Decision

Matter of:  Akima Support Operations, LLC
File:  B-417332
Date:  May 24, 2019

Devon E. Hewitt, Esq., Michael E. Stamp, Esq., and Bret Marfut, Esq., ProTorae Law, PLLC, for the protester.
William Walker, Esq., Walker Reausaw, for the intervenor, Tsay Professional Services, Inc.
Scott N. Flesch, Esq., Andrew J. Smith, Esq., and Felix Mason, Esq., Department of the Army, for the agency.
Michael Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency erred in finding proposal unacceptable because an individual proposed for a key position did not possess minimum educational and work experience requirements specified in the solicitation is denied where the proposal failed to establish that the individual had either the necessary degree or the required experience.

DECISION

Akima Support Operations (ASO), LLC, a small business of Colorado Springs, Colorado, protests the award of a contract to Tsay Professional Services, a small business of Ohkay Owingeh, New Mexico, under request for proposals (RFP) No. W91249-18-R-0001, which was issued by the Department of the Army for base operation and maintenance support services at Fort Gordon, Georgia. The protester alleges that the agency erred in finding ASO’s proposal unacceptable in various respects, and in finding ASO’s estimated costs to be unrealistic.

We deny the protest.

BACKGROUND

On March 30, 2018, the agency issued the RFP, which contemplated the award of a single cost-plus-fixed-fee contract with a 10-month base period, and four 1-year options. Memorandum of Law (MOL) at 1-2. The RFP provided that offers would be evaluated
on the basis of three factors: (1) mission capability; (2) past performance; and (3) cost/price. Agency Report (AR), Tab 3, RFP at 169. The mission capability evaluation factor was further divided into three sub-factors: (1) environmental compliance; (2) management and organizational plan; and (3) staffing and workforce management plan. Id. The solicitation provided that offerors would be rated as either "acceptable" or "unacceptable" for each of the mission capability sub-factors. RFP at 170. Of note, the solicitation required that proposals must be evaluated as acceptable under all three mission capability sub-factors in order to receive an acceptable rating for the mission capability factor as a whole. Id. The RFP further provided that only those proposals determined to be technically acceptable under the mission capability evaluation factor would be considered for award. Id.

The performance work statement (PWS) provided, among other things, minimum educational requirements for certain key personnel. AR, Tab 4, PWS at 9. Specifically, the PWS required that the project manager (PM) and alternate project manager (APM) must each "have a college degree in engineering, mathematics, business, public administration and/or quantitative analysis and 15 or more years of experience managing base operations support functions and familiarity with Army cost and software data programs." Id. During the question and answer period, an offeror asked “for the Alternate Project Manager position can 20 plus years of experience managing base operations support functions on Army installation support services or DPW [directorates of public works] O&M [operation and maintenance] contracts of equal size and complexity serve as an equivalent to the stated Certifications and Training Requirements?” AR, Tab 19, Questions and Responses at 34. The agency responded that it would “take this under consideration.” Id.

On December 17, 2018, the agency notified ASO that it had been included in the competitive range and provided 32 evaluation notices to ASO identifying areas of concern with its proposal. MOL at 3. Relevant to this protest, one of those evaluation notices asked ASO to “[p]rovide documentation to demonstrate minimum educational requirements and experience for PM and APM to meet requirements [in accordance with] Technical Exhibit 7.4.1 - Contractor Personnel Minimum Qualifications, Licensing, and Certifications.” Id. at 3-4 (citing AR, Tab 28, Evaluation Notices, at 6). On January 3, 2019, ASO provided additional information and made several revisions to its proposal. MOL at 4. Of note, in its initial proposal, ASO proposed an individual as APM who was identified as having 32 years of base operations experience, but no degree. AR, Tab 24, ASO Initial Proposal Vol. II - Mission Capability, at 101. In its revised proposal the protester altered its statement of that individual’s experience to read “24 years work control”, and struck through the previous statement concerning base operations experience. AR, Tab 30, ASO Final Proposal Vol. II – Mission Capability, at 113.

The agency concluded that ASO was technically unacceptable on several bases, one of which was that ASO’s proposed APM did not meet the minimum qualifications specified in the PWS. MOL at 4-5. On January 31, the agency made award to Tsay and notified ASO of the award. Id. On February 7 the agency sent a post-award debriefing letter to
ASO.  Id.  ASO submitted questions in response to the debriefing on February 8, and the agency responded on February 14.  Id.  This protest followed.

DISCUSSION

The protester argues that the agency erred both in finding its proposal unacceptable and in its cost realism analysis. With respect to the agency’s technical evaluation, the protester challenges the agency’s evaluation in each of the areas that the agency found its proposal unacceptable. Protest at 1. Specifically, the protester contends that the agency erred in concluding that: (1) ASO’s proposed database workflow innovation was unfeasible; (2) ASO proposed to have unlicensed individuals performing pest control tasks that required a pesticide applicator’s license; (3) the individual ASO proposed for the APM position did not meet the education and experience requirements for that position; and (4) ASO proposed inadequate labor hours to accomplish the requirements of the solicitation.  Id. at 8-12.  ASO also contends that the agency’s upward adjustment of its proposed costs was irrational and ignored that ASO proposed several process innovations that would result in lower overall labor hours. 1  Id. at 12-13.

Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency’s judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations.  Lear Siegler Servs., Inc., B-280834, B-280834.2, Nov. 25, 1998, 98-2 CPD ¶ 136 at 7.  It is a fundamental principle in a negotiated procurement that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis for award.  The Boeing Co., B-311344 et al., June 18, 2008, 2008 CPD ¶ 114 at 54; Special Operations Grp., Inc., B-287013, B-287013.2, Mar. 30, 2001, 2001 CPD ¶ 73 at 4.  Furthermore, it is an offeror’s responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements, and an offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal.  See

1 Collaterally, ASO advanced a supplemental argument in its comments on the agency report that the agency’s evaluation of ASO’s initial proposal indicated that its proposal was acceptable, and accordingly no evaluation notices should have been issued. Comments at 3-4.  The agency provided a detailed response to this supplemental allegation by noting that the referenced initial evaluation was a preliminary evaluation superseded by the evaluation notices and subsequent evaluation of ASO’s revised proposal, and in any case reflected a misunderstanding on the part of the evaluators concerning which ratings were appropriate to assign at that stage of a negotiated procurement.  Agency Supp. Response at 5-9.  The protester declined to file any comment on the agency’s response to this supplemental protest allegation. Where, as here, an agency provides a detailed response to a protester’s assertions and the protester does not respond to the agency’s position, we deem the initially-raised arguments abandoned.  G. A. Braun, Inc., B-413735, Dec. 21, 2016, 2016 CPD ¶ 374 at 3-4.
As a preliminary matter, we note that, in this case, the solicitation provided that a rating of unacceptable in any mission capability subfactor would render the proposal unacceptable for the factor as a whole. RFP at 170. The solicitation also made clear that only offerors who were evaluated as technically acceptable for the mission capability subfactor would be considered for award. Id. Furthermore, clearly stated qualifications for key personnel are typically material requirements of a solicitation, such that an offeror’s failure to propose staff meeting those requirements would render a proposal unacceptable, and therefore unawardable. See, e.g., Agile Defense, Inc., B-412811.2, Oct. 17, 2016, 2016 CPD ¶ 292 at 4-5.

As discussed in greater detail below, because we conclude that the agency reasonably determined that the protester’s proposed APM did not meet the minimum requirements of the solicitation, we have no basis to question the agency’s conclusion that the protester’s proposal was technically unacceptable on that basis, and therefore unawardable. Accordingly, we need not reach the protester’s other arguments concerning the agency’s evaluation, because even if we were to agree with the protester that the agency erred in those respects, the protester was not prejudiced thereby. See Bashen Corp., B-412032.2, Dec. 3, 2015, 2015 CPD ¶ 381 at 4 n.2 (protester cannot show prejudice where agency reasonably found protester otherwise ineligible for award).

With respect to the protester’s argument concerning the agency’s evaluation of its proposed APM, the protester does not contest that the individual lacked a relevant college degree, but instead contends that its proposed APM had work experience significantly exceeding the experience required by the solicitation. Comments at 7-9. Specifically, the protester argues that the agency indicated in the questions and responses that it would consider more than 20 years of experience managing base operations support functions as sufficient to satisfy the credential requirements for the position, and that its candidate had 24 years of experience working in various base operations roles. Id. Finally, the protester notes that its proposed APM currently serves as the APM on the incumbent contract, and therefore has experience in managing base operations support. Id.

However, it is unclear from the protester’s proposal in what way its proposed APM met the minimum credentials specified in the PWS, or the alternative credential requirements established by the questions and responses. In the protester’s revised proposal, its APM candidate is described as having 24 years of “work control” experience. AR, Tab 30, ASO Final Proposal Vol. II – Mission Capability, at 113. The proposal does not describe or explain in what way work control experience is commensurate with base operations management experience. In evaluating the proposal, the agency considered the experience of the candidate and concluded that, while the candidate appeared to have familiarity with some aspects of base operations, the candidate did not appear to have experience in other identified areas of base
operations. AR, Tab 34, Final Source Selection Evaluation Board Report at 17. More significantly, the agency concluded that the candidate lacked both a bachelor’s degree and the minimum required 15 years of experience in managing base operations support. Id.

Moreover, the text of the protester’s revised proposal supports the agency’s conclusions. The protester expressly struck out the portion of its initial proposal that described the candidate’s experience as base operations experience, and instead described the candidate’s experience as work control experience, which strongly suggests that the protester itself does not view work control experience as functionally equivalent to base operations or base operations management experience. AR, Tab 30, ASO Final Proposal Vol. II – MissionCapability, at 113. Reinforcing this impression, on the same page, the proposal describes ASO’s proposed PM as having 15 years of experience in “BASOPS [base operations] support functions management,” in contrast to the proposed APM’s experience in “work control.” Id.

Our decisions are clear that the protester must submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements, and agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the protester elected not to provide. See, e.g., Optimization Consulting, B-407377, B-407377.2, Dec. 28, 2012, 2013 CPD ¶ 16 at 9 n.17; International Med. Corps, supra; STG, Inc., supra. In this case, there is no clear indication in the protester’s revised proposal that the proposed APM has the minimum required 15 years of experience in managing base operations support, much less the 20 years of experience that the agency indicated it would take under advisement in considering whether years of experience could potentially offset an individual’s lack of a college degree. Accordingly, we have no basis to conclude that the agency erred in its evaluation of the protester’s proposal.

The protester collaterally contends that the agency’s evaluation ignored the fact that its proposed APM is the acting APM under the incumbent contract, and therefore necessarily has experience in managing base operations support. Comments at 8-9. This argument misconceives the PWS’s requirements. The PWS requires a minimum of 15 years of experience in managing base operations support, but the protester has not, either in its proposal or in its pleadings, specifically affirmed that the APM has 15 years of base operations management experience. PWS at 9. The protester merely alleges that the individual has been employed in “various operations and maintenance contract roles” for over 24 years, and is currently the acting APM under the incumbent contract, but provides no information concerning how long that has been the case. Comments at 8. Having failed to establish that the candidate has the required 15 years
of base operations management experience, these allegations are insufficient, on their face, to suggest that the agency erred in concluding that the protester's proposal was unacceptable.

We deny the protest.

Thomas H. Armstrong
General Counsel