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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: TAG Mississippi Enterprises, LLC

File: B-406134

Date: February 13, 2012

Tiffany H. Brown, Esq., for the protester.

Ronald J. Goodeyon, Esq., and Katherine D. Denzel, Esq., Department of the Army, for the agency.

Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of protester's proposal is denied where evaluation was reasonable and consistent with terms of the solicitation.

DECISION

TAG Mississippi Enterprises, LLC of Jackson, Mississippi, protests the award of a contract to Terra Construction, Inc., of Oklahoma City, Oklahoma, under request for proposals (RFP) No. W912BV-11-R-0030 issued by the Department of the Army, Army Corps of Engineers, for improvements to the flood control levee in Augusta, Kansas. TAG contends that the agency's technical evaluation of its proposal was unreasonable and that the resulting award decision was improper.

We deny the protest.

The RFP sought fixed-price proposals for a contractor to perform various services including the construction of a new levee section and rehabilitating portions of the existing levee along the Whitewater River in Augusta. The RFP provided for award to the offeror submitting the lowest-priced, technically-acceptable proposal, with technical acceptability to be evaluated under the following equally-weighted factors: (1) experience; (2) personnel; and (3) past performance. RFP amend. 1, at 15-16. Failure to receive a rating of technically acceptable under any evaluation factor would preclude contract award. Id.

As it relates to the protest, the RFP set forth various project specifications, which provided detailed staffing requirements and descriptions of the work to be

performed. The RFP noted, for example, that the selected offeror “shall furnish” a contractor quality control (CQC) plan which “shall identify personnel, procedures, controls, instructions, test, records, and forms to be used.” RFP § 01 44 00, ¶ 3.2.1, at 2. In this regard, the RFP established a general organizational framework for the CQC plan and identified various personnel such as the CQC system manager who “shall be assigned no other duties” other than those described in the project specifications, and a safety and health manager who “shall receive direction and authority from the CQC System Manager.” Id. ¶ 3.4.1 and 3.4.2, at 4.

For evaluation under the personnel evaluation factor, the RFP’s proposal preparation instructions required each offeror to provide

resume data for the following key personnel: Project Manager, Safety Officer, Quality Control Manager, Site Superintendent, as applicable to this requirement.

Resume information to be provided shall be limited to no more than one (1) page per person and shall include the following information as a minimum . . .

RFP amend. 1, at 14 (emphasis added).

The agency received seven proposals, including TAG’s, by the extended closing date. The protester’s lowest-priced proposal received the following technical evaluation ratings: acceptable for experience; unacceptable for personnel; and acceptable for past performance. The evaluators found that the protester’s proposal included a resume for a single individual to perform two of the four key personnel functions--that of safety officer and quality control manager--in contravention of the stated RFP requirements. Since the protester’s proposal was determined unacceptable under the personnel evaluation factor, the agency eliminated its proposal from further consideration. Award was subsequently made to Terra Construction as the offeror with the lowest-priced technically acceptable proposal. Agency Report exh. 10, Source Selection Evaluation Board Evaluation Report, Contracting Officer’s Statement at 9. Following a debriefing, this protest followed.

Our review of TAG’s proposal indicates that the assignment of an unacceptable rating under the personnel evaluation factor was well-founded. While TAG acknowledges that the solicitation identified four key personnel positions, the protester nevertheless contends that the solicitation did not require submission of a single resume for each of the four key personnel positions.¹ Therefore, in its view,

¹ For the record, we find inexplicable the protester’s argument that the solicitation did not require a resume for a CQC system manager. Protester’s Comments at 2.

(continued...)

the agency erred in concluding that TAG's proposed use of a single individual to fill multiple key personnel positions was unacceptable. Protest at 5-6.

In considering a protest of an agency's proposal evaluation, our review is confined to determining whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. The Mangi Envtl. Group, Inc., B-299721.4, Jan. 24, 2008, 2008 CPD ¶ 37 at 4. Where, as here, a solicitation requires offerors to furnish information necessary to establish compliance with the specifications, an agency may reasonably find a proposal that fails to include such information technically unacceptable. Douglass Colony/Kenny Solar, JV, B-402649, June 17, 2010, 2010 CPD ¶ 142 at 3.

Here, TAG's allegation that the RFP did not require a resume for the safety officer position and for the quality control manager position is contrary to the RFP's plain language, which called for a one page "per person" resume for a safety officer, a quality control manager, as well as a project manager, and a site superintendent. RFP amend. 1, at 4. Moreover, when the solicitation is read as a whole, it is clear that proposing a single individual for two of the key personnel positions simply would not meet the numerous performance requirements. As indicated above, the safety and health manager was to receive direction and authority from the CQC system manager, who was specifically not to be assigned "other duties"; therefore, it is clear that the solicitation contemplated a team of individuals holding distinct key personnel positions to perform the solicited work.

In sum, since TAG failed to comply with the terms of the solicitation which required resumes for each key personnel position, we have no basis to question the agency's evaluation finding that the protester's proposal was unacceptable under the personnel evaluation factor. A protester's mere disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 2.

The protest is denied.

Lynn H. Gibson
General Counsel

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Given the specific tasks and responsibilities listed in the RFP's quality control specifications, it is apparent that the term CQC system manager and quality control manager are synonymous. It follows that the solicitation did in fact identify the CQC system manager, also referred to as the quality control manager, as a key personnel position for which offerors were required to submit a resume.