



Decision

Matter of: Moura's Cleaning Service, Inc.

File: B-402741.4

Date: September 7, 2010

Andre Thibodeau for the protester.

Mark Ezersky, Esq., General Services Administration, Public Buildings Service, for the agency.

Eric M. Ransom, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Challenge to evaluation of protester's proposal under experience factor is denied where the record shows that the evaluation was reasonable and consistent with the solicitation.

DECISION

Moura's Cleaning Service, Inc. (MCSI), of Hudson, Massachusetts, protests the award of a contract to Cova Services, Inc., of San Diego, California, by the General Services Administration (GSA) under solicitation No. GS-09P-10-KSD-0021, for custodial, grounds maintenance, and related services at the Otay Mesa Land Port of Entry (LPOE) in San Diego, California.

We deny the protest.

GSA issued the solicitation on February 26, 2010, for the purpose of obtaining janitorial and grounds maintenance services at the Otay Mesa LPOE. GSA subsequently issued three amendments to the solicitation. Sixteen proposals were received in response to the solicitation, including proposals from MCSI and Cova.

The solicitation stated that award would be made to the offeror whose proposal was determined to be most advantageous to the government, price and other factors considered. The solicitation also advised that price was significantly less important than the two stated technical factors, experience and past performance. Between the two technical factors, experience was significantly more important than past performance.

With regard to the technical factors, the solicitation stated as follows:

Offerors will be evaluated based on relevant experience and past performance on Similar Work. Therefore, each offeror is ***required to submit*** a completed *Experience/Past Performance Data Sheet* (Attachment 3) for a minimum of three projects within the past three years.

* * * * *

Similar Work means janitorial, grounds maintenance and related services detailed in the Standard Services of the solicitation, at a campus-type facility with a minimum of five (5) buildings.

Solicitation at 140 (emphasis in original). The solicitation further explained that “[t]he standard [for the experience factor] is met when the Offeror demonstrates that it has performed Similar Work on three projects within the past three (3) years,” and that “[t]he standard [for the past performance factor] is met when the Offeror submits at least three projects within the past three (3) years involving Similar Work and the past performance was rated satisfactory or better.” Id.

MCSI’s proposal contained experience/past performance data sheets for five projects that MCSI had completed in the past 3 years. Upon examination, GSA determined that four of the five data sheets made no mention of grounds maintenance responsibilities, and did not meet the solicitation’s definition of “Similar Work.” Accordingly, GSA assessed MCSI’s proposal a major weakness for failure to demonstrate similar work on three projects under the experience technical factor, and no strengths or weaknesses under the past performance technical factor.¹

On May 5, GSA informed MCSI that award would be made to Cova. MCSI timely requested a debriefing, which it received on May 24. MCSI then filed this protest.

MCSI asserts that it submitted the required experience/past performance data sheets, and that its proposal was improperly evaluated by GSA under the experience evaluation factor. The agency acknowledges that MCSI submitted five experience/past performance data sheets, but, as noted above, argues that in four cases the data sheets failed to demonstrate that the referenced projects included grounds maintenance responsibilities, and therefore did not meet the solicitation’s

¹ GSA essentially determined that MCSI’s past performance could not be evaluated, and thus assessed no strengths or weaknesses in accordance with Federal Acquisition Regulation § 15.305(a)(2)(iv).

definition of “Similar Work” as required for evaluation under the experience factor. We agree.

The evaluation of proposals is a matter within the discretion of the contracting agency. In reviewing an agency’s evaluation, we will not reevaluate proposals; instead, we will examine the agency’s evaluation to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable procurement laws and regulations. MAR, Inc., B-246889, Apr. 14, 1992, 92-1 CPD ¶ 367 at 4. An offeror’s mere disagreement with the agency’s evaluation does not render the evaluation unreasonable. McDonnell Douglas Corp., B-259694.2, B-259694.3, June 16, 1995, 95-2 CPD ¶ 51 at 18.

As stated above, the solicitation required offerors to demonstrate experience in performing similar work, and defined similar work as projects including grounds maintenance services. The record shows that, despite this instruction, only one of MCSI’s experience/past performance data sheets even arguably referenced any aspect of grounds maintenance. Specifically, MCSI’s first data sheet stated, in the description of work, “complete janitorial and related services, policing grounds, carpets, floor maintenance 10 buildings.” Comments, July 8, 2010, Exh. 2, at 1 (emphasis added). The remaining data sheets specifically identified the services provided for each project, but made no reference to any grounds maintenance services. For example, MCSI’s second data sheet stated, “[c]omplete janitorial and related services, carpet, floor maintenance, window cleaning,” and its fifth data sheet stated, “[c]omplete aseptic cleaning/janitorial service, related services, carpet and floor maintenance, window cleaning, blood borne pathogen procedures (OSHA).” Id. at 2, 5. Based on this record, we find GSA’s determination that MCSI’s data sheets did not demonstrate experience within the solicitation’s definition of similar work to be reasonable and consistent with the solicitation.

MCSI contends that the grounds maintenance services under its prior projects were included within the “related services” referenced in its data sheets. Given that MCSI specifically listed certain janitorial services in its experience/past performance data sheets, but failed to list grounds maintenance, we do not consider it unreasonable for GSA to have concluded that grounds maintenance services were not included in the projects. Since an agency’s evaluation is dependent on the information furnished in a proposal, it is the offeror’s responsibility to submit an adequately written proposal for the agency to evaluate. LOGMET, B-400535, Oct. 30, 2008, 2008 CPD ¶ 199 at 3. An offeror that fails to do so runs the risk that its proposal will be evaluated unfavorably. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6.

In filings made subsequent to its original protest, MCSI raised a wide range of allegations that are untimely, fail to state a valid basis for protest, or are otherwise not for consideration by our Office. For example, MCSI alleged that GSA did not provide a timely debriefing. This allegation is not subject to review by our Office inasmuch as the adequacy and conduct of a debriefing, or the failure to provide a

debriefing, are procedural matters that do not involve the validity of an award. Barnesville Dev. Corp., B-400049, June 30, 2008, 2008 CPD ¶ 132 at 5.

MCSI also alleged in a supplemental filing that its evaluation ratings were miscalculated and that its references were held to a higher standard than those of the awardee. However, MCSI provided no further elaboration or support for these allegations. Our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f) (2010), require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. A mere allegation of an improper agency evaluation, made “on information and belief” without any supporting explanation or documentation, does not satisfy these requirements. Siebe Envtl. Controls, B-275999.2, Feb. 12, 1997, 97-1 CPD ¶ 70 at 2.

Finally, in its comments on the agency report, MCSI alleged for the first time that amendment 2 to the solicitation, issued on March 23, deleted from the solicitation certain evaluation factors that GSA nevertheless relied on in its evaluation. This argument is untimely, because it is based on information that was available to MCSI at the time it submitted its original protest but was not raised within 10 days thereafter, as required under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2).²

The protest is denied.

Lynn H. Gibson
Acting General Counsel

² In any event, this protest ground is without merit. A review of the amendment and the record reveals that the amendment merely removed certain past performance evaluation worksheets from the solicitation, and did not modify the evaluation criteria in any way.