



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: National Technologies Associates, Inc.

File: B-254623.2

Date: February 15, 1994

John R. Tolle, Esq., Barton, Mountain & Tolle, for the protester.

Alan I. Saltman, Esq., and Ruth G. Tiger, Esq., Saltman & Stevens, for Global Associates, Ltd., an interested party.
Demetria T. Carter, Esq., and Victoria Heiden Kauffman, Esq., Department of the Navy, for the agency.

Daniel I. Gordon, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging technical evaluations is denied where those evaluations are reasonable and consistent with the solicitation's evaluation criteria.

DECISION

National Technologies Associates, Inc. (NTA) protests the award of a contract to Global Associates, Ltd. under request for proposals (RFP) No. N00600-93-R-1212, issued by the Department of the Navy. NTA contends that the agency's evaluation of proposals was unreasonable and inconsistent with the RFP evaluation criteria.

We deny the protest.

This procurement, a total small business set-aside, covered the development, revision, and delivery of integrated logistics support (ILS) acquisition courses. NTA is the incumbent contractor. The RFP identified certain work for which the contractor will be paid on a fixed-price basis and other work for which payment will be on a time-and-materials basis. The RFP anticipated award of an indefinite quantity, indefinite delivery contract for 1 base year with four 1-year options.

The RFP required offerors to submit resumes for 30 key personnel proposed for specified labor categories, including project manager, deputy project manager, training program coordinator, 25 instructors, and 2 instructional designers. The resumes are required to meet or exceed the minimum

personnel qualifications set forth in the RFP. The RFP states that "[a]ll key personnel must be available full-time." In an RFP amendment, the agency explained this requirement by stating that "all key personnel need to be available full-time, but can perform on a part-time basis." The RFP prohibits offerors' proposing "new hires"; the RFP explains this prohibition to limit proposed key employees to current employees and individuals who have signed commitments to work for the offeror if the offeror is awarded the contract.

Award was to be made to the responsible offeror whose conforming proposal is "most advantageous" to the government, cost or price and other factors considered. Section M of the RFP identified the technical factors to be considered, in descending order of importance, as key personnel, corporate experience, technical approach, and management plan.

Five proposals were received, two of which, NTA's and Global's, are relevant here. The agency evaluators found that Global's proposal, overall, was superior to NTA's, primarily due to superiority in the areas of corporate experience and technical approach. Global's proposed price also was significantly lower than NTA's. On the basis of the lower price and superior technical evaluation of Global's proposal, the agency selected Global for award.

NTA challenges various aspects of the evaluation. In particular, NTA contends that the technical evaluations of both its and Global's proposals were unreasonable and inconsistent with the RFP.¹

¹We briefly address several additional issues raised by the protester. NTA alleges that Global's cost proposal failed to include costs that will be incurred for instructor certification. Such costs do not appear to be covered by either the fixed-price or the time-and-materials portion of the RFP, however, and, to the extent that NTA is contending that the agency should have taken such costs into account, it is raising an untimely challenge to the RFP provisions. See 4 C.F.R. § 21.2(a)(1) (1993).

In addition, NTA argues that Global failed to submit a separate cost proposal and compensation plan for each consultant and subcontractor. While such separate proposals could perhaps have clarified the applicable indirect costs for the small percentage of overall costs represented by those entities, NTA has not shown, nor does the record indicate, that the absence of such information could have prejudiced the protester; prejudice is an essential element

(continued...)

We will review an evaluation of proposals only to determine whether the agency deviated from the solicitation's evaluation criteria or the evaluation was otherwise unreasonable. Payco Am. Corp., B-253668, Oct. 8, 1993, 93-2 CPD ¶ 214. In order to establish the unreasonableness of an evaluation, it is not enough that the protester disagrees with the agency's judgment or that the protester can point to alternative methodologies available to the agency; rather, the agency's evaluation must be shown to lack a reasonable basis. Id.

NTA argues that its status as the incumbent should have led to its proposal's receiving a higher rating than it did with respect to key personnel and experience. For example, NTA contends that its management plan should have been rated superior to Global's because "NTA is the incumbent," its performance has been "praised," and it "incorporated" its experience into its proposal. However, nothing in the RFP would justify assigning a higher score to the incumbent's offer merely due to NTA's incumbency, without regard to the content of its proposal. See Abt Assocs., Inc., B-253220.2, Oct. 6, 1993, 93-2 CPD ¶ 269. We have reviewed the agency's contemporaneous evaluation documents, and we find that they articulate bases for the ratings that are reasonable and consistent with the RFP criteria. Thus, while NTA appears to believe that, as the incumbent, it should have received the highest ratings, the documentation clearly explains why, in particular areas, NTA's proposal was not rated superior to Global's.² For example, in the evaluation of proposed management plans, the documentation explains the evaluators' conclusions that both offerors' proposals were acceptable (but neither was rated higher than that). NTA has

¹(...continued)

of every viable protest. Lithos Restoration, Ltd., 71 Comp. Gen. 367 (1992), 92-1 CPD ¶ 379.

Finally, NTA claims that, during the evaluation process, the agency improperly obtained cost information related to NTA's current contract without requesting best and final offers. NTA does not claim that the agency contacted any other offeror or that, even with NTA, there was any contact other than a request for cost information. While the agency denies that it contacted NTA in this regard during the evaluation process, NTA has not shown that it could possibly have been prejudiced by the agency's receipt of such information, to which the agency apparently had access in any event.

²We note that NTA's proposal was not found technically unacceptable in any area; rather, in the disputed areas, the proposal was found acceptable but not better than that.

essentially offered no argument--other than its incumbency--for challenging the evaluators' conclusion in this regard.

Similarly, NTA complains that its proposal's discussion of the RFP sample tasks was not given as much credit as it deserved. The evaluators' contemporaneous documentation, however, clearly explains their conclusion that Global's proposal was outstanding, while NTA's was acceptable, in this area. The evaluators found that Global's discussion of the sample tasks was innovative and showed "overwhelming expert knowledge," and that the offeror had "far exceeded requirements" in its discussion and analysis; NTA's proposal, on the other hand, was found to "do little more than reiterate the current course." NTA's protest in these areas essentially represents mere disagreement with the technical judgment of the agency, and does not demonstrate that the agency's judgment was unreasonable or inconsistent with the RFP.

In certain areas, NTA alleges that its proposal indicated superiority to Global's, and that the agency improperly found Global's proposal superior. For example, NTA alleges that, while it has better experience and has held more relevant contracts than Global, NTA was nonetheless singled out for criticism in this area.³ The core of this aspect of the protest appears to be that NTA believes it is superior because it is the incumbent and because it listed a significant number of contracts as part of its experience. However, the agency's evaluators concluded that Global's relevant experience was superior, primarily due to what the evaluators described as Global's "exceptional" performance in terms of exceeding minimum contract requirements, ensuring on-time delivery, and providing "exceptional" support. Our review of the record indicates that the agency's conclusion had a reasonable basis in the proposals, and that NTA simply disagrees with that conclusion.

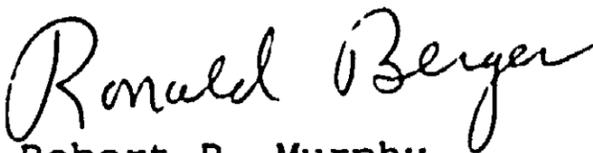
NTA also contends that the agency evaluators overrated Global's proposal. In particular, NTA claims that Global's proposed key personnel did not meet the minimum qualification requirements of the RFP. NTA argues that Global's proposed course instructors do not have the required experience in ILS course development and delivery. The agency responds that the RFP is very specific in requiring ILS-related experience in certain areas but not in others, and that the proposed instructors are not required to have experience in ILS course development and delivery. Our review of the RFP confirms that the

³Similarly, NTA disputes the agency's finding that Global's proposal demonstrated a superior technical approach to NTA's.

solicitation specifies instances in which ILS-related experience was required, and that the instructors' experience in course development and delivery was not required to be ILS-related. The agency's determination that Global's resumes indicate compliance with the experience requirements thus was reasonable, and did not constitute an overrating of Global's proposal.

There is also no factual basis for NTA's allegation that Global proposed individuals who are not available or are not available full-time. NTA does not deny that Global submitted valid letters of commitment for all key personnel, and nothing in the record suggests that any of those individuals is unavailable. While several individuals proposed may not be free to perform full-time, the agency correctly notes that it explicitly advised offerors that proposed key personnel were not required to perform full-time.

The protest is denied.

for 
Robert P. Murphy
Acting General Counsel