



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Geophex, Ltd.
File: B-246033
Date: February 13, 1992

William H. Gammon, Esq., Moore & Van Allen, and Louis L.S. Tao, Esq., for the protester.
Jacob B. Pompan, Esq., and James M. Collins, Esq., Pompan, Ruffner & Bass, for Resource Applications, Inc., an interested party.
Avital G. Zemel, Esq., Environmental Protection Agency, for the agency.
Susan K. McAuliffe, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that evaluation of awardee's proposal was improper is without merit where record shows that the agency had a reasonable basis to view the proposal as it did.
2. Protest that agency conducted an improper cost realism analysis of the awardee's cost proposal is denied where the record shows protester's allegation is based upon an erroneous assumption--that the awardee underestimated the staffing necessary to perform the contract requirements--and where record shows that agency's cost realism analysis was reasonable.

DECISION

Geophex, Ltd. protests the award of a contract to Resource Applications, Inc. (RAI) under request for proposals (RFP) No. W000441-C3, issued by the Environmental Protection Agency (EPA) for the acquisition of technical assistance services to support the agency in its emergency action responsibilities with respect to the release or threat of release of oil, petroleum, or hazardous substances that pose a substantial threat to human health or welfare, or to the environment. The protester alleges that the agency improperly evaluated the awardee's proposal.

We deny the protest.

The RFP, issued on August 1, 1990, contemplated the award of a cost-plus-fixed-fee contract for technical assistance services to implement actions (response, removal, and prevention programs) for the cleanup of oil, petroleum, or hazardous substances. The contractor will provide technical assistance in the areas of prevention planning, contingency planning, training, equipment maintenance, compliance inspections, preparedness simulations, and response simulations. The RFP contemplated the award of two contracts, one to cover services for zone 1 (EPA regions I-IV) and the other to cover zone 2 (EPA regions V-X). The RFP provided that offerors could submit proposals for both zones, but that separate technical and cost proposals were required for each zone. This protest relates to the award of a contract to RAI for zone 1.

The RFP provided that award (for each zone) would be made to the offeror whose proposal is the most advantageous to the government. The solicitation also stated that technical quality was more important than cost, but that as proposals became more equal in merit, cost would be more important. Section M of the RFP contained the following four principal technical evaluation factors for award, scored for a total of 100 points: (1) corporate experience and capability of contractor, 40 points; (2) personnel experience and availability, 25 points; (3) management plan, 25 points; and (4) quality assurance/quality control, 10 points. Concerning cost, the RFP provided that cost proposals would be evaluated to assess whether proposed costs are an adequate reflection of an offeror's understanding of the requirements.

The RFP's statement of work (SOW) required the contractor to provide a zone organization consisting of a zone program manager (ZPM), a zone program management office (ZPMO), and a technical assistance team (TAT). The ZPM and ZPMO provide overall supervision and administrative support to the TAT members (a mix of environmental scientist/engineers, environmental scientists, geologists, industrial hygienists, and chemical engineers). The RFP specified a level of effort of 14 productive man-years and the discipline mix for the TAT; however, each offeror was allowed to propose the amount of effort that it considered necessary to perform the ZPM and ZPMO responsibilities specified in the SOW.

Proposals were received by the October 22, 1990, closing date. After initial technical and cost evaluations, written interrogatories were issued to those (four) competitors, including RAI and Geophex, whose proposals were determined to be within the competitive range. Revised proposals were received on March 7, 1991. Discussions were conducted with each of the four offerors and each submitted a best and final offer. The agency's source evaluation board (SEB)

reviewed the technical evaluation panel's findings, the results of the Defense Contract Audit Agency (DCAA) audits of the cost proposals, and the cost proposal reviews of the EPA's Washington Cost Advisory Operations (WCAO). The SEB unanimously agreed that there were no significant strengths or weaknesses that distinguished the technical proposals submitted by RAI and Geophex. The SEB also found that the costs proposed by these offerors were realistic in light of their technical proposals. Since RAI's proposed cost was nearly \$3 million less than Geophex's proposed cost, the agency determined that RAI's proposal was most advantageous to the government and made an award to the firm on September 23, for \$9,924,053. On October 3, Geophex filed its protest.

Geophex contends that the agency's evaluation of RAI's technical and cost proposals was improper. The protester essentially argues that RAI underestimated the work required under the solicitation and offered an unreasonably low contract cost.¹ Specifically, Geophex contends that the ZPMO, health and safety, and quality assurance aspects of RAI's proposal fail to comply with the RFP's requirements.

First, the protester contends that RAI has not proposed sufficient manpower to satisfy these requirements. For example, Geophex contends that RAI failed to provide adequate ZPMO coverage when the ZPM is away from the ZPMO or is on travel. As stated above, the RFP did not impose a required level of effort for the ZPM and ZPMO functions and did not require a specified number of personnel for support of the ZPM. The record shows that RAI proposed a ZPMO staff which included two deputies to the ZPM which EPA found to be adequate and which would not give rise to any concern regarding coverage during the limited periods when the ZPM is not in the office. We have no basis to question the reasonableness of EPA's determination since RAI provided for two deputy ZPMs in support of the ZPM to adequately satisfy the RFP requirements.

The record also supports the reasonableness of the agency's determination that RAI's proposal adequately identifies appropriate individuals responsible for the required health and safety and quality assurance requirements. Although the RFP did not require, as the protester contends, that

¹In its comments submitted in response to the EPA's report on the protest, Geophex alleged, for the first time, that the agency, during discussions, required it to provide more detail in its technical proposal than that requested of RAI. Geophex, however, has not provided any specific evidence to support this general allegation, nor do we find that such contention is supported by the record.

separate individuals be assigned solely to each of these requirements, the resumes of the RAI employees demonstrate the employees' ability to perform these RFP requirements. Moreover, while the protester questions whether the awardee will satisfy the RFP requirement that, as part of the required quality assurance program, its auditors bypass the ZPM and report directly to contractor corporate management to minimize any actual or perceived bias, RAI's proposal includes an audit flow chart showing that the auditors will report directly to contractor corporate management, bypassing the ZPM, as required.

Second, Geophex contends that RAI's proposal fails to satisfy the RFP's requirement that the offeror's proposed quality assurance project plan comply with certain referenced EPA directives. In this respect, the RFP notified offerors that proposed quality assurance plans would be reviewed to confirm the offeror's understanding of the RFP's quality assurance requirements, and the record confirms that such review was conducted. Geophex has not submitted any evidence to show that the RAI proposal does not reflect the required understanding of the referenced EPA directives (or any other alleged regulatory requirements) or the effort necessary to comply with these directives.² Thus, we have no basis to agree with the protester on this contention.

As to the evaluation of cost, the government's evaluation of proposed costs and cost realism under a procurement for a cost-type contract is aimed at determining the extent to which the offeror's proposal represents what the contract should cost the government. Systems Research Corp., B-237008, Jan. 25, 1990, 90-1 CPD ¶ 106. An agency is not required to conduct an in-depth analysis or to verify each item in conducting a cost realism analysis. Hattal & Assocs., 70 Comp. Gen. 632 (1991), 91-2 CPD ¶ 90. Even an alleged buy-in (offering cost estimates less than anticipated costs during performance) by a low-priced offeror furnishes no basis to challenge an award where the agency knows the estimated cost of the contractor's performance before award and makes award on that knowledge. PTI Env'tl. Servs., B-230070, May 27, 1988, 88-1 CPD ¶ 504. Since a cost realism assessment necessarily involves the exercise of informed judgment and the agency is clearly in the best position to make that assessment, our Office will


²Moreover, the SOW provided that the proposed quality assurance project plan would be reviewed after award by the EPA project officer and quality assurance officer for compliance with the EPA directives.

review such a determination only to ascertain whether it has a reasonable basis. JKW Int'l Corp., B-237527, Feb. 21, 1990, 90-1 CPD ¶ 198.

Geophex's assertion that the agency improperly evaluated RAI's proposed costs is again based on the allegation that RAI underestimated the staffing necessary to satisfy the requirements of the RFP. As indicated, however, the agency found that RAI's staffing was acceptable, a determination which we have no reason to question based on our review of the record. In addition, the record shows that EPA verified RAI's proposed direct labor rates, annual escalation rate, overhead rates and subcontractor costs. In verifying proposed costs, EPA relied on information provided by the DCAA audit and the WCAO review of the proposed costs, and compared the awardee's proposed costs with RAI's current costs as a subcontractor under the current contract for zone 1. The audits took no exception to RAI's proposed costs.

Geophex does not suggest that the DCAA or WCAO's audit information was erroneous, nor is there anything in the record which calls into question the accuracy of this information. Cf. American Management Sys., Inc.; Dep't of the Army--Recon., 70 Comp. Gen. 510 (1991), 91-1 CPD ¶ 492. Moreover, the record shows that the primary reason why Geophex's proposed cost was higher than the awardee's was not, as the protester alleges, because RAI offered a "bare bones" approach to meeting the RFP's technical requirements, but because Geophex proposed substantially higher labor and overhead costs. In short, we find no merit to this assertion.

The protest is denied.


for James F. Hinchman
General Counsel