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Decision

Matter of: A&T Systems, Inc.

File: B-407152

Date: November 16, 2012

Richard O. Duvall, Esq., Holland & Knight LLP, for the protester.
Joseph G. Billings, Esq., Miles & Stockbridge PC, for the intervenor.
Brian Bentley, Esq., Department of the Army, for the agency.
Gary R. Allen, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest of an agency's technical evaluation is denied where the agency reasonably evaluated the awardee's proposal consistent with the solicitation's stated criteria.
2. Protest that the awardee's price is too low under a solicitation that did not provide for a price realism evaluation does not provide a valid basis to question an agency determination that the awardee's price was reasonable.

DECISION

A&T Systems, Inc., of Silver Spring, Maryland, protests the issuance of a task order to American Systems Corporation of Chantilly, Virginia, under request for task order proposal (RTOP) No. W91247-12-COII-0001, issued by the Department of the Army for telecommunication and engineering support services. A&T challenges the Army's technical and price evaluation of ASC's proposal.

We deny the protest.

BACKGROUND

The RTOP was issued pursuant to the procedures of Federal Acquisition Regulation (FAR) § 16.505 to small business vendors holding contracts under the General Services Administration's Connections II multiple-award, indefinite-delivery indefinite-quantity contract. The solicitation provides for the issuance of a task order with fixed-price, time-and-materials, and unpriced contract line items (CLINs) for telecommunication and engineering support services for the United States Army Reserve Command (USARC).¹ Vendors are informed that the task order will be issued on a low-price, technically acceptable basis. RTOP at 1, 72.

A detailed performance work statement (PWS) advises vendors that the contractor is expected to provide all personnel, equipment, supplies, facilities, and material necessary for the needed telephony services, secret internet protocol router network (SIPRNet) sustainment, and engineering support. RTOP, PWS, at 12. Among other things, the contractor will manage and supply: engineering support for USARC telephony circuits, lines and infrastructure; billing statements for telephone services; "24/7 Telephony and SIPRNet Service Desk Support;" and logistics support. Id. at 12, 33.

The RTOP identifies the following evaluation factors: technical capability, relevant technical expertise, and price. To be acceptable under the technical capability factor, proposals have to demonstrate a clear understanding of the RTOP requirement and a practical/functional technical approach meeting the requirements. RTOP at 74. The solicitation states that the agency will evaluate vendors' management, staffing, and teaming approaches to performing the work. Id. at 74-75.

For price, the solicitation instructs vendors to submit price matrices for the fixed-price and time-and-material CLINs that identified, among other things, the vendors' proposed staffing labor rates. Id. at 68-69. Proposed prices will be evaluated for reasonableness using the techniques and procedures of FAR § 15.404-1(b), with reasonableness being determined by comparing a firm's total proposed price to the total proposed prices of the other responding firms. Id. at 76.

The Army received proposals from four vendors, including American Systems and A&T (the incumbent). Contracting Officer's Statement at 5. The agency's task order evaluation board (TOEB) evaluated the proposals, determining that three proposals, including that of American Systems and A&T, were acceptable. Agency Report (AR), Tab 10, TOEB Report, at 4-5. As relevant here, the TOEB found that

¹ The RTOP provides not-to-exceed "plug" numbers for a number of CLINs, such as processing telephone bills, travel, and material associated with service requests and wiring/installation.

both American Systems' proposed staffing of [deleted] full time equivalents (FTEs), and A&T's proposed staffing of [deleted] FTEs, were adequate, considering each firm's technical approach. Id. at 9, 15-16.

A price analyst reviewed the vendors' proposed prices, comparing the prices to each other and to an independent government estimate (IGE).² AR, Tab 9, Price Report, at 4. The price analyst recognized that both American Systems' and A&T's proposed prices were based upon using fewer FTEs than contemplated by the IGE. See id. at 5 (American Systems), 7 (A&T). The price analyst also calculated an overall average price, derived from the prices proposed by the three vendors with acceptable offers. American Systems' and A&T's overall prices were compared as follows:

American Systems	\$56,865,607
A&T	[Deleted]
Average Price (3 proposals)	\$58,711,788
IGE	\$83,743,983

Id. at 3, 17-18. The price analyst reviewed vendors' pricing matrices, comparing each firm's identified labor categories and rates with the categories and rates stated in that firm's Connection II contract. See, e.g., id. at 5-7 (American Systems). Both American Systems' and A&T's proposed prices were found to be reasonable. Id. at 18.

The task order was issued to American Systems, based upon its lowest-priced, technically acceptable offer, and this protest followed a debriefing.

DISCUSSION

Technical Evaluation

A&T contends that American Systems' proposal should have been found technically unacceptable because its staffing plan is inadequate to perform the required work. Underlying its broad challenge is A&T's belief that, as the incumbent, only its proposal "featured the absolute lowest staffing composition and corresponding price still capable of satisfying all of the Solicitation requirements." Protest at 11. A&T alleges that it is "not feasible for [American Systems'], or any offeror's, proposal to satisfy the Solicitation's criteria for technical acceptability with less staff than that proposed by A&T." Protest at 12; Comments and 2nd Supp. Protest at 5.

² The price analyst revised the IGE during the procurement, because she determined that it was inflated with respect to labor and escalation rates. AR, Tab 9, Price Report, at 3.

A contracting agency has the primary responsibility for determining its legitimate needs and for determining whether an offered item will satisfy those needs, since it is the agency that is most familiar with the conditions under which the supplies or services will be used and that must bear the burden of difficulties incurred by reason of a defective evaluation. AINS, Inc., B-405902.3, May 31, 2012, 2012 CPD ¶ 180 at 7; Berkshire Computer Prods., B-246305, Feb. 28, 1992, 92-1 CPD ¶ 242 at 2. In reviewing protests challenging an agency's evaluation, our Office will not reevaluate proposals. See GC Servs. Ltd. P'ship, B-298102, B-298102.3, June 14, 2006, 2006 CPD ¶ 96 at 6; RVJ Int'l, Inc., B-292161, B-292161.2, July 2, 2003, 2003 CPD ¶ 124 at 5. Our review of an agency's evaluation is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation. ASPEC Engineering, B-406423, May 22, 2012, 2012 CPD ¶ 176 at 2-3.; Barents Group, L.L.C., B-276082, B-276082.2, May 9, 1997, 97-1 CPD ¶ 164 at 6. A protester's mere disagreement with the evaluation does not show it lacked a reasonable basis. Id.

Here, the record documents a detailed evaluation of American Systems' proposal under the RTOP evaluation criteria and describes the basis for the agency's judgment that American Systems' proposal was technically acceptable. The TOEB finds that American Systems demonstrated a thorough understanding of the PWS requirements and a practical and effective management approach to performing the required work. AR, Tab 10, TOEB Report, at 6-8. The TOEB specifically concludes that American Systems can adequately and sufficiently perform the required work with [deleted] FTEs, considering the firm's proposed staffing mix, staff qualifications, and technical approach.³ Id. at 8-10.

For example, the record shows that American Systems proposed CRGT, Inc. as a major subcontractor to perform most of the task order work. The TOEB finds that American Systems' proposed use of this experienced subcontractor, coupled with the vendor's thorough understanding of the requirement, and its cross-utilization of the subcontractor's experienced and qualified staff, allows American Systems to perform all required work with a reduced number of FTEs. See AR, Tab 10, TOEB Report, at 8-9. Although A&T disagrees with this judgment, its disagreement does not demonstrate that the agency's assessment is unreasonable.

A&T also complains that the Army did not reasonably assess the performance risk posed by American Systems' proposal to cross-utilize personnel.⁴ Although the

³ A&T also challenges the specific numbers of FTEs American Systems allocated to various PWS requirements. Protest at 12-13; Comments and 2nd Supp. Protest at 17-19. We have considered all of these arguments and find that none provide a basis to object to the agency's evaluation.

⁴ {Deleted} A&T [deleted] contends that American Systems' use of cross-utilization is excessive. See Comments and 2nd Supp. Protest at 8 n.14.

TOEB does not use the term “cross-utilization,” the evaluators recognize that American Systems proposes to use experienced and qualified staff in multiple jobs to perform all the PWS requirements. AR, Tab 10, TOEB Report, at 9. The TOEB considers American Systems’ approach to be “efficient and sound . . . for adapting to changing priorities[,] enhancing customer service[,] and ensuring adequate levels of performance are maintained.” Id.

A&T also challenges the Army’s evaluation of American Systems’ plan for recruiting and retaining personnel. Comments and 2nd Supp. Protest at 19. The RTOP instructs offerors to provide “[a] realistic and effective plan to establish and recruit and retain a qualified and trained workforce from the first day of performance, accommodate fluctuating workloads, minimize turnover, and ensure all PWS requirements are performed.” See RTOP at 75. The TOEB concludes that American Systems satisfy this requirement by proposing CRGT as its subcontractor, which ensured continuity of knowledge and service, and minimized risk and operational disruption. See AR, Tab 10, TOEB Report, at 9. The evaluators also cite American Systems’ use of “employee-centric recruitment and retention procedures including formal career development plans, technical and professional training, financial growth opportunities, and competitive benefits packages.” Id., citing, American Systems Technical Proposal at 23. We find no basis to conclude that the agency’s technical evaluation of American Systems’ proposal is unreasonable.

Price Evaluation

A&T asserts that the Army did not compare the vendors’ proposed prices to historical prices and did not ensure that American Systems’ lower price reflected its technical approach. Protest at 15-17; Comments and 2nd Supp. Protest at 12-16. As with its technical evaluation challenge, the basis for A&T’s contention is its belief that its own proposed price is the “absolute lowest” capable of satisfying the PWS requirements. Protest at 11.

A&T’s objection that American Systems’ total price is too low does not provide a valid basis to question the agency’s price reasonableness evaluation. A&T’s arguments reflect a lack of understanding as to the distinction between price reasonableness and realism. Here, the RTOP only provides for a price reasonableness evaluation. The purpose of such a price reasonableness review is to determine whether the prices offered are too high, as opposed to too low. Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3; WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 4 n.2. Arguments that an agency did not perform an appropriate analysis to determine whether prices are too low, such that there may be a risk of poor performance, concern price realism. C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3; SDV Solutions, Inc., B-402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4.

A price realism evaluation is not required where, as here, the solicitation only provides for a price reasonableness evaluation.

A&T also complains that American Systems takes exception to the solicitation's requirements because it includes certain administrative costs and mark-ups in its proposal with respect to CLINs that include not-to-exceed plug numbers. Protest at 16-17; Comments and 2nd Supp. Protest at 15-16. We find from our review of the record, including American Systems' price proposal, no basis to conclude that the agency's price evaluation is unreasonable or that the awardee took exception to the solicitation requirements.

For example, for CLINs related to processing USARC's telephone bills, the RTOP requires vendors to do so in accordance with the PWS and plug number that vendors are to use. RTOP at 3. Vendors are informed that:

The Government will reimburse the Contractor for actual totals for Telephone Bills in support of the USARC mission under this Task Order as described in the PWS. Any administrative, service fees, and handling costs, etc., if applicable must be included as part of monthly amounts that the contractor include (sic) under CLINs 0100, "Managed Voice Communications/SIPRNet" and corresponding years.

RTOP amend. 2, at 1. American Systems uses the plug number from the solicitation and states that it will "invoice the Government actual costs for the telephone bills. Any administrative and handling expenses have been included in our CLIN 0100 and corresponding year's prices." American Systems Price Proposal at 20.

Similarly, with respect to the CLINs for travel, the RTOP contains a plug number and informs vendors that the agency will reimburse vendors for the pre-approved actual travel expenses. RTOP, PWS, at 47. The RTOP also advises that

[i]ndirect rates commensurate with the firm's disclosure statement/accounting practices are authorized for reimbursement. Fee or profit on travel expenses is not an allowable reimbursement.

Id. (emphasis in original). American Systems uses the plug number and states that "[p]reapproved travel costs will be reimbursed at actual costs plus allowable indirect rates. In accordance with our disclosed accounting practices, we apply G&A to travel expenses. No fee or profit will be applied to travel expenses." American Systems Price Proposal at 21. The Army reasonably found that in both instances, American Systems had complied with the solicitation requirements. AR, Tab 9, Price Report, at 6.

As discussed above, we find no merit to any of A&T's objections to the agency's evaluation of technical and price proposals.⁵ In sum, A&T has not shown that the agency's technical and price evaluations, or its selection decision, are unreasonable or inconsistent with the RTOP; the protester's disagreement with the agency's judgment does not establish that the agency acted unreasonably. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

The protest is denied.

Lynn H. Gibson
General Counsel

⁵ A&T makes numerous arguments in addition to, or variations of, the arguments discussed above. We find that none of A&T's arguments provide a basis to object to the agency's technical and price evaluation, although we have only specifically discussed the protester's primary arguments. This is consistent with the statutory mandate that our bid protest forum provide for "inexpensive and expeditious resolution of protests." See 31 U.S.C. § 3554(a)(1) (2006). Ahtna Facility Services, Inc.-Recon., B-404913.3, Oct. 6, 2011, 2012 CPD ¶ 270 at 3.