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Decision

Matter of: Coastal Drilling, Inc.

File: B-285085.3

Date: July 20, 2000

Hubert J. Bell, Jr., Esq., and Steven L. Smith, Esq., Smith, Currie & Hancock, for the protester.

William H. Carroll, Esq., Dykema Gossett, for Advanced Construction Techniques, Ltd., an intervenor.

Robert W. Pessolano, Esq., U.S. Army Corps of Engineers, for the agency.

Linda C. Glass, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where record establishes that protester's proposal was reasonably evaluated as containing deficiencies that indicated protester's inability to satisfy specified material solicitation requirements, agency reasonably found proposal technically unacceptable.

DECISION

Coastal Drilling, Inc. protests the award of a contract to Advanced Construction Techniques, Ltd. (ACT) under request for proposals (RFP) No. DACW27-00-R-0006, issued by the Department of the Army, Corps of Engineers for seepage remediation at Patoka Lake, Indiana. Coastal primarily argues that the agency's evaluation of Coastal's proposal was unreasonable because the agency improperly concluded that Coastal's proposed use of its Geomation 2380 Telemetry Unit did not meet the RFP requirement for real-time computer monitoring.

We deny the protest.

The RFP, issued on January 20, 2000, sought proposals for the construction of a specified balanced stabilized grouting based seepage cutoff for Patoka Lake.

RFP § 00130, ¶ 1. Balanced stabilized grouts were to be designed and tested to reduce grouting processes and procedures to be refined as work progressed to

achieve a residual permeability specified in “Lugeons.”¹ RFP at 1. Real-time computer monitoring with visual display of foundation permeabilities using electronic sensing of grouting parameters to determine these permeabilities was required. Id. The solicitation provided for the award of a fixed-price contract to the offeror whose proposal offered the most advantage to the government and cautioned that award could be made on the basis of initial offers without discussions. RFP § 00130, ¶ 2.6. The solicitation provided that all evaluation factors, other than price, when combined, were approximately equal to price and listed the following five evaluation factors which were to be point scored, in descending order of importance: technical approach, experience, management plan, equipment and materials, and safety. RFP § 00130, ¶¶ 3, 4. Price was not to be point scored. RFP § 00130, ¶ 2.5.

The agency received eight proposals by the March 1 closing date. All eight proposals were initially reviewed by a proposal compliance review team to ensure that they were in conformance with the RFP requirements. The seven-member evaluation board then evaluated the proposals by initially crediting the proposals with half the total points available for each sub-factor to reflect that the proposals were in conformance with the solicitation. If the board determined that a proposal exceeded the minimum requirements, the proposal was awarded additional points under the applicable sub-factor. Points were to be deducted where the board determined that a proposal did not meet the minimum requirements specified in the RFP. Agency Report, Tab 6, Evaluation Board Memorandum, at 1-2.

The evaluation board recorded its consensus scores and the comments for the various evaluation factors and sub-factors involved on the scoring sheets. The evaluation board point scoring of Coastal’s and ACT’s proposals at the factor level (with maximum available points in parentheses) was as follows:

	Coastal	ACT
Technical Approach (40,000)	14,000	37,000
Experience (30,000)	15,500	26,000
Management (15,000)	5,500	13,000
Equipment & Materials (10,000)	6,500	8,000
Safety (5,000)	3,000	2,500
Total Points (100,000)	44,500	86,500

Agency Report, Tab 6, Evaluation Board Memorandum, at 2.

¹ A Lugeon is a unit used to measure permeability defined as the flow of a specified quantity of water per minute per meter of borehole length at a specified pressure. RFP amend. 0001, § 02249, § 3.3.1.6.

The total prices proposed by these offerors were:

Coastal	\$1,329,105
ACT	\$1,594,205

Id. at 12.

In performing its detailed evaluation, the evaluation board found that Coastal's proposal, which received the lowest point score of the eight proposals, did not meet the minimum requirements of the solicitation. Specifically, the board determined that Coastal's proposal did not demonstrate the technical approach, experience, and management capabilities required to successfully perform the work, and the board recommended elimination of Coastal's proposal from further consideration for failing to satisfy the minimum RFP requirements. Id. at 11-12, 13, 14.

The evaluation board found ACT's proposal, which received the highest point score, to be a superior technical presentation that covered all aspects of the computer monitoring system and operations required in the RFP. Id. at 2. In making its award decision the agency considered that ACT submitted a superior technical proposal because ACT demonstrated the use of real-time computer monitoring software for stabilized grout at the Penn Forest Dam Replacement Project. ACT proposed two experienced computer technicians, both of whom had been involved in the development of the computer monitoring program to be used by ACT on this project. Additionally, ACT designated a CQC (contractor quality control) system manager who had been responsible for the development of the first edition of the computer monitoring software program to be used for the Patoka project. Id. at 15-17. The agency concluded that ACT's proposal, based on technical merit, experience, management, superiority and completeness along with its low risk, represented the best value to the government despite its associated higher price. Id. at 19.

In a letter dated March 28, Coastal was advised that it had not been selected for award and was provided the following "general reasons" for its nonselection: "[F]ailed to demonstrate ability to provide real time Lugeon Values; Did not demonstrate an understanding and application of Lugeon Values for grouting process; No previous experience with computer monitored grouting; No [quality control] procedures for grout properties were provided in proposal; [and] Did not provide discussion of cost control measures or resources available." Letter from Chairperson, Evaluation Board to Coastal (Mar. 28, 2000).

Coastal timely filed this protest with our Office on April 12, 2000, asserting that the evaluation of its proposal was improper because the evaluators were under the

misconception that its proposed telemetry system did not provide real-time data.² Coastal also maintains that it has the experience required by the solicitation.

The evaluation of technical proposals is primarily the responsibility of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Federal Envtl. Servs., Inc., B-260289, B-260490, May 24, 1995, 95-1 CPD ¶ 261 at 3. In reviewing protests challenging an agency's evaluation of proposals, we will not substitute our judgment for that of the agency regarding the merits of proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and applicable statutes and regulations. Id. A protester's mere disagreement with the agency's evaluation does not render it unreasonable. CORVAC, Inc., B-244766, Nov. 13, 1991, 91-2 CPD ¶ 454 at 5.

The agency determined that Coastal's system did not satisfy the solicitation requirement for real-time computer monitoring of the grouting process. Coastal asserts in its protest that its system delivers field data with the same "interval" as hard-wired systems without the disadvantages of a wired system. Coastal further argues that any delay in transmitting data is insignificant when compared with the evaluation and execution times of reacting to the incoming data and making a change in the grouting program. Protester's Comments at 2-3.

Under the technical approach factor, offerors were required to submit a work plan that demonstrated its ability to use real-time computer-aided monitoring to display changing permeabilities during grouting. RFP § 00115, ¶ 1.5. As noted above, these permeability values were required to be expressed in Lugeons. The evaluation board determined that Coastal's proposal failed to demonstrate its ability to provide real-time Lugeon values in accordance with these solicitation requirements. Agency Report Tab 7, Consensus Scoring Sheets, at 3. Instead, Coastal's proposal showed that there was an indefinite period of time which elapses between the time the data is recorded in a computer at the field site and the time the information is transferred to the computer at the monitoring site. Agency Report, Tab 18, Affidavit of Stephen T. Hornbeck, P.G. In addition, the agency determined that Coastal's proposed system did not appear to offer the required Lugeon values.

²Coastal also argues that its proposal was subject to unreasonable scrutiny because it did not propose to use the CAGES (Computer Aided Grouting Engineering System) system. However, this actually reflects the protester's untimely argument that the specifications were improperly tailored to favor proposals using the CAGES system. Protests based upon alleged improprieties in a solicitation which are apparent prior to the closing time for receipt of proposals must be filed prior to the time for closing. 4 C.F.R. §21.2(a)(1) (2000). Accordingly, this allegation is not for consideration on the merits.

While Coastal argues that its proposal demonstrated that it had the appropriate monitoring equipment and computer software to produce real-time Lugeon values, it failed to discuss or explain in any detail how its proposed system provided this capability. On the contrary, Coastal specifically stated in its proposal that its program provides a method for storing and analyzing the “near” real-time data and that the program would be customized to produce calculated Lugeon values. Agency Report, Tab 16, Coastal Proposal, § 1.a, at 2. Thus, notwithstanding Coastal’s contention that the agency misperceived Coastal’s proposed system, in fact, Coastal’s proposal expressly indicates noncompliance with the RFP requirement to provide real-time data, and states that some unspecified program customization will be needed to permit its system to produce the required Lugeon values.

In addition, offerors were required to include previous experiences with both software and hardware to demonstrate successful use of computer monitoring. The solicitation specifically provided that unproven technology and an absence of experience with the proposed computer monitoring system would be evaluated less favorably. RFP § 00130, ¶ 4. Coastal’s proposal was downgraded because it failed to demonstrate previous experience with its proposed computer monitoring system, and because the board considered Coastal’s system to represent unproven technology. Agency Report, Tab 7, Consensus Scoring Sheets, at 3. Although Coastal did indicate that several of its proposed employees, while employed with another firm, had experience working on the Center Hill Dam project under karstic conditions, Coastal failed to indicate whether its organization had experience using computerized monitoring on projects involving karstic conditions. Agency Report, Tab 16, Coastal’s Proposal, § 2.a.

In its proposal, Coastal listed one project where it, as a prime contractor, used a computerized grouting system to monitor grouting, but did not indicate whether it is the system it proposes to use for this project or whether the grouting was performed in karstic conditions.³ *Id.* Likewise, it listed three projects where its proposed subcontractor used computerized grout monitoring but again did not indicate whether it is the same system proposed here. Accordingly, we see no basis to object to the agency evaluation in this regard, since Coastal’s proposal did not show any previous company experience with its proposed computer monitoring system.

Coastal’s proposal was also downgraded because it failed to provide quality control procedures. Coastal argues that it reasonably did not propose specific procedures since the specifications called for all offerors to perform the same tests to the same

³ The specified work is to be performed in karstic conditions which, consistent with the RFP, the board recognized as a particularly complex geological environment requiring specialized understanding and ability on the part of the performing contractor. Agency Report, Tab 6, Evaluation Board Memorandum, at 18.

standards to ensure quality control on the project, and it was not necessary to simply reiterate the procedures for conducting the required quality control tests. Nonetheless, the solicitation specifically required that offerors describe the quality control procedures to be used to ensure that grout properties are acceptable prior to the start of grouting and continue to be acceptable as the work progresses. RFP § 00115, ¶ 3.b. It is undisputed that Coastal did not provide the required quality control plan and thus its proposal was reasonably downgraded by the agency in this regard.⁴

In sum, the evaluation board reasonably evaluated Coastal's low-priced proposal as materially deficient primarily for failing to offer a system that provided computer monitoring of grouting in Lugeon values on a real-time basis, and for failing to show that Coastal had the requisite computer monitoring experience called for by the RFP. Accordingly, the agency reasonably determined that Coastal's proposal was technically unacceptable, and that the proposal could not be considered for award notwithstanding its low price. Aid Maintenance Co., Inc.; Team Inc., B-255552, B-255552.2, Mar. 9, 1994, 94-1 CPD ¶ 188 at 8.

Because the agency reasonably rejected Coastal's proposal as unacceptable, Coastal lacks the requisite interest to challenge the evaluation of ACT's proposal and the agency's award decision. 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), 21.1(a). Here, since the agency reasonably found Coastal's proposal unacceptable, even if we were to sustain Coastal's protest of the evaluation of ACT's proposal, one of the other technically acceptable offerors would be in line for award. Accordingly,

⁴ Coastal's proposal was further downgraded for failure to discuss cost control measures and resources available in case work falls behind schedule. The solicitation required offerors to provide a projected schedule for the work, the supplemental resources that were available in the event the work fell behind schedule, an explanation of cost control measures that were planned, and the implementation procedures that were to be used if cost growth became a problem. RFP § 00115, ¶ 3c. In its comments on the agency report, Coastal states that throughout various sections of its proposal it described that it had additional equipment which could quickly be mobilized should quantities overrun. Protester's Comments at 5. Nonetheless, Coastal simply did not provide a cost control plan as required by the solicitation, and the agency reasonably downgraded Coastal under this factor.

Coastal is not an interested party to challenge the agency's evaluation of ACT's proposal and the resulting award determination. Collins & Aikman, Corp., B-247961, July 22, 1992, 92-2 CPD ¶ 41 at 4-5.

The protest is denied.

Robert P. Murphy
General Counsel