



Decision

Matter of: LOGMET LLC

File: B-421838

Date: October 5, 2023

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DIGEST

Protest that solicitation does not adequately communicate the agency's requirements and lacks essential information needed to prepare competitive proposals because it does not include workload data is denied where the solicitation provides sufficient information to enable offerors to compete intelligently and on a relatively equal basis.

DECISION

LOGMET LLC, of Round Rock, Texas, protests the terms of request for proposals (RFP) No. W519TC-23-R-0018, issued by the Department of the Army for logistics support services at Schofield Barracks, Hawaii (SBHI). LOGMET alleges that the solicitation is flawed because it fails to include essential information needed to promote a uniform and fair competition between non-incumbent contractors and the incumbent firm.

We deny the protest.

BACKGROUND

The agency issued the RFP on June 1, 2023, for the purpose of awarding a "follow-on" contract for logistics support, consisting primarily of maintenance, supply, and transportation services, at the SBHI installation. Agency Report (AR), Tab 3, RFP

at 1-2.¹ The solicitation, which was issued to holders of the Army's Enhanced Acquisition Global Logistics Enterprise (EAGLE II) basic ordering agreement (BOA), contemplates the issuance of a task order to a small business holding an EAGLE II BOA. The RFP includes both cost-plus-fixed-fee and fixed-price line items and contemplates performance for a 1-year base period and four 1-year option periods. RFP at 2. The solicitation provides for the evaluation of proposals under technical, past performance, and price factors, with award to be made to the responsible offeror with the lowest-priced, technically acceptable proposal receiving a substantial confidence rating for past performance. *Id.* at 2, 63.

The solicitation includes a performance work statement (PWS) describing the maintenance, supply, and transportation services to be provided. The PWS informs prospective offerors that the task order is not limited to current customer units and that the Army's support requirements will continue to evolve over the life of the task order with a "near certainty" that the level of effort and services will fluctuate within the scope of the PWS. Tab 69b, RFP amend. 5, PWS at 7-8. The PWS reiterates that the resulting award is a performance-based effort and advises offerors that the "[r]eferenced publications, regulations, and guidance in this PWS provide specific performance metrics." *Id.* at 7.

As relevant here, the solicitation instructs offerors to propose a staffing mix and labor categories that "present a staffing approach which demonstrates a thorough understanding of the effort and provides the expected skill sets/skill level of each position, to include level of responsibility in order to successfully perform the specific workload requirements and meet all the PWS requirements." RFP at 48. The RFP further advises that the proposed price should be based on the technical approach. *Id.* at 54. Under the technical approach factor, the agency will evaluate how the proposal:

[d]emonstrates an adequate understanding of the effort by providing appropriate staffing that is realistic and feasible to successfully perform the specific workload requirements in Attachment 0036--TD-02 SBHI Workload Data and Density List and the PWS requirements identified therein. Staffing levels support the provided workload requirements for both the base period and option periods (fully operational capable 12-month/365[-]day periods).

Id. at 65.

The solicitation includes historic workload information to assist offerors in developing their proposals but does not specify minimum hours for the requirements. PWS at 8;

¹ Citations to the record use the Adobe PDF or Microsoft Word pagination of documents or the relevant worksheet tab and cell number for Microsoft Excel documents produced in the agency report. The solicitation includes 49 attachments and 12 exhibits and was amended six times. AR, Tab 1, Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2-3.

COS/MOL at 2. The agency explains that to facilitate innovation in technical proposals, “the Army no longer provides a minimum number of hours” in solicitations for task orders under the EAGLE II multiple-award BOA. COS/MOL at 2. The Army expects EAGLE II BOA holders to determine for themselves, and therefore to propose, the number of hours needed to perform the required work pursuant to law, regulation, and policy. *Id.*

The RFP includes a spreadsheet (TD-02 SBHI Workload Data and Density List) with the anticipated workload data and density lists for the maintenance, supply and transportation functions to be performed for offerors to use in developing their technical approaches. AR, Tab 38, RFP attach. 36, TD-02 SBHI Workload Data & Density List. The workload data and density list (WDDL) spreadsheet has 19 tabs that provide specific information about the requirement. For example, the maintenance tabs include information identifying each piece of equipment, model numbers, quantity, the skillset needed, and the aligned PWS paragraph. *See, e.g.,* AR, Tab 38, RFP attach. 36, TD-02 SBHI Workload Data & Density List, tab Maint. BLS Density List, at Cells A2, B2, D2, F2, & G2. In another example, the supply tabs contain information such as the workload drivers and the total number of hours per month to perform the required services. *See, e.g., id.* at tab S&S Munitions-LLL, at Cells A1-A104 & A13-S13. As a final example, the transportation tab provides information pertaining to the transportation workload like transportation services and unit movements with associated quantities. *See, e.g., id.* at tab Transportation, at Cells A2-A9, A11-12, B3-9, B12, C3-9, & C12.

Potential offerors submitted questions concerning the solicitation to the agency and the agency responded to these questions in amendment 0005. AR, Tab 69i, RFP amend. 5, Questions & Answers. As relevant here, multiple offerors requested supplemental information, such as additional workload data, labor hours, and labor categories and expressed concern that the incumbent contractor would have an unfair competitive advantage. In response, the agency consistently directed offerors to research the solicitation requirements and make their own determinations as part of their proposed approaches. Specifically, the agency stated “[a]ll available comprehensive workload data has been provided. The Offeror must research these requirements and make their determination as part of their approach and proposal.” *See, e.g., id.* at Cells E6, E8, E17, E76, & E167 (limited sample of agency’s responses). The agency further advised that it was the offeror’s responsibility to decide what labor categories would be used in their staffing approach and that it would not dictate or pre-populate the staffing and labor mix spreadsheet to be included in proposals. *See, e.g., id.* at Cells E10, E30, E47, E66 & E102 (limited sample of agency’s responses).

Prior to the deadline for receipt of proposals, LOGMET filed this protest. The agency received multiple proposals in response to the RFP; however, LOGMET did not submit a proposal. COS/MOL at 7, 13.

DISCUSSION

LOGMET challenges the terms of the solicitation, alleging that the solicitation lacks essential workload data necessary for firms to compete for the agency's requirements. The protester argues further that without this information, only the incumbent contractor will know the specific resources required and therefore the solicitation is unduly restrictive of competition. We have considered all the protester's arguments and find that none provides a basis on which to sustain the protest. We address these allegations in turn.²

As a preliminary matter, the agency contends that LOGMET's protest should be dismissed because LOGMET does not meet the definition of an "interested party" under the Competition in Contracting Act (CICA) and GAO's Bid Protest Regulations. Req. for Dismissal at 3-4. Under CICA and our Bid Protest Regulations, an interested party means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 31 U.S.C. § 3551(2)(A); 4 C.F.R. § 21.0(a)(1). The Army argues that LOGMET does not meet this standard because LOGMET failed to submit a proposal by the closing date for receipt of proposals.³ The Army argues therefore that LOGMET does not have a direct economic interest that would be affected by the contract award and the protest should be dismissed. Req. for Dismissal at 3-4. We disagree.

² As LOGMET elected to proceed with its protest without counsel, no protective order was issued for this protest. Accordingly, our discussion of some aspects of the procurement is, necessarily, general in nature to avoid reference to non-public information.

³ The Army also argues that LOGMET is not an interested party because, according to the agency, LOGMET admitted that it did not meet the solicitation's past performance requirements. Req. for Dismissal at 3. In support of its argument, the agency points to the protester's assertion in its initial protest that the "past performance requirements hindered [its] chances for award." Protest at 3. The agency also argues that the protester did not provide any support for its assertion that the past performance requirements hindered its chances for award and thus fails to assert a valid basis for protest. Req. for Dismissal at 2-3. While we do not agree with the agency that the protester concedes it could not meet the RFP's past performance requirements and that it is thus not an interested party, we agree that the protester's bare assertion--without more--that the past performance requirements hindered its chances for award fails to state a valid basis for protest. Other than this one passing reference to past performance in its initial protest, LOGMET fails to demonstrate or explain how the solicitation's past performance requirements are not in accordance with procurement law, regulation, or the agency's needs. Thus, LOGMET fails to set forth a detailed statement of legal and factual grounds of protest for this allegation. Accordingly, to the extent the protester challenges the RFP's past performance requirements, we dismiss the allegation. 4 C.F.R. § 21.1(c)(4) and (f).

In this regard, we note that LOGMET timely filed its protest prior to the July 31 deadline for the receipt of proposals. We also note that the remedy sought by the protester is for the agency to revise the solicitation and permit offerors to compete against revised requirements. In such a scenario, LOGMET would be eligible to submit a proposal if the protest were sustained. Accordingly, LOGMET remains an interested party because its direct economic interest continues to be affected by the challenged solicitation terms. See, e.g., *ASRC Fed. Data Network Techs., LLC; Ekagra Partners, LLC*, B-418085.4 *et al.*, May 5, 2020, 2020 CPD ¶ 164 at 5 (finding protester was an interested party to challenge solicitation terms even though it did not submit a complete proposal by the deadline for proposals).

LOGMET alleges that the provided workload data is insufficient and that offerors require detailed information in order to develop their proposals, which they cannot accurately do with the solicitation as written. Protest at 3-6. The protester also complains about the agency's answers to potential offerors' questions concerning workload data and argues that the agency's answers telling offerors they must research the requirements to prepare their proposals is "ludicrous." Protest at 6.

The Army responds that the solicitation included 49 attachments and provided all the information required for offerors to develop their technical approaches. COS/MOL at 2, 9. The agency maintains that "[u]nder the current iteration of EAGLE II (2018-current), the Army only provides the comprehensive workload information and requires the [o]fferor to submit its own [t]echnical [a]pproach," which the Army acknowledges is a change from the original EAGLE task order competitions where the Army previously listed the minimum hours offerors were required to perform. *Id.* at 10 n.6.

The determination of an agency's minimum needs and the best method of accommodating them is primarily within the contracting agency's discretion, and we will not question such a determination unless it has no reasonable basis. *Apogee Eng'g, LLC*, B-415976, May 1, 2018, 2018 CPD ¶ 150 at 3. In assessing a protester's claim that a solicitation is inadequate, our Office will review the solicitation to determine whether it provides sufficient information for offerors to compete intelligently and on a relatively equal basis. *Fairwater Assocs.*, B-414751.2, Sept. 11, 2017, 2017 CPD ¶ 285 at 4. There is no legal requirement that a solicitation be drafted so as to eliminate all performance uncertainties. *Northrop Grumman Tech. Servs., Inc.*, B-406523, June 22, 2012, 2012 CPD ¶ 197 at 12. Risk is inherent in most types of contracts, and firms must use their professional expertise and business judgment in anticipating a variety of influences affecting performance costs. *Katmai Info. Techs., LLC*, B-406885, Sept. 20, 2012, 2012 CPD ¶ 277 at 5. A protester's disagreement with the agency's judgment concerning the agency's needs and how to accommodate them does not show that the agency's judgment is unreasonable. *Apogee Eng'g, LLC*, *supra*.

Based on our review of the record here, we conclude that the agency has adequately defined its requirements and provided sufficient information in the solicitation to permit offerors to compete intelligently and on a relatively equal basis. Specifically, the

solicitation included 49 attachments providing comprehensive information about the agency's requirements. These documents include: (1) the current contract's historical workload of EAGLE functions at SBHI; (2) the PWS, which also references the necessary publications, regulations, and guidance; (3) the anticipated workload for this requirement; (4) the density lists and equipment the successful offeror will be responsible for maintaining; (5) the government buildings and government-furnished equipment; (6) the collective bargaining agreement (CBA) and Service Contract Act (SCA) data; and (7) the normal workday and hours.⁴ These documents provide a detailed picture of the agency's requirements to be performed under the contract. Additionally, the agency responded to 177 questions concerning the requirements and incorporated its answers into the solicitation.

Notwithstanding LOGMET's request for additional information, the record confirms, as the agency argues, that the solicitation has adequately defined its requirements and provided sufficient information to offerors. Although the solicitation represents a departure from previous solicitations in which offerors were provided with minimum hours, LOGMET has not shown that offerors need additional detail in the solicitation in order to prepare proposals. As noted above, there is no requirement that the specifications in a solicitation be so detailed that they completely eliminate all risk or remove every uncertainty from the mind of every prospective offeror. *Fairwater Assocs.*, *supra* at 5. Rather, firms must use their professional expertise and business judgment in anticipating a variety of influences affecting performance costs. *JRS Mgmt.*, B-402650.2, Jun. 25, 2010, 2010 CPD ¶ 147 at 5. We do not agree with LOGMET that it is "ludicrous" for the Army to expect offerors to review all the documents provided, look up referenced Army policies, and use expertise and business judgment to prepare a technical approach. In sum, LOGMET has not shown that the solicitation is inadequate to allow offerors to compete intelligently and on a relatively equal basis in this procurement for commercial services. Accordingly, we deny this protest ground.

With respect to the protester's allegations that without access to information known to the incumbent contractor the incumbent will have an unfair competitive advantage, an incumbent contractor's acquired technical expertise and functional knowledge of the costs related to a requirement's complexity are not generally considered to constitute unfair advantages that the procurement agency must eliminate. *Katmai Info. Techs., LLC*, *supra* at 5-6; *Snell Enters., Inc.*, B-290113, B-290113.2, June 10, 2002, 2002 CPD ¶ 115 at 7-8. It is well-settled that while an offeror may possess unique information, advantages, and capabilities due to its prior experience under a government contract, including performance as the incumbent contractor, the government is not required to equalize competition to compensate for such an advantage, unless there is evidence of preferential treatment or other improper action (which LOGMET did not allege here). *Lynchval Sys. Worldwide, Inc.*, B-420295.4, Apr. 26, 2022, 2022 CPD ¶ 103 at 11. The existence of an advantage, in and of itself, does not constitute preferential treatment by the agency, nor is such a normally occurring advantage necessarily unfair. *Lynchval*

⁴ The agency updated the attachments as necessary via solicitation amendments.

Sys. Worldwide, Inc., supra.; Snell Enters., Inc., supra. Here, LOGMET has not alleged that the incumbent contractor has anything more than the normally occurring advantage that any incumbent may possess, which the agency is not required to neutralize. We find therefore no basis to sustain this allegation.

The protest is denied.

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General Counsel