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Washington, DC 20548

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Decision

Matter of: A&T Systems, Inc.

File: B-410626

Date: December 15, 2014

Mark G. Jackson, Esq., and Stowel B. Holcomb, Esq., Jackson Rosenfield LLP, for the protester.

Jonathan D. Shaffer, Esq., John S. Pachter, Esq., Mary Pat Buckenmeyer, Esq., and Elspeth A. England, Esq., Smith Pachter McWhorter, PLC, for Middle Bay Solutions, LLC, the intervenor.

Colin L. Nash, Esq., and George B. Tereschuk, Esq., Department of Veterans Affairs, for the agency.

Paula J. Haurilesko, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably rejected protester's proposal as unacceptable where the description of the proposed technical approach indicated that the protester would not comply with the testing requirements in the statement of work.

DECISION

A&T Systems, Inc., of Silver Spring, Maryland, protests the Department of Veterans Affairs' (VA) award of a contract to Middle Bay Solutions, LLC, of Huntsville, Alabama, under request for proposals (RFP) No. VA118-14-R-0385, for medical mobile devices and help desk support for medical mobile devices and mobile applications.

We deny the protest.

BACKGROUND

The RFP, which was set aside for small business concerns, provided for the award of a hybrid fixed-price/time-and-materials contract, with a 12-month base period and two 12-month options, for medical mobile devices and help desk support for medical

mobile devices and mobile applications.¹ Award was to be made to the offeror with the lowest-priced, technically acceptable proposal. RFP § E.12. The solicitation informed offerors that the government reserved the right to award without discussions. RFP § E.14.

The RFP instructed offerors to propose a detailed approach that addressed, among other things,

the technical approach to troubleshooting and preventative maintenance for the medical mobile device and application infrastructure. This discussion shall include all of the requirements outlined in Section 5.3.5.2 of the PWS [Performance Work Statement].

RFP § E.15.2.c(i)2. As relevant here, PWS § 5.3.5.2, Tier III App Troubleshooting and Preventive Maintenance, required the contractor to “test production apps against upcoming device OS [operating system] and MDM [Mobile Device Management] upgrades/releases to ensure continued operability,” and to “test MDM configuration changes on multiple devices.” PWS §§ 5.3.5.2(a) and (c). The RFP further advised offerors that “proposals which merely restate the requirement or state that the requirement will be met, without providing supporting rationale, are not sufficient.” RFP § E.14.

The VA received ten proposals, including A&T’s and Middle Bay’s. While A&T offered the lowest evaluated price (\$94,752,670.39), the evaluators assigned A&T’s proposal a deficiency under PWS § 5.3.5.2. In this regard, A&T’s proposal identified in a table as well as in the table of contents where it addressed each element of the technical evaluation factor. See Agency Report (AR), Tab 3, A&T Proposal, at ii, 2. As relevant here, the table identified section 2 of A&T’s proposal as responding to the PWS § 5.3.5.2 requirements for troubleshooting and preventative maintenance. Section 2 included a chart divided into tasks. Under Task B: Testing MDM Configuration Changes on Multiple Devices, A&T’s proposal contained the following:

To test MDM configuration changes properly, Team A&T
[Deleted].

¹ The RFP contained fixed-price contract line item numbers (CLIN) for project management; help desk documentation and reporting; transitional and orientation support; and purchasing medical mobile devices, such as tablets, smartphones, data plans, and voice plans. The RFP included time-and-materials CLINs for provisioning/activation; repair and decommissioning services; deployment services; and three tiers of mobile medical device and application support, sustainment, and expansion. RFP § B.4.

Id. at 12.

The evaluators assigned A&T's proposal a deficiency under PWS § 5.3.5.2 with respect to the requirement to test the MDM configuration changes on multiple devices. AR, Tab 4, Final Evaluation Report, at 1. In this regard, the evaluators noted that A&T proposed to test MDM configuration changes by [Deleted]. The evaluators concluded that [Deleted] devices do not have the same features as [Deleted] devices, and therefore would not accurately represent mobile medical devices deployed by the VA for testing load or VA developed applications on devices for validating successful certificate utilization and authentication on the VA network. Id. at 1-2. Accordingly, the VA found A&T's proposal to be technically unacceptable. The agency then selected Middle Bay for award on the basis that its proposal, which had the next lowest evaluated price (\$119,597,405.43) after A&T's, was technically acceptable. AR, Tab 5, Source Selection Decision Document, at 2. Following notice of award and a debriefing, A&T filed this protest with our Office.

DISCUSSION

A&T contends that the VA erroneously found its proposal to be unacceptable. In this regard, A&T states that emulation or automation testing was only one step in its testing process for the MDM configuration, and that the VA ignored the first sentence under Task B in its proposal, which read: "To test MDM configuration changes properly, Team A&T coordinates with the MDM/MAE service provider to ensure we are testing against the latest mobile configuration images for each VA-approved mobile device." A&T Proposal at 12. A&T also argues that information in other sections of its proposal should have informed the VA that it intended to meet the requirement for testing on multiple devices. For example, A&T states that its discussion of adaptive maintenance, elsewhere in section 2 of its proposal, also addressed the requirement for testing on multiple devices. A&T further contends that its statement that "automated testing does not eliminate the need for manual software testing," in the section addressing automated test execution, should have informed the VA that it proposed to meet the testing requirement. See A&T's Proposal at 22.

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. General Dynamics C4 Sys., Inc., B-406965, B-406965.2, Oct. 9, 2012, 2012 CPD ¶ 285 at 6. A protester's mere disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. JSR, Inc., B-405463, Nov. 8, 2011, 2011 CPD ¶ 265 at 4. Moreover, it is an offeror's responsibility to submit an adequately written proposal that demonstrates the merits of its approach; an offeror runs the risk of having its proposal downgraded or rejected if the proposal is inadequately written. Id.

Based on our review of the record, we find that the VA reasonably concluded that A&T's proposal did not satisfy the requirements of PWS § 5.3.5.2 to test MDM configuration changes on multiple devices. While the first sentence of Task B in section 2 of A&T's proposal--identified in the proposal as addressing the requirement--mentions coordination with MDM/MAE service providers "for each mobile device," the proposal did not define what would be encompassed within the proposed coordination. Since A&T's discussion in the remainder of the Task B section focused on [Deleted], and did not otherwise address A&T's approach to testing on multiple actual devices, we believe that the agency could reasonably assume that A&T's approach in this regard relied on emulation rather than testing actual devices. See AR, Tab 3, A&T Proposal, at 12.

In this regard, we agree with the agency that A&T's reliance on statements in other sections of its proposal do not support A&T's contention that it adequately addressed the testing requirement. For example, although A&T identifies a paragraph in its discussion of adaptive maintenance elsewhere in section 2 as addressing the requirement, A&T has not, in our view, identified any part of that discussion that clearly responds to the requirement to test MDM configuration on multiple actual devices. Likewise, A&T's identification of elements in the section of its proposal concerning defect testing--which addressed a different PWS requirement--did not explicitly address the requirement to test upcoming device operating systems and configuration changes on multiple devices. Moreover, while A&T asserts that its general statement that "automated testing does not eliminate the need for manual software testing," id. at 22, demonstrated its commitment to meeting the testing requirement, the RFP required a detailed approach and advised offerors that general statements that the requirement will be met would be insufficient without supporting explanation. RFP §§ E.14, E.15.2. In sum, we agree with the agency that these disparate examples identified by A&T do not provide the detailed approach or supporting explanation contemplated by the RFP. As such, we find to be reasonable the agency's evaluation of A&T's proposal as unacceptable.

A&T also argues that the VA abused its discretion by failing to seek clarification regarding its compliance with the testing requirement. In this regard, A&T contends that because its proposal was initially found to be "susceptible to being made acceptable," and the VA concluded that the deficiency assigned to A&T's proposal was capable of being corrected without a major rewrite or revision of the proposal, the deficiency could have been corrected through clarifications instead of discussions.

Clarifications are limited exchanges between the agency and offerors that may occur where, as here, contract award without discussions is contemplated. An agency may, but is not required to, engage in clarifications that give offerors an opportunity to clarify certain aspects of proposals (e.g., the relevance of an offeror's past performance information and adverse past performance information to which

the offeror has not previously had an opportunity to respond) or to resolve minor or clerical errors. Federal Acquisition Regulation (FAR) § 15.306(a); Savvee Consulting, Inc., B-408623, B-408623.2, Nov. 8, 2013, 2013 CPD ¶ 265 at 6. Although agencies have broad discretion as to whether to seek clarifications from offerors, offerors have no automatic right to clarifications regarding proposals. In any case, clarifications cannot be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal. LINTECH, LLC, B-409089, B-409089.2, Jan. 22, 2014, 2014 CPD ¶ 38 at 8; FPM Remediations, Inc., B-407933.2, Apr. 22, 2013, 2013 CPD ¶ 107 at 4. In other words, a clarification may not be used to furnish information required to determine the technical acceptability of a proposal. eMind, B-289902, May 8, 2002, 2002 CPD ¶ 82 at 5.

As discussed above, the VA reasonably found A&T's proposal unacceptable. To cure the deficiency assigned to its proposal and thus become acceptable, A&T would have had to provide additional, substantive proposal information explaining its approach for testing on multiple devices. Thus, the deficiency in A&T's proposal could only have been cured through discussions, not clarifications. See, e.g., Future Techs. Consulting Group, Inc., B-409867, Aug. 13, 2014, 2014 CPD ¶ 240 at 5 (information required to address deficiency for failing to provide "a detailed approach" to providing a secure web portal that met federal standards would constitute discussions, not clarifications). The agency, however, reserved in the solicitation the right to award without discussions, RFP § E.14, which it did here. Accordingly, there is no basis to question the agency's failure to offer A&T an opportunity to remedy the deficiency that rendered its proposal unacceptable.

The protest is denied.

Susan A. Poling
General Counsel