any conflicts.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency, but instead examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. William J. Brant, Jr. & Assocs., B-406908, Sept. 26, 2012, 2012 CPD ¶ 264 at 3. The protester bears the burden of proving that an evaluation was unreasonable, and disagreement with the agency's evaluation, without more, provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Wash., Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

The evaluation here was reasonable. In Appendix A to its proposal, DysTech estimated the number of hours it will need to support each of the installations and the workshops. Technical Proposal, Appendix A. DysTech estimated the number of hours necessary to provide workshop support as **[DELETED]**. Id. at 3. The appendix, however, did not provide any information to indicate that these **[DELETED]** hours will be performed by personnel **[DELETED]**. On the contrary, DysTech's proposal specifically stated that it would meet the mobile workshop requirement initially using personnel **[DELETED]**. Technical Proposal at 6.

Since DysTech did not otherwise explain in its proposal how it would be able to meet the requirement for mobile workshops, the agency reasonably evaluated its proposed staffing for that requirement as contingent, subject to the **[DELETED]**. Further, since the personnel available for the mobile workshop requirement were either **[DELETED]**, we find to be reasonable the agency's conclusion that DysTech's approach to staffing the mobile workshop requirement was so uncertain as to be unacceptable. In these circumstances, the agency reasonably found DysTech's proposal to be unacceptable for failure to demonstrate an adequate approach to "perform[ing] all PWS requirements to include support at satellite locations and mobile workshop requirements." RFTOP at 79.

The protest is denied.

Susan A. Poling
General Counsel