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Decision

Matter of: M C Dean, Inc.

File: B-404051

Date: December 27, 2010

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DIGEST

The exclusion of the protester's proposal from the competitive range was reasonable, where the protester's proposal was found to be have two deficiencies under the most important technical evaluation factor that rendered the proposal unacceptable and the proposal was found to not be among most highly-rated proposals, which were all technically acceptable.

DECISION

M.C. Dean, Inc., of Sterling, Virginia, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. W912DY-09-R-0014, issued by the by the Department of the Army, Corps of Engineers, for world-wide technical support services pertaining to electronic security systems (ESS) and other related systems.

We deny the protest.

BACKGROUND

The RFP provided for the award of up to five indefinite-delivery/indefinite-quantity contracts, under which task orders would be issued for a 3-year base period and a 2-year option period. The contractors would provide all design, labor, materials, equipment, transportation, supervision, coordination and services required to procure and install the ESS system and physical and/or force-protection measures. They would also provide all materials and services to procure and install the other

automated control systems, such as the utility monitoring and control systems (UMCS); heating, ventilation, and air conditioning (HVAC); supervisory control and data acquisition (SCADA); fire alarm safety (FAS) systems. RFP, Performance Work Statement (PWS), at 25-35.

Offerors were informed that award would be made on a best value basis, considering price/cost and the following factors: technical capability; past performance; experience, organizational structure, and key personnel; corporate programs; and small business participation plan. The technical capability factor was stated to be the most important factor, and the non-price/cost factors, combined, were stated to be significantly more important than price/cost.¹ RFP at 120.

Subfactors were identified for each of the non-price/cost factors.² For example, the following two subfactors were identified under the technical capability factor: (1) overall system capabilities and (2) sample task order approach. Id. The RFP provided that, under the overall systems capabilities subfactor, the Army would “evaluate the Offeror’s proposal of the technical descriptions for each of the proposed ESS, UMCS, HVAC, SCADA, and FAS systems based on how well the Offeror [had] complied with the requirements of the solicitation.” RFP at 122. In this regard, offerors were instructed to address their capabilities for each of the five systems:

- (1) Describe the Offeror’s capabilities in performing site surveys, developing technical recommendations and solutions, preparing technical data packages, procuring and installing systems, and maintaining systems.
- (2) Provide a list of Offeror’s certifications for vendor specific equipment or for which Offeror is a Value Added Reseller.
- (3) Describe the Offeror’s approach and capabilities for performing all testing, including pre-delivery, performance verification and endurance testing.

¹ The past performance and experience/organizational structure/key personnel factors were stated to be of equal importance, and, combined, to be less important than the technical capability factor. The corporate programs and small business participation plan factors were also stated to be of equal importance, and, combined, to be less important than the past performance and experience/organizational structure/key personnel factors. RFP at 120.

² The RFP identified the subfactors as “key elements.”

(4) Describe the Offeror's approach and capabilities for responding to warranty issues after acceptance of the installed system.

RFP at 101.

Under the sample task order approach subfactor, the Army would evaluate the reasonableness and validity of the offeror's technical approach to performing a sample task order that was provided as an attachment to the RFP, and how well that approach complied with the solicitation requirements. RFP at 122. Offerors were instructed to configure a system architecture that would most closely provide the functionality to satisfy the solicitation requirements and to address any assumptions used. Id. at 101.

The RFP stated that offerors should provide clear and succinct proposals that demonstrate the offerors' complete understanding of the solicitation requirements. In this regard, the RFP established page limitations for offerors' proposals. For example, offerors were limited to 80 pages for responding to the technical capability factor. RFP at 99. Offerors were warned that the agency would not award a contract to an offeror whose proposal contained a deficiency, as defined in Federal Acquisition Regulation (FAR) § 15.001. In this regard, the RFP identified adjectival ratings that would be used in the evaluation of proposals under these factors.³ Id. at 127.

The Army received 16 proposals, including M.C. Dean's, which were evaluated by the agency's source selection evaluation board (SSEB). M.C. Dean's proposal was evaluated as follows:

Technical capability	Past Performance	Experience/organizational structure/key personnel	Corporate Programs	Small Business Part. Plan
Unacceptable	Low Risk	Good	Acceptable	Good

Agency Report (AR), Tab 3, SSEB Initial Evaluation Report, at 5. M.C. Dean's unacceptable rating under the technical capability factor reflected the SSEB's finding that, although the protester's proposal offered six strengths, it also had 12

³ Under the technical capability, experience/organizational structure/key personnel, and corporate programs factors, proposals would be assessed as excellent, good, acceptable, marginal, or unacceptable. RFP at 120-122. An unacceptable rating reflected a proposal that contained a combination of significant weaknesses, major error(s), omission(s), or deficiency(ies) that indicate a lack of understanding of problems or an approach that cannot be expected to meet requirements. RFP at 127. Adjectival and risk ratings were also identified for the evaluation of past performance and the small business participation plan factors. Id. at 128.

weaknesses and 2 deficiencies. In particular, the SSEB noted as a deficiency under the overall system capabilities subfactor that M.C. Dean had failed to demonstrate its capabilities with respect to the UMCS, SCADA, HVAC and FAS systems. Id. at 31. The SSEB also noted a deficiency under the sample task order approach subfactor, finding that the protester's approach to the sample task order violated Director of Central Intelligence Directive (DCID) No. 6/9, "Physical Security Standards for Sensitive Compartmented Information Facilities (SCIF)" requirements.⁴ Id.

The Army decided to include the six most highly-rated proposals (all of which had acceptable or better ratings) in the competitive range. AR, Tab 4, Competitive Range Determination, at 1. M.C. Dean's proposal was excluded. Id. at 6.

Following a debriefing, M.C. Dean protested to our Office.

DISCUSSION

M.C. Dean broadly challenges each of the weaknesses and deficiencies the agency assessed in its proposal. As described below, the record shows that the Army reasonably assessed two deficiencies under the technical capability factor that resulted in the protester's proposal being found unacceptable. Because we find that the agency reasonably found the protester's proposal unacceptable, we do not address its arguments concerning every evaluated weakness.⁵

We will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Novavax, Inc., B-286167, B-286167.2, Dec. 4, 2000, 2000 CPD ¶ 202 at 13. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. FAR § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5.

⁴ The RFP's sample task order informed offerors that DCID No. 6/9 was applicable to the task order. RFP at 116.

⁵ M.C. Dean appears to argue that its proposal should not have been found unacceptable, because the agency did not identify either of these deficiencies as "major." See Comments at 10. The RFP, however, defined an unacceptable rating reflecting proposal that contained, among other things, a deficiency or deficiencies, RFP at 127, and incorporated the FAR's definition of a deficiency as "a material failure of a proposal to meet a Government requirement." RFP at 120. In this regard, the RFP specifically informed offerors that a proposal containing a deficiency would not be considered for award. Id.

Here, the Army assessed as a deficiency under the overall systems capabilities subfactor M.C. Dean's failure to demonstrate its capabilities with respect to the UMCS, SCADA, HVAC and FAS systems. Specifically, the SSEB found that, although the protester had adequately described its capabilities with respect to the ESS system, the protester had not described its capabilities for the UMCS, SCADA, HVAC, or FAS systems. AR, Tab 3, SSEB Initial Evaluation Report, at 31. In so finding, the SSEB noted M.C. Dean's general discussion of its capabilities, which could apply to these systems, but concluded that the firm's failure to specifically discuss its capabilities with respect to the systems indicated a lack of capability.

M.C. Dean disagrees with the agency's evaluation judgment in this regard, arguing that, under the experience/organizational structure/key personnel subfactor, the evaluators noted the firm's project experience with the ESS, UMCS, HVAC, SCADA, and FAS systems.⁶ See id. at 105. The protester argues that the agency "certainly knew that M.C. Dean had these system capabilities," because it acknowledged M.C. Dean's statement of experience. Comments at 41. Similarly, M.C. Dean argues that the evaluators' conclusion that M.C. Dean's level of demonstrated understanding reflected a high risk that it would not be able to perform all the work was inconsistent with the "low risk" rating M.C. Dean's proposal received under the past performance factor.

We find from our review of the record that the agency reasonably determined that M.C. Dean's discussion of the firm's capabilities with respect to a number of required systems was deficient. As noted above, the RFP provided for the evaluation of offerors' capabilities with respect to the ESS, UMCS, HVAC, SCADA and FAS systems, and, in this regard, instructed offerors to describe for each of these systems their capabilities with respect to services such as developing technical recommendations and solutions, preparing technical data packages, procuring and installing systems, maintaining systems, and testing the systems. See RFP at 101, 120. Although M.C. Dean's proposal discusses its capabilities in a general fashion, it does not tie this discussion specifically to the UMCS, SCADA,

⁶ M.C. Dean also provided a report from a technical consultant, who was admitted to the protective order issued in connection with this protest. This consultant also disagreed with the agency's evaluation judgment, stating that in his opinion, M.C. Dean's proposal was not deficient in the two respects identified by the SSEB. The consultant's, and protester's, disagreement with the agency's evaluation does not show that the agency's judgment was unreasonable. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

HVAC and FAS systems. Rather, its proposal stressed its [deleted] with the ESS system.⁷ See Protester's Technical Capability Proposal, at I-1.

We also do not agree with M.C. Dean that the Army should not have assessed as a deficiency the firm's failure to specifically discuss its capabilities with respect to these required systems because the agency should have known from its evaluation of the firm's experience and past performance that M.C. Dean would have these capabilities. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. CACI Techs., Inc., B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5. Although the agency found that M.C. Dean had identified projects and work, showing both experience and past performance with all of these systems, this does not replace the solicitation requirement that offerors describe their capabilities to perform various services with respect to each of these systems.⁸

M.C. Dean also challenges the deficiency assessed under the sample task order approach subfactor.

For the sample task order, offerors were required to describe their approach to providing an integrated ESS system for a new complex under construction at Fort Wannabe. Offerors were informed, as relevant here, that the complex would include a Security Operations Facility, a single story structure, and an Administration and Control Facility, another single story structure. The Security Operations Facility was to include a security monitoring center, guard force office, and arms room. Access to the Security Operations Facility and security monitoring center were to be controlled, and access control enrollment and badging were to be done in the badging office. The Administration and Control Facility included a control center, which was identified as a SCIF.⁹ Access to the SCIF was also

⁷ M.C. Dean also argues that the majority of the contract work is for the ESS system, rather than these other systems, suggesting that these other systems were secondary. See Protest at 42. Even if we accept that this is correct, the RFP nevertheless requires contractors to support these other systems and provides for the evaluation of offerors' capabilities with respect to them.

⁸ To the extent M.C. Dean complains that a fully compliant description could not be provided within the page limits established in the RFP, this concerns an alleged apparent solicitation impropriety, which was required to be protested prior to the time set for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (2010).

⁹ Sensitive Compartmented Information (SCI) is classified information concerning or derived from intelligence sources, methods or analytical processes, which is required to be handled exclusively within formal control systems established by the Director of Central Intelligence. A SCIF is an accredited area, room, group of

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required to be controlled. RFP at 115-116, 120. Offerors were also informed that DCID No. 6/9, Physical Security Standards for SCIFs, was applicable.¹⁰ RFP at 116.

The SSEB found that M.C. Dean's task order approach violated security requirements of DCID No. 6/9. Specifically, the evaluators found that M.C. Dean placed the [deleted] of the ESS for the Administration and Control Facility's control center (a SCIF) within the [deleted], which was not a SCIF or controlled to the SECRET level. Also, the SSEB concluded that, because the protester's proposal showed [deleted] within the Administration and Control Facility's control center, M.C. Dean had "failed to address SCIF requirements for the access enrollment at the badging room."¹¹ AR, Tab 3, Evaluation Report at 31.

M.C. Dean argues that it recognized that the security monitoring center (within the Security Operations Facility) would have to be secured to a SECRET level and did so. Comments at 52. M.C. Dean also contends that its proposal "made it clear that [Dean's] badging system was for the production of badges only[deleted]," and that "[a]ll other security issues, access rights and the like would occur in the[deleted], which is controlled at the SECRET level." Id. at 49.

M.C. Dean's arguments in this regard are not supported by the record. With respect to its recognition that the security monitoring center (from which the ESS for the SCIF would be monitored and controlled) was secured at a SECRET level, M.C. Dean does not direct us to any part of its proposal that states that this is so, nor have we found any such reference. Similarly, we find that M.C. Dean's proposal does not indicate that access to the SCIF would be protected within an alarmed area controlled at a SECRET level.¹² Accordingly, we find that the Army reasonably

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rooms, building, or installation where SCI may be stored, used, discussed and/or electronically processed. DCID No. 6/9.

¹⁰ DCID No. 6/9 establishes physical security standards governing the construction and protection of facilities for storing, processing, and discussing sensitive compartmented information (SCI), which is described in the directive as "require[ing] extraordinary security safeguards." DCID No. 6/9 ¶ 1.1.1.

¹¹ DCID No. 6/9 provides that "[l]ocations where authorization data, card encoded data, and personal identification or verification data is input, stored, or recorded must be protected within a SCIF or an alarmed area controlled at the SECRET level." DCID No. 6/9, Annex F, "Personnel Access Controls," ¶ 2.7.

¹² Although M.C. Dean contends that badging of visitors and access enrollment for the SCIF would be handled [deleted], the protester's proposal does not describe that M.C. Dean would handle the two[separately]. Moreover, even if access to the enrollment for the SCIF would be handled [deleted] in the security monitoring

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concluded that M.C. Dean's approach to the sample task order would be not be compliant with the security requirements of DCID No. 6/9.

In sum, the record shows that the Army reasonably found M.C. Dean's proposal deficient under the technical capability factor, the most important evaluation factor. In accordance with the solicitation's terms, M.C. Dean's proposal was unacceptable because of these deficiencies. Accordingly, we have no basis to object to the Army's determination that M.C. Dean's proposal was not among the most highly rated offers, all of which were found to be acceptable.

The protest is denied.

Lynn H. Gibson
Acting General Counsel

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center, the protester's proposal does not state that this center (which is not in the SCIF) would be controlled at a SECRET level.