



Decision

Matter of: Old Harbor Solutions, LLC

File: B-420789

Date: August 26, 2022

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This version has been approved for public release.

Christopher J. Slottee, Esq., Schwabe, Williamson & Wyatt, P.C., for the protester.
Kathleen R. Robertson, Esq., and Allen E. Sebastian, Esq., Department of the Navy, for the agency.

Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency failed to provide adequate level of effort information for offerors to prepare proposals is denied where the solicitation establishes a mandatory number of labor hours and provides sufficient level of information for offerors to compete intelligently and on a relatively equal basis.

DECISION

Old Harbor Solutions, LLC, a small business of Manassas, Virginia, protests the terms of task order request for proposals (RFP) No. N0016422R3008, issued by the Department of the Navy, Naval Surface Warfare Center, Crane Division (NSWC Crane) for business operations support services (BOSS). The protester contends that the solicitation does not provide sufficient information for offerors to compete intelligently and on a relatively equal basis.

We deny the protest.

BACKGROUND

On April 13, 2022, using the procedures of Federal Acquisition Regulation subpart 16.5, the agency issued the solicitation to small business holders of the Navy's SeaPort Next Generation indefinite-delivery, indefinite-quantity (IDIQ) contracts. Agency Report (AR), Exh. 3, RFP at 5, 16. The solicitation seeks proposals to perform various types of BOSS work that are delineated as separate contract line item numbers (CLIN).¹ *Id.*

¹ These identified services include: "non-personal professional, technical, and management support services in the areas of strategy and planning, research and analysis, program/project analyst support, corporate business, financial management,

at 6-13. The solicited services will be provided to NSWCC Crane's "Corporate Operations Department, Comptroller Department." *Id.*

The solicitation contemplates issuance of a single cost-plus-fixed-fee task order with a 1-year base period and four 1-year option periods. RFP at 2, 138. The solicitation provides for award on a best-value tradeoff basis, considering the following evaluation factors: (1) technical and management approach (technical); (2) past performance; and (3) cost/price. *Id.* at 138-139. Technical is more important than past performance, and when combined, the two non-price factors are significantly more important than cost/price. *Id.* at 139.

Prior to the time set for receipt of proposals, Old Harbor filed this protest with our Office challenging the terms of the solicitation.²

DISCUSSION

The protester contends that the solicitation is ambiguous, does not provide sufficient information for offerors to compete intelligently and on a relatively equal basis, and does not describe the needs of the agency sufficiently or accurately. Specifically, the protester reads the solicitation as requiring offerors to break down the mandatory number of total labor hours (1,203,700) across multiple labor categories and over 100 individual scopes of work without being provided level of effort estimates for each individual scope of work. Protest at 2. The protester contends that without being provided such level of effort information it is impossible for offerors to break down the mandatory number of labor hours "with any kind of accuracy." *Id.* Further, the protester maintains that the agency's refusal to provide level of effort information gives the incumbent contractor a competitive advantage over other prospective offerors because the incumbent has available information about the historical level of effort provided under each individual scope of work. *Id.*

The agency responds that the protester is misreading the solicitation, which the agency maintains does not require the level of detail asserted by the protester. AR, Exh. 2, Memorandum of Law (MOL) at 5. The agency further contends that because the solicitation does not require the level of detail purported by the protester, the incumbent "does not have an unfair advantage by having access to historical data about the [level

communications/public relations, graphics and publications, property management, materials/supplies support, administrative, and management support services." RFP at 16.

² The estimated value of the protested task order exceeds \$25 million. Supp. Contracting Officer's Statement (COS) at 1. Accordingly, this protest is within our jurisdiction to hear protests of task orders placed under defense agency IDIQ contracts. 10 U.S.C. § 3406(f)(1)(B).

of effort] related to each task's scope of work.” *Id.* at 5-6. For the reasons discussed below, we deny the protest.³

As a general rule, a procuring agency must give sufficient detail in a solicitation to enable offerors to compete intelligently and on a relatively equal basis. *Advanced Commc’n Cabling, Inc.*, B-410898.2, Mar. 25, 2015, 2015 CPD ¶ 113 at 7. Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions. *Id.* To be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *IDS Int’l Gov’t Servs., LLC*, B-419003, B-419003.2, Nov. 18, 2020, 2020 CPD ¶ 383 at 4.

As relevant here, the solicitation requires offerors to propose 1,203,700 labor hours (CLIN 2000) and an additional 120,370 surge labor hours (CLIN 2050). RFP at 6, 128. The required labor hours are to be provided in ten broad categories of “functional performance requirements” (e.g., strategy and planning, property management), which are further broken down into multiple task areas. *Id.* at 20-36. The solicitation includes descriptions of the requirements for each of the various task areas in 16 pages of the statement of work (SOW). *Id.*

The solicitation instructs offerors that their proposed technical approaches “shall demonstrate specific knowledge, skill sets, capability, experience, and approach (both Prime and Subcontractors) to perform all aspects of the tasks” in the SOW, and requires that each offeror “address how the labor mix proposed supports the technical approach utilized in its offer.” RFP at 118. Further, the solicitation requires offerors to submit a completed staffing plan (provided as attachment 1 to the solicitation) that includes “all proposed labor category personnel (by name--both prime and subcontractors) known at the time of proposal submission to support the functional areas specified in the SOW.” *Id.* at 122; AR, Exh. 3a, RFP attach. 1, Staffing Plan.

In addition to a staffing plan, the solicitation requires offerors to complete attachment 9, which provides a recommended labor mix with estimated hours that breaks down the 1,203,700 total required labor hours by government-suggested labor category for each period of performance. RFP at 124, 128, 131; AR, Exh. 3b, RFP attach. 9, Level of Effort. While it provides a recommended labor mix, the solicitation also permits offerors to propose a different labor mix to perform the labor hours identified in attachment 9. RFP at 131. The RFP advises, however, that if an offeror chooses to propose a different labor mix, “a detailed justification shall be provided” to support the change. *Id.* Additionally, if an offeror proposes any different or additional labor categories than those included in the recommended labor mix, the solicitation requires the offeror to map any contractor-specific “Labor Categories to the corresponding Government Labor Categories identified in the Government LOE [level of effort].” *Id.* at 124.

³ While our decision does not discuss each permutation of the protester’s argument, we have considered all of the protester’s contentions and find that none provides a basis to sustain the protest.

The solicitation explains that offerors' technical approaches will be evaluated to determine if the overall approach satisfies the SOW requirements, and "the degree to which the proposed labor mix supporting the technical approach utilized in the Offeror's proposal impacts technical risk of successful performance." RFP at 140. With respect to offerors' staffing plans, the solicitation clarifies that the agency will "assess whether the Offeror's Staffing Plan demonstrates the Offeror's ability to successfully meet the requirements of" the SOW, and "whether the proposed personnel possess the required experience and education to execute the proposed technical approach." *Id.* at 141. According to the RFP, the agency will evaluate "whether the Labor Hours and Labor Mix proposed in the Offeror's Staffing Plan is in accordance with the Labor Hours and Labor Mix proposed in its cost proposal," and "the degree to which the proposed labor mix provides a high quality, efficient and cost effective solution." *Id.*

The agency received over 200 questions about the solicitation, some of which related to how offerors should propose their labor mixes and level of effort to meet the SOW requirements. AR, Exh. 4, RFP Questions and Answers (Q&A). For example, in question 35, a potential offeror referenced the various tasks listed in the SOW and asked if the agency has "considered providing more details on the current labor mix and workload factors, which could facilitate more uniform submissions?" *Id.* at 10. The agency responded that it "will not map the labor categories from Attachment 9 LOE to individual SOW paragraphs." *Id.* As a further example, in question 66 a potential offeror represented that:

Not enough information is provided within the LOE to allow offerors to determine the specific LOE as it relates to each SOW performance areas. The current LOE and eCraft⁴ labor categories are too generic to allow anyone other than the incumbent contractor the ability to correctly map labor categories to [SOW] areas and correctly identify the LOE required for each [SOW] area. This significantly favors the incumbent.

Id. at 19. The offeror then asked would "the Government please provide a detailed mapping of which labor category will be supporting each area of the SOW?" *Id.*; see also *id.* at 49-50 (nearly identical question 158). The agency responded that it believed the SOW provided "sufficient detail for potential [o]fferors to understand the tasking for a cost reimbursement contract in accordance with Federal Acquisition Regulation Subpart 16.3," and that it would "not map the LOE to each area of the SOW." *Id.*

The protester contends that the solicitation requires an offeror's proposal "to break out the mandatory 1,203,700 [labor] hours by labor category *and* SOW paragraph." Protest at 2; see also *id.* at 14-15, 17, 18-19. That is, the protester reads the solicitation as

⁴ The acronym eCRAFT refers to the agency's Electronic Cost Reporting and Financial Tracking system. RFP at 49. The solicitation required offerors to "assign standard eCRAFT labor categories to each existing proposed and executed labor category on the Task Order/Contract," and provided a link to an agency website setting forth the "eCRAFT Professional Labor Categories." *Id.* at 20.

requiring offerors to break down their proposed staffing plans and level of effort matrices by mapping every labor hour to one of the numerous specific tasks required by the SOW. The protester maintains that the solicitation has not provided sufficient information for offerors to propose in such a manner. *Id.*

The agency responds that “the level of detail [the protester] describes is not required.” MOL at 5. Rather, the agency maintains that it is not seeking to buy specific tasks through the solicitation, but rather a set number of labor hours--1,203,700 hours to be exact--in ten broad functional areas that include numerous types of tasks. AR, Exh. 1, COS at 3. In this regard, the agency argues that the protester “misreads the [s]olicitation to require more than it does,” and that “[b]ecause the historical [level of effort] information [the protester] wants is not actually necessary for submitting a proposal, the incumbent contractor does not have an unfair advantage.” *Id.* at 13; see *also* MOL at 5-6. We agree.

Here, the interpretation of the solicitation advanced by the protester is unreasonable because it fails to take into account all of the solicitation language. Specifically, the protester’s interpretation ignores the solicitation’s instruction that offerors’ staffing plans are required to propose labor category personnel “to support the *functional areas* specified in the SOW,” not the numerous individual tasks comprising each functional area. See RFP at 122 (emphasis added). Accordingly, we find unpersuasive the protester’s interpretation of the solicitation. See *e.g.*, *Crew Training Int’l, Inc.*, B-414126, Feb. 7, 2017, 2017 CPD ¶ 53 at 4 (a reading of a solicitation that is inconsistent with other solicitation provisions, and renders some parts of the document extraneous or meaningless cannot be a reasonable reading); *Advanced Commc’n Cabling, Inc.*, *supra* at 7-8 (denying protester’s contention of ambiguity in the solicitation where protester’s interpretation ignored information plainly stated in the solicitation).

Our review of the record reveals that the solicitation does not require the level of labor hour breakdown that the protester suggests is required and complains is impossible for offerors other than the incumbent contractor to provide. Contrary to the protester’s assertions, the solicitation here: (1) identifies the functional areas in which the required tasking will fall; (2) describes the required tasking in detail; (3) establishes a set number of labor hours to be provided; and (4) sets forth a recommended level of effort, breaking down the required hours by labor category for each performance period. We find nothing unreasonable with the agency’s contention that this level of information is sufficient for offerors to compete intelligently and on a relatively equal basis. Accordingly, we deny the protester’s challenge to the terms of the solicitation. See *e.g.* *Katmai Info. Techs., LLC*, B-406885, Sept. 20, 2012, 2012 CPD ¶ 277 at 4-5 (denying protest challenging terms of solicitation for a requirements contract where the

solicitation provided detailed estimates of the total number of labor hours for all contemplated labor categories for each ordering period as well as detailed descriptions of the work required).

The protest is denied.

Edda Emmanuelli Perez
General Counsel