



Decision

Matter of: Dongjin-South Korea

File: B-423142; B-423142.2

Date: January 24, 2025

Yong Tok Pak for the protester.
Major Jules L. Szanton, Department of the Army, for the agency.
Jacob M. Talcott, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of protester's proposal is dismissed as untimely where the protest challenges the evaluation criteria after the initial due date for proposals.
 2. Protest challenging the agency's failure to consider the protester's prior experience at a wastewater treatment facility is denied where the proposal failed to reference this experience.
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DECISION

Dongjin-South Korea, of Gyeongsangbuk-do, South Korea, protests the elimination of its proposal from the competition under request for proposals (RFP) No. W90VN6-24-R-A001, issued by the Department of the Army, for maintenance support services at air bases in the Republic of Korea. The protester contends that the agency unreasonably evaluated its proposal, which resulted in the improper elimination of its proposal from the competition. The protester also contends that the terms of the solicitation failed to provide a reasonable method of evaluating proposals.

We deny the protest.

BACKGROUND

On July 11, 2024, the agency issued the solicitation for commercial products and services in accordance with Federal Acquisition Regulation (FAR) part 12, using the negotiated procedures of FAR part 15. Agency Report (AR), Tab 2, Contracting Officer's Statement (COS) at 1; AR, Tab 3, RFP at 1. The solicitation contemplated the

award of a contract with fixed-price contract line item numbers (CLINs) and requirement CLINs. COS at 3. The period of performance included a phase-in period of 2 months, a base period of 10 months, and four 12-month option periods. AR, Tab 4, Performance Work Statement (PWS) at 1. The due date for proposals was October 7, 2024. RFP at 1.

The solicitation provided for a two-phase evaluation. AR, Tab 5, Instructions to Offerors at 13. Under phase one, the agency would evaluate two subfactors--prime contractor's business licenses and prime contractor's prior experience--on an acceptable/unacceptable basis; proposals would proceed to the second phase of the evaluation only if the agency assigned the proposal a rating of acceptable under both subfactors. *Id.* at 15. To receive a rating of acceptable under the licenses subfactor, the offeror had to provide evidence of current licenses in general works (civil), general works (architecture), and specialized work (electrical).¹ *Id.* To receive a rating of acceptable under the experience subfactor, the offeror had to demonstrate recent experience in facility maintenance, real property management, and environmental protection services. *Id.* at 15-16. Under the second phase of the evaluation, which is not at issue in this protest, the agency would evaluate proposals under three additional technical subfactors (technical approach, quality control plan, and property management plan), past performance, and price. *Id.* at 16-21.

The solicitation provided that the agency would award the contract to the offeror whose proposal represented the best value to the agency where technical phase two subfactors were the most important factors, past performance was the second most important, and when combined, both were significantly more important than price. *Id.* at 13.

Evaluation of Dongjin's Proposal

The protester submitted a proposal by the deadline on October 7. COS at 4. Although the protester's proposal satisfied the requirements for the business licenses subfactor, the agency concluded that the proposal failed to meet the requirements under the prior experience subfactor. *Id.* Specifically, the agency concluded that the protester's proposal did not demonstrate experience with real property management or environmental protection services. *Id.* at 4. Accordingly, the agency informed the protester on October 17 that its proposal was unacceptable and would not proceed to the second phase of the evaluation. *Id.* The agency provided a debriefing to Dongjin on October 22; this protest followed. *Id.*

DISCUSSION

The protester challenges both the agency's evaluation of its proposal and the terms of the solicitation. First, the protester argues that the agency should not have required it to

¹ The solicitation provided that as an alternative, an offeror could provide licenses in general works (civil and architecture) and electrical systems repair. *Id.*

demonstrate experience with environmental protection services and real property management because the protester submitted a general construction license with its proposal. Protest at 1. According to the protester, this license alone demonstrated that the protester possessed the required experience. *Id.* Second, the protester argues that the solicitation failed to provide a reasonable source selection methodology. *Id.* Third, the protester contends that the agency failed to credit its proposal with its experience at the Goryeong wastewater treatment facility. *Id.* For reasons discussed below, we deny the protest.²

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. *Verizon Wireless*, B-406854, B-406854.2, Sept. 17, 2012, 2012 CPD ¶ 260 at 4. Protests based upon alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals shall be filed prior to that time. 4 C.F.R. § 21.2(a)(1).

The protester first argues that the agency should have accepted its general construction license, which it submitted under the first technical phase one subfactor, as evidence of the protester's prior experience with environmental protection services and real property management. Protest at 1. Requiring offerors to also demonstrate this experience under the second technical phase one subfactor was, in the protester's view, superfluous. *See id.* Prior to the filing of the agency report, the agency requested dismissal of this protest ground on the basis that it constitutes an untimely challenge to the terms of the solicitation. Req. for Dismissal at 1-2. We agreed with the agency and granted the request for dismissal prior to the submission of the agency report. *See* Electronic Protest Docketing System (Dkt.) No. 10.

Even if the protester is correct that a general construction license indicates that the license holder has experience with environmental protection services and real property management, the solicitation still required offerors to separately describe their experience in those areas under the prior experience subfactor. *See* AR, Tab 5, Instructions to Offerors at 15-16. The protester does not argue that it did so; instead, it argues that this requirement was unnecessary. *See* Protest at 1. Accordingly, we dismiss this protest ground as untimely because the protester did not raise this challenge prior to the initial due date for proposals.³

² Although we do not address every argument raised by the protester, we have considered them and find none to be meritorious.

³ We also granted the agency's request for dismissal of the protester's argument that the evaluation criteria failed to provide a reasonable source selection methodology. *See* Req. for Dismissal at 1-2; Dkt. 10. Similar to the argument above, this protest ground is untimely as it raises a challenge to the terms of the solicitation after the initial due date for proposals.

The protester also contends that the agency did not properly credit its proposal for its prior experience at the Goryeong wastewater treatment facility. Protest at 1. The agency responds that our Office should deny this protest ground because the protester failed to include any information in its proposal concerning its experience at this facility. Memorandum of Law (MOL) at 2.

Based on the record, we have no basis to sustain this protest ground. It is an offeror's responsibility to submit a well-written proposal that allows a meaningful review by the procuring agency, and where an offeror fails to do so, it runs the risk that a procuring agency will evaluate its proposal unfavorably. *Lovelace Scientific and Tech. Servs.*, B-412345, Jan. 19, 2016, 2016 CPD ¶ 23 at 10. As the agency points out, the protester's proposal did not contain a reference to its experience at the Goryeong wastewater treatment facility. MOL at 2. Accordingly, the agency properly did not consider this experience. This protest ground is thus denied.

The protest is denied.

Edda Emmanuelli Perez
General Counsel