



Decision

Matter of: ROH, Inc.
File: B-258810.2
Date: April 10, 1995

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Annette H. Madison, Esq., Department of the Navy, for the agency.
Susan K. McAuliffe, Esq., and John Van Schaik, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest of agency's evaluation of technical proposals is denied where record shows that evaluation was reasonable and in accordance with the terms of the solicitation.
2. Protest of agency's evaluation of protester's cost proposal is denied where agency, in response to protest, recalculated cost proposal to account for protester's claimed use of uncompensated overtime and determined that even if the cost proposal was adjusted in the manner sought by the protester, the proposal still would not be in line for award; record shows no prejudice to protester from the alleged impropriety in the evaluation of its cost proposal and prejudice is an essential element of a viable protest.

DECISION

ROH, Inc. protests the proposed award of a contract to Technology, Management & Analysis Corporation (TMA) under request for proposals (RFP) No. N00024-94-R-6402(Q), issued by the Department of the Navy, Naval Sea Systems Command (NAVSEA), for engineering and program management technical support services, data management, and other support services for the NAVSEA Mine Warfare Ship Program Office. ROH, the incumbent contractor, protests the agency's evaluation of the technical and cost proposals.

We deny the protest.

The RFP contemplated the award of a cost-plus-award-fee, level-of-effort contract for 1 base year with 4 option years. The RFP advised that "[i]t is the offeror's responsibility to provide information and evidence that clearly demonstrate its ability to satisfactorily respond to the contract requirements and the [RFP's evaluation] categories" and that the government intends to award a contract on the basis of initial proposals without holding discussions. Offerors were advised that award would be made to that responsible offeror whose offer, conforming to the solicitation, was determined to be the most advantageous to the government.

The RFP set out the following technical evaluation factors, listed in descending order of importance (with all subfactors being of equal weight): technical approach (including understanding and approach, and specific technical capability); experience (including personnel qualifications and corporate experience); management approach (including organization, interface, contract management, cost management, work force loading plan, and start-up plan); and facilities and resources. Cost proposals were to be reviewed for realism and reasonableness to determine the projected cost (the proposal's evaluated cost plus proposed fee) to the government. The RFP advised that the government is willing to pay a cost premium for a technically superior proposal ("such that the movement of one (1) point in technical score equates to a movement of 1 percent in projected cost," allowing a "payment of a 30 percent premium for a proposal with the highest achievable technical score when compared to the lowest acceptable technical score.")

Ten proposals, including ROH's and TMA's proposals, were received in response to the RFP and were evaluated. The evaluators determined that TMA's proposal detailed the firm's understanding of the RFP requirements and presented an outstanding technical approach based upon the firm's familiarity with the systems to be served under the contract and its years of experience providing substantially similar support services under numerous Navy contracts. TMA's technical proposal was found to meet or exceed the RFP's stated requirements and pose "very low risk," and it received a rating of "outstanding" under three of the RFP's four evaluation factors. ROH's proposal was found to be technically acceptable with "low risk" (the proposal received ratings of "good" or "satisfactory" under all of the evaluation factors), and it was considered comparatively weaker than TMA's proposal due to a lack of detail in ROH's

¹Ratings of outstanding, good, satisfactory, and unacceptable were assigned.

proposed approach, a reference to an outdated system, the proposal of personnel failing to meet education or experience requirements of the RFP, and limited corporate experience. The evaluators noted that although ROH is the incumbent contractor for these services, since its current contract was the sole experience claimed in the proposal, the experience presented by the firm did not compare to the depth of experience presented by TMA's proposal (which included substantial experience under a myriad of similar support service contracts involving numerous ship acquisition programs). The agency has determined that TMA's proposal offers the overall greatest value to the government and proposes to award a contract to TMA on the basis of its highest-rated technical proposal which was determined to offer the lowest projected cost.

The protester challenges the technical evaluation of proposals on the basis that the agency "improperly discounted ROH's proven technical approach versus TMA's unproven and theoretical . . . approach" and failed to properly credit ROH under the experience evaluation factor. Specifically, ROH states that, as the incumbent contractor, it should have received the award since "[t]here is no contractor with more directly relevant technical skills or experience than ROH."

The evaluation of technical proposals is a matter within the discretion of the contracting agency since that agency is responsible for defining its needs and the best method of accommodating them. Western Env'tl. Corp., B-258567, Jan. 30, 1995, 95-1 CPD ¶ 46. In reviewing an agency's technical evaluation, we will not reevaluate the proposals; instead, we will examine the record to ensure that the evaluation was reasonable and consistent with the RFP evaluation criteria. Management Technical Servs., B-250834, Feb. 22, 1993, 93-1 CPD ¶ 304. A protester's disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Robert Slye Elecs., Inc., B-243272, July 5, 1991, 91-2 CPD ¶ 28.

Based on our review of the record, we conclude that the evaluation was reasonable and consistent with the RFP's stated evaluation criteria. Under the technical approach factor, TMA's proposal was rated outstanding for providing an excellent understanding of and approach to the RFP requirements based upon an in-depth presentation of the firm's knowledge of the required support services and systems to be serviced under the contract. TMA developed some of the systems currently used by the agency under previous contracts and proposed a detailed proven approach based upon the firm's knowledge gained through its substantial experience in numerous ship acquisition programs. ROH's proposal was credited with a good

understanding of the RFP requirements; however, it was not rated as favorably as TMA's proposal due to its failure to address several areas of the RFP's statement of work and its reference to an information system no longer in use under the Navy's fleet modernization program.

As to the experience factor, TMA's proposal was rated outstanding for both the personnel qualifications and corporate experience subfactors since the proposal exceeded both the education and experience requirements of the RFP for key personnel and demonstrated, along with that of its proposed subcontractor, many years of experience in mine warfare ship construction and support services for a wide variety of ship acquisition programs, including experience as the incumbent prime contractor for the Naval Board of Inspection and Survey.

The record shows that ROH's proposal was credited for the firm's experience as the incumbent contractor but that it did not receive as high a rating as TMA's proposal since at least one of its key personnel and several of its other personnel did not meet, or barely met, the RFP's education or experience requirements. ROH's technical proposal did not indicate a depth of corporate ship acquisition program experience under similar contracts as required by the RFP, but instead presented only its status as the incumbent contractor (which contract differs slightly from the current procurement) to demonstrate its recent ship acquisition experience. ROH has not rebutted the specific findings of the agency's evaluators, but instead states that the evaluation reveals only "nit-picking" by the evaluators.

Our review of the record supports the reasonableness of the evaluation. The evaluators' determinations directly relate to the information presented in the proposals as compared to that required by the RFP, and the comprehensive evaluation reports show that each proposal was scrutinized to the same degree to evaluate adherence to RFP requirements. All offerors were advised to present detailed technical proposals responding to the RFP's requirements. ROH, in an exercise of its own business judgment, failed to include sufficient technical information in its proposal to warrant the higher evaluation scores received by the TMA proposal.

ROH next contends that the agency improperly evaluated its cost proposal by failing to properly credit the firm's intended use of uncompensated overtime.² The agency responds that although ROH's proposal generally stated that

²The RFP defined uncompensated overtime as "hours provided by personnel in excess of 40 hours per week without additional compensation for such excess work."

the firm intended to use uncompensated overtime, the proposal failed to adequately identify the percentage of hours and personnel to which the claimed uncompensated overtime applied. The agency concludes that the upward adjustment of the firm's stated labor costs to reflect the projected cost of the proposed services was therefore justified.

The agency reports, in any event, that in response to the protest, ROH's cost proposal was recalculated to determine whether application of the uncompensated overtime, as alleged by the protester, would affect the agency's proposed award determination. The Navy advises that even if ROH's cost proposal was credited for the uncompensated overtime sought by the protester, the agency's source selection determination would not change even though ROH's projected cost would be slightly lower than TMA's. The agency's report includes a determination, albeit prepared after the filing of the protest, that based on the technical merits of the proposals as described in the agency's initial technical evaluation reports, the substantial technical superiority of TMA's proposal would be worth the slightly higher cost and that TMA's cost would still be well within the cost premium allowance stated in the RFP.

We see no reason to discount, as the protester requests, the agency's technical/cost tradeoff documentation simply because it was prepared after the filing of ROH's protest. That documentation appropriately references the technical evaluations performed prior to the protest and the RFP's stated cost allowance in support of the determination that the technical superiority of TMA's proposal would be worth the slight cost difference. Since the record reasonably demonstrates that ROH would not be in line for award even if the protest contention were sustained, we cannot find that ROH has shown the requisite prejudice to maintain a viable basis of protest. See Sunstrand Data Control, Inc., B-237020.2, Jan. 23, 1990, 90-1 CPD ¶ 95. Accordingly, the protest is denied.

\s\ Michael R. Golden
for Robert P. Murphy
General Counsel