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Decision

Matter of: Alpha-Omega Change Engineering, Inc.

File: B-406730

Date: August 17, 2012

Robert E. Korroch, Esq., and William Alexander Wozniak, Esq., Williams Mullen, for the protester.

Michael D. McGill, Esq., and Daniel S. Greenspahn, Esq., Hogan Lovells US LLP, for S4 Inc., an intervenor.

Carrie Willett Fogle, Esq., and Christina Wenzel, Esq., Department of the Air Force, for the agency.

Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's rejection of proposal as technically unacceptable because it provided insufficient details to demonstrate the offeror's understanding of the agency's requirements is denied where the agency's evaluation was reasonable and consistent with solicitation terms.

DECISION

Alpha-Omega Change Engineering, Inc. (AOCE), of Hampton, Virginia, protests the rejection of its proposal and the award of contracts to Intecon, LLC, of Colorado Springs, Colorado, and S4, Inc., of Arlington, Virginia, under request for proposals (RFP) No. FA2517-09-R-6032, issued by the Department of the Air Force for support services involving classified subject matter expertise and the comprehensive capability to plan and execute activities in support of Headquarters for the North American Aerospace Defense (NORAD) Command and Headquarters for the United States Northern Command (USNORTHCOM).

We deny the protest.

BACKGROUND

The RFP, set aside for small businesses, was issued on May 21, 2010. The RFP contemplated the award of up to three indefinite-delivery/indefinite quantity (ID/IQ)

contracts under which task orders would be awarded on a competitive basis. The RFP provided that proposals would be evaluated for technical acceptability under the mission capability factor on a pass/fail basis, considering the offerors' responses to two sample task orders: Integrated Tactical Warning & Attack Assessment (ITW/AA) and Exercise Planning and Support. Each sample task was evaluated based upon multiple specified evaluation elements. The task order responses were to be adjectivally rated by the agency. Marginal¹ or unacceptable² ratings would result in a "fail" rating; acceptable or exceptional ratings would result in a "pass" rating. RFP at 44. The awards would be based on a trade-off of the acceptable proposals, considering the equally weighted factors of past performance and price.

The Exercise Planning and Support task order required, among other things, a "thorough understanding of and a comprehensive capability to plan and execute multi-department/agency, national-to-local level exercises," as well as a "thorough knowledge and understanding of mission evolution and operational impact on exercises and the Joint Training Plan . . . and application and management of the Joint Training Information Management System." RFP at 46-47.

The RFP specified page limitations on the offerors' task order responses and advised that if final proposal revisions were required, then the same page limitations would still apply. RFP at 33-35. Offerors were advised that the responses were to be clear and concise, and should include sufficient detail for effective evaluation substantiating the validity of the stated claims. The RFP instructed offerors to identify program risks and uncertainties associated with their approach from the first day of contract performance for each mission capability subfactor. The identified program risks and uncertainties were to include "potential for disruption of schedule, increased cost, degradation of performance, need for increased government oversight and factors that could contribute to unsuccessful contract performance." RFP at 38.

¹ The solicitation defined a failing rating of marginal as:

There is doubt regarding whether an aspect of the proposal meets a specified minimum performance or capability requirements, but any such uncertainty may be correctable.

RFP at 44.

² The solicitation defined a failing rating of unacceptable as:

Fails to meet minimum performance or capability requirements. The proposal has one or more deficiencies and is not awardable.

RFP at 44.

The Air Force received proposals from six offerors, including AOCE, Intecon and S4. Intecon was the only offeror to submit a technically acceptable initial proposal. Evaluation notices (ENs) were developed for the technically unacceptable offerors and three rounds of discussions were conducted, after which only the proposals of S4 and Intecon were found acceptable. The other proposals, including AOCE's, were found technically unacceptable and not eligible for award.

The initial review of AOCE's proposal indicated 19 deficiencies, which were brought to AOCE's attention in 13 ENs. After its first proposal revision, AOCE's revised proposal was found to have 10 deficiencies, which the agency brought to AOCE's attention in 10 ENs. Face-to-face, as well as written, discussions were conducted during these first two rounds.

During the second round of discussions with AOCE, the contracting officer (CO) noted that AOCE failed to include the responses to the ENs in its proposal page changes in the revised proposal, and that sections of the proposal, which had previously been reviewed and been found acceptable, had been removed. CO's Statement at 8; AR, Tab 18, AOCE Round 2 Oral Discussion Meeting Minutes, at 2; Tab 25, AOCE Letter to AOCE (Feb. 24, 2012) at 1. Also during the second round of discussions with AOCE, the firm asked how much detail should be included in the proposal for the Exercise Planning and Support task order, in response to which the CO instructed AOCE to "address the full depth and breadth of [NORAD and USNORTHCOM] exercises." AR, Tab 18, AOCE Round 2 Oral Discussion Meeting Minutes at 2. When AOCE then stated that it would need an additional five to six pages for their proposal, the CO reminded the company that the page count had to be met because this was the standard for evaluating all of the offerors' proposals. Id.

After the second round of discussions, AOCE's revised proposal was found to have five deficiencies, which were brought to AOCE's attention in six ENs. AOCE again revised its proposal and the agency found that the newly revised proposal had four deficiencies, which were brought to AOCE's attention in a request for final proposal revisions (FPR). AOCE's final proposal revisions had two deficiencies in its response to the Exercise Planning and Support task order. These remaining deficiencies rendered AOCE's task order response unacceptable. AR, Tab 28, AOCE FPR Evaluation, at 1.

The agency therefore determined that AOCE's proposal "failed," and that the proposal was unacceptable. The agency then made awards to Intecon and S4. This protest followed.

DISCUSSION

AOCE complains that the Air Force did not reasonably evaluate its proposal in accordance with the stated evaluation criteria under the exercise planning and support task order subfactor.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. EEC-Insight, JV, B-404959; B-404959.3, July 12, 2011, 2011 CPD ¶ 169 at 4. A protester's mere disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. Troholz Techs., Inc., B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3-4. Moreover, it is an offeror's responsibility to submit an adequately written proposal that demonstrates the merits of its approach; an offeror runs the risk of having its proposal downgraded or rejected if the proposal is inadequately written. Id. at 5.

Here the record supports the Air Force's unacceptable rating of AOCE's response under the exercise planning and support task order subfactor.

In this regard, the agency first noted that AOCE's final proposal failed to address several considerations, such as schedule, budget, policy, legal and authorities, in planning and executing special operations in the USNORTHCOM area of responsibility. The agency also noted that AOCE failed to identify the principal distinguishing organizational characteristic and exercise challenge related to USNORTHCOM's special operations mission. Because of this lack of detail, the agency concluded that AOCE failed to demonstrate a thorough understanding and comprehensive capability to plan and execute multi-department/agency, national-to-local special operations exercises for NORAD and USNORTHCOM. AR, Tab 31, Source Selection Decision, at 2.

In addition, agency found that AOCE failed to demonstrate in its proposal that it possessed a thorough knowledge and understanding of the operational impacts on exercises. In this regard, the agency noted that AOCE's final proposal identified a number of operational impacts, but provided only a broad, generic process for identifying and accommodating any of these impacts in NORAD and USNORTHCOM exercises. Id. at 1-2. The agency concluded that the lack of any detail in AOCE's proposal regarding the operational impacts on NORAD and USNORTHCOM exercises indicated that the firm lacked the thorough knowledge and understanding required by the solicitation.

AOCE claims that these alleged deficiencies are not sufficiently material to warrant a "fail" rating for this subfactor considering that its response was acceptable with

regard to other elements of the subfactor, and that its EN responses should have satisfied the agency's concerns.³ These arguments constitute mere disagreement with the agency's judgment, and do not show the agency's evaluation judgment was unreasonable. In this regard, the RFP required the offerors to submit a technical approach demonstrating their ability to meet the solicitation requirements and to demonstrate its understanding of these requirements. Based on our review, we find the agency had a reasonable basis for finding that the protester's proposal did not contain sufficient detail to adequately demonstrate its understanding of this task. We also find that the agency could reasonably find that this failure was sufficiently material to support a "fail" rating under this subfactor. Moreover, contrary to AOCE's arguments, the agency's evaluation falls squarely under criteria set forth in the RFP for this subfactor. See RFP 46-47 (quoted above, infra at 2).⁴

The protest is denied.

Lynn H. Gibson
General Counsel

³ The protester contends that the successive ENs on the topic of the operational impacts on exercises resulted in "an increasing burden an AOCE to respond as the Agency desired within the page limit." Protester's Comments at 10. However, this complaint is untimely under our Bid Protest Regulations. If the protester believed that the page limitation prevented it from providing the detail required by the solicitation and the successive ENs, then the protester was required to protest this issue before the due date for FPRs. 4 C.F.R. § 21.2(a)(1) (2012).

⁴ Based on our review of the record, AOCE's complaint that the numerous rounds of discussions and ENs were misleading and not meaningful is meritless.