



Comptroller General
of the United States

Washington, D.C. 20548

92-1 CPD 2

Decision

PR

Matter of: TDA Joint Venture

File: B-245361

Date: January 2, 1992

Richard D. Mugg for the protester.
Jonathan H. Kosarin, Esq., and Robert G. Janes, Esq.,
Department of the Navy, for the agency.
Anne B. Perry, Esq., Glenn G. Wolcott, Esq., and Paul
Lieberman, Esq., Office of the General Counsel, GAO,
participated in the decision.

DIGEST

1. Protest challenging subjective evaluation of personnel is denied where solicitation listed specific experience and educational requirements that personnel proposed by protester failed to meet.
2. Protest challenging agency's determination that proposal was technically unacceptable is denied where record indicates protester failed to understand the scope of the work contemplated by the solicitation.

DECISION

TDA Joint Venture protests the award of a contract by the Department of the Navy to Veda, Inc. under request for proposals (RFP) No. N62269-90-R-0274. This RFP sought proposals for engineering and technical services in support of the Naval Air Development Center's (NADC) Tactical Aircraft Systems Department (TACAIR). TDA challenges the Navy's determination that its proposal was technically unacceptable.

We deny the protest.

The solicitation, issued September 19, 1990, sought a variety of services in support of NADC's tactical weapons systems, for example, high performance fighter and attack aircraft such as the F-14 and the F/A-18, and related systems such as tactical reconnaissance and aerial targets. The RFP contemplated a cost-plus-fixed-fee, level-of-effort contract for a base year and 4 option years.

The RFP provided that technical evaluation factors would be more important than cost, and listed the following technical factors in descending order of importance: personnel qualifications; technical approach; corporate experience; management approach; and facilities. The statement of work (SOW) in the RFP identified and described 21 specific tasks the contractor would be required to perform, and listed the labor categories that would be required along with the educational and experience qualifications required for personnel proposed under each labor category. Section B of the RFP provided a schedule of the estimated number of labor hours required in each labor category.¹

The agency explains that the first three labor categories listed are critical to successful contract performance because the Principal/Program Engineer will plan and direct the contract work and the Project Engineers, in conjunction with the Senior Engineers/Weapon System Analysts, will do the bulk of the engineering work and account for nearly half of the total manhours required.

TDA, Veda, and one other offeror submitted proposals by the October 19 closing date.² TDA's proposal contained the lowest proposed cost of \$8,684,116; Veda's proposed cost was \$10,221,776. Based on the technical evaluation of proposals, the source evaluation board (SEB) determined that TDA's proposal was technically unacceptable in three of the evaluation categories: personnel qualifications; management approach; and facilities. By a memo dated July 3, 1991, the SEB explained the basis for determining that TDA's proposal

¹Section B of the RFP estimated the required hours for each category as follows:

<u>Labor Category</u>	<u>Hours</u>
Principal/Program Engineer	4,500
Project Engineer	7,500
Sr. Engineer/Weapons System Analyst	18,450
Engineer/Analyst	5,500
Jr. Engineer	4,000
Draftsman/Illustrator	3,000
Engineering Aid	7,860
Sr. Computer Technician	1,880
Computer Aid	3,760
Total	56,450

²Following an initial review of proposals, the agency determined that the third offeror's proposal was technically unacceptable and did not consider it further.

was technically unacceptable, and recommended that TDA be eliminated from the competition. Upon receipt of the memo, the contract negotiator prepared a pre-negotiation clearance recommending award to Veda and presented it to NADC's contract review board on July 25. The Board approved the clearance that day and a contract was awarded to Veda on August 1. TDA was notified of the award by letter dated August 6.

TDA protests the award on the grounds that NADC improperly determined TDA's proposal to be technically unacceptable and disregarded TDA's substantially lower proposed costs. TDA complains that the agency rejected its proposal on the basis of a "subjective" evaluation of TDA's proposed personnel and asserts that all of the resumes which it submitted met or exceeded the RFP requirements. TDA argues that the technical evaluators were not given sufficient guidance in the agency's internal evaluation plan to eliminate the potential for subjective judgments of technical merit.³

In reviewing an agency's technical evaluation, we will not substitute our judgment for the agency's, but rather will examine the evaluation to ensure that it was not unreasonable or in violation of the procurement laws and regulations. Native Am. Consultants, Inc.; ACKCO, Inc., B-241531; B-241531.2, Feb. 6, 1991, 91-1 CPD ¶ 129. A protester's mere disagreement with the agency's judgment does not render that judgment unreasonable. ERC Environmental and Energy Services Co., Inc., B-241549, Feb. 12, 1991, 91-1 CPD ¶ 155.

The agency found TDA's proposal technically unacceptable under three evaluation factors, including personnel qualifications--the most important technical evaluation factor. Regarding personnel qualifications, the agency determined that 16 of the 37 individuals TDA proposed as project engineers and senior engineers/weapon system analysts--the two categories accounting for nearly half of the labor hours contemplated--failed to meet the minimum experience and educational requirements the RFP established for those labor

³TDA also protests that the agency violated Federal Acquisition Regulation (FAR) §§ 15.1001(b) and (c) which require prompt notification of technically unacceptable or otherwise unsuccessful offerors. The record indicates that the agency's letter, dated August 6 and received by TDA on August 9, advised TDA that its proposal was technically unacceptable. Thus, it appears TDA was promptly notified as required by the FAR. In any event, late notice to a technically unacceptable offeror does not affect the validity of an otherwise proper award. Cinpac, Inc., B-243366, July 15, 1991, 91-2 CPD ¶ 57.

47
categories. Specifically, the RFP required the following qualifications:

"Project Engineer

Education: Bachelor's degree in engineering, physical sciences, math or computer sciences and 10 years relevant experience in systems engineering.

Experience: Experience and expertise to plan, manage and assess large scale engineering tasks in support of current and future Navy TACAIR systems plus at least 5 years of engineering supervision or direction which relates to engineering tasks detailed in the attached SOW and in one or more of the following.

- Systems engineering of combatant aircraft, weapons or support systems.
- Air-to-air/air-to-ground fire control systems.
- Air launched guided missiles.
- Unmanned air vehicle system engineering.

"Senior Engineer/Weapon System Analyst

Education: Bachelor's degree in engineering, physical sciences, math or computer science and 7 years applicable engineering experience.

Experience: At least 4 years relevant and recent experience in areas relating to engineering tasks defined in the attached SOW and in one or more of the following.

- Air-to-air/air-to-ground sensors.
- Combatant aircraft avionic systems design.
- Air launch weapons.
- System simulation.
- Cockpit design.
- Aircraft systems specifications.
- Unmanned air vehicle system engineering.
- Tactical mission analysis/systems analysis.
- Weapon or simulation system software engineering."

The agency determined that 5 of the 15 individuals whom TDA proposed as project managers and 11 of the 22 individuals whom TDA proposed as senior engineers/weapon system analyst failed to meet the RFP's minimum qualifications. TDA disputes the agency's evaluation of the minimum qualifications of its personnel, arguing that the agency improperly

disregarded the years of experience obtained by some of the personnel it proposed as senior engineers/ weapons system analysts prior to their receipt of a college degree.

As noted above, the RFP paragraph headed "Education" required that individuals proposed as senior engineers/weapons system analysts have a "[b]achelor's degree in engineering, physical sciences, math or computer science and 7 years applicable engineering experience."⁴ The SOW provided that engineers employed by the successful offeror will: develop avionics system architecture; perform analysis of sensors, avionics, and weapons; develop advanced system simulations; and develop and analyze system software. In light of the complex nature of the engineering services contemplated, it is clear that experience obtained by an individual which did not involve application of the basic knowledge and skills evidenced by acquisition of the requisite degree would not constitute the type of experience sought by the agency. Accordingly, the agency reasonably concluded that experience obtained prior to receiving the requisite educational degree was not qualifying experience for purposes of this procurement.

TDA also complains that the agency's evaluation failed to give credit for experience of one individual that could not be identified on the resume due to its classified nature. With respect to this complaint, we find no fault with the agency's evaluation. It was the responsibility of the offeror to demonstrate to the agency the qualifications of its personnel, and TDA did not advise the agency of the existence of experience which could not be disclosed, or refer to it in any way in its proposal. If TDA wanted this experience considered, it could have provided some general notice regarding the classified matter and the agency could have sought additional information using appropriate procedures.

Section 3 of the SOW identified and defined 21 specific tasks that were to be performed under the contract. Section 2 of the SOW listed various functional requirements that appeared throughout the 21 tasks--for example, Software Development, Analysis of Sensors and Weapons, and Development of Avionics System Architecture. In its proposal, TDA provided a matrix identifying the personnel it believed were qualified to perform the functional requirements that appeared throughout the contract tasks.

⁴In a separate paragraph headed "Experience," personnel proposed as senior engineers/weapons system analysts were also required to have "at least 4 years relevant and recent experience in areas relating to [specifically identified] engineering tasks."

The agency examined the qualifications of the personnel TDA proposed with regard to 10 specific functional requirements that appeared throughout the contract tasks and determined that a majority of the individuals proposed as project engineers and senior engineers/weapons system analysts were not qualified to perform the functional requirements. Specifically, the agency found the following with regard to TDA's proposed personnel:

<u>Task</u>	<u>Personnel Proposed</u>	<u>Personnel Qualified</u>
Avionic and Sensor Analysis	8	3
Weapons and Weapons Control Analysis	9	1
P31 Program	19	1
Performance Requirements Analysis	6	2
Concept Definition	14	1
Software Design Analysis/Development	21	2
Software IV and V	5	1
Physical Design Adequacy	-	1
Aircraft Performance	-	2
Crew Station Requirement Analysis	-	1 ⁵

Since these functional requirements were pervasive throughout the SOW, the agency concluded that TDA would not be able to adequately perform the contract given the limited number of qualified individuals it had proposed. The evaluators summarized the deficiencies in TDA's proposal with regard to personnel qualifications as follows:

"Lack of recent engineering design products[;]
 Lack of recent technology publications[;]
 Minimal recent TACAIR advanced concepts initiatives[;]
 Pilots operational experience frequently outdated[;]
 Little evidence of affecting technology transition[;]
 Specific lack of expertise indicated in aerospace engineering and design, materials, structures, software engineering, weapon design, weapons system control, radar, susceptibility, and advanced systems in general."

Although TDA specifically challenges the agency's evaluation with regard to a few specified individuals, it does not identify specific flaws in the agency's evaluation regarding

⁵TDA did not identify the last three tasks listed above as critical in its proposal and therefore did not specifically identify personnel with such experience.

40

the majority of the individuals whom the agency found unqualified to perform the functional requirements of the contract. Rather, TDA disputes the agency's representations regarding the pervasive nature of those requirements. For example, TDA disputes the agency's assertion that software analysis/development is a functional requirement in "nearly all" of the 21 SOW tasks. TDA counters that, by its count, the term software appears in only 67 of the 222 substantive SOW subparagraphs⁶ and, relying on this calculation, asserts that the requirement for software analysis and development "is substantially less pervasive and personnel-resource intensive than the picture painted by the exaggerations and hyperbole in the [agency] Report."⁷

Based on our review of the record, we conclude that the agency's identification of deficiencies in TDA's proposal was reasonable. Specifically, for the reasons discussed above, we find no basis to question the agency's determination that some of the personnel proposed by TDA did not meet the solicitation requirements. Further, contrary to TDA's assertions, our review indicates that the functional requirements for which TDA failed to propose sufficiently qualified personnel, in fact, appeared throughout the SOW tasks. The fact that TDA failed to recognize the pervasive nature of these functional requirements supports the agency's assessment that TDA failed to understand the scope of work contemplated by this solicitation.⁸


⁶Each of the 21 tasks contained several subparagraphs defining in detail the requirements of that task. The description of the tasks fills over 50 pages in the SOW.

⁷TDA did not identify how many of the SOW's 21 tasks contained requirements for software analysis/development. However, the agency provided this information in response to TDA's allegations, identifying references to specific subparagraphs where software analysis/development was contemplated in 18 of the 21 SOW tasks.

⁸TDA's proposal was also reasonably evaluated as technically unacceptable in the areas of management approach and facilities. For instance, TDA's discussion regarding its management approach referred to creation of task orders by the government despite the fact that the solicitation itself specified the tasks to be performed. With respect to evaluation of TDA's proposal in the area of facilities, TDA proposed an unspecified facility it did not possess, and did not explain how or whether it could assemble all of the necessary equipment in a timely fashion.

Finally, TDA's assertion that the agency improperly failed to consider its lower proposed cost is without merit. Since the agency properly rejected TDA's proposal as technically unacceptable, TDA's proposed cost was irrelevant since its proposal was ineligible for award. Pacific Computer Corp., B-224518.2, Mar. 17, 1987, 87-1 CPD ¶ 292.

The protest is denied.


for James F. Hinchman
General Counsel