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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** ABBA Construction, Inc.

**File:** B-408630.2

**Date:** October 30, 2014

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Mack E. Reifers, for the protester.

CPT Andrea R. Carroll and Christopher S. Cole, Esq., Department of the Air Force, for the agency.

Susan K. McAuliffe, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging agency's rejection of proposal as technically unacceptable is denied where agency's evaluation was reasonable and consistent with terms of solicitation.

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### DECISION

ABBA Construction, Inc., of Jacksonville, Florida, protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. FA4830-12-R-0004, issued by the Department of the Air Force for construction services at Moody Air Force Base, Georgia. ABBA contends the agency's evaluation of its proposal was unreasonable and inconsistent with the terms of the solicitation.

We deny the protest.

The RFP, issued on June 10, 2013, contemplated the award of nine indefinite-delivery/indefinite-quantity multiple-award construction contracts; the agency anticipated awarding three contracts to service-disabled veteran-owned small businesses, three contracts to 8(a) concerns, and three contracts to small businesses.<sup>1</sup> RFP at 45. Awards were to be made on a lowest-priced, technically

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<sup>1</sup> ABBA protests the rejection of its proposal for one of the small business set-aside awards.

acceptable basis. Id. at 47. Technical acceptability was to be evaluated with respect to technical approach and past performance. As it relates to the protest, the RFP indicated that technical approach was to be evaluated “to ensure all of the Statement of Objectives (SOO) are addressed.” Id. A technical proposal rating of “unacceptable” was to be assigned where the proposal “does not clearly meet the minimum requirements of the solicitation.” Id.

The RFP’s instructions indicated that only the required minimum amount of information was requested to provide for evaluation, and that offers should be as brief as possible, concentrating on substantive information essential for proper evaluation. Id. at 37. Offerors were cautioned, however, that proposals were to be clear, concise, and include sufficient detail for evaluation and for substantiating their validity. Id. The RFP further instructed that “[o]ffers are required to meet solicitation requirements, including terms and conditions, representations and certifications, and technical requirements, in addition to those identified as evaluation factors or sub-factors” and that “proposals must provide adequate detail for effective evaluation.” Id. Offerors were advised that incomplete proposals would not be considered for award. Id.

The SOO set forth a sample project--an addition to an existing maintenance unit, building No. 648--and offerors were to provide their technical approaches for completion of this project. RFP Amend. No. 7, RFP Attach. No. 8. The SOO explained that “[w]ork will include, but not be limited to” structural framing and roofing, fire detection/suppression, utilities, landscaping “and other site improvements, communications support and all other necessary work to provide a complete and usable facility.” Id.

The SOO also instructed offerors that the floor plan (provided in RFP Amend. No. 2, RFP Attach. No. 9) provided direction on the scope of the addition requirements. Id. The RFP’s floor plan drawing identified existing building space (depicted by diagonal hatch markings), as well as space for an addition (depicted by horizontal lines) and a canopy (depicted by intersecting lines). RFP Amend. No. 2, RFP Attach. No. 9. The legend associated with the drawing’s markings identified structural requirements per marking. For example, for the portion of the structure on the floor plan marked with horizontal lines (associated with the building’s new addition), the legend indicated a “support” area of “open bay warehouse space,” the intersecting lines portion of the drawing (for the building’s new canopy) indicated “covered outdoor storage space,” and the diagonal hatch area of the drawing (associated with the current building) indicated “admin” (i.e., administrative) areas. Id. The required administrative areas, pertinent to this protest, were listed on the floor plan as follows: 9 offices at 12’x14’, 2 offices at 16’x16’, a conference room for 30 people, a locker room with 250 lockers, a break room, storage, 2 large open work spaces with multiple work stations, and rest rooms. Id.

Offerors were instructed that each technical proposal's initial construction documents, showing at least 35 percent of the complete design, may include at the time of proposal, among other things, a site plan and floor plan, as well as mechanical, electrical, and plumbing documentation. SOO, RFP Amend. No. 7, RFP Attach. No. 8. Offerors were further instructed that their technical proposals must include the offeror's proposed "'step-by-step' [t]echnical [a]pproach/[s]cope of [w]ork in reference to the attached Statement of Objectives (SOO), to design and construct HC-130J Aircraft Maintenance Unit Facility, B648." RFP at 40. Additionally, the RFP provided that "[t]he offeror should submit for technical review such items as: floor, site, elevations, cross sections, HVAC, utility site, fire suppression . . . and other applicable plans to support their technical approach (list is examples and not all inclusive)." Id. The sign-in sheet posted on the FedBizOpps website for the procurement reflects that an ABBA representative attended a June 18 site visit for the project. Site Visit Sign-in Sheet, RFP No. FA4830-12-R-0004, www.fbo.gov.

On July 23, and again on October 17 and October 30, the agency distributed answers to offerors' questions about the RFP's work requirements. Several questions referred to the administrative area requirements listed in the RFP's floor plan. For example, question No. 31 was as follows:

Amendment # 0002 'Building 648 Floor Plan' identifies ADMIN (230 PEOPLE), 9 OFFICES AT 16' X 16', - CONF. RM for 30 PEOPLE, - LOCKER ROOM (250 LOCKERS), - BREAK RM, - STORAGE, - 2 LARGE OPEN WORK SPACES WITH MULT. WORK STATIONS, - REST ROOMS all referenced by a diagonal hatch pattern within existing B648. Are these items to be constructed within the existing B648 as part of this project scope?

Questions and Answers at 11-12. In response, the agency confirmed that the required scope of work of the sample project included construction of these administrative areas. Specifically, the agency answered question No. 31 as follows:

Yes. Admin space may extend into the existing building if additional space is needed for requirements. The facility may be occupied by all 230 occupants basically broken into 3 shifts with some overlap.

Id. at 12 (underline added). The agency, in its answer to question No. 51, again explained that the eight functional administrative areas could be proposed in both the new and existing areas. Question No. 51 asked:

Amendment 0002, Bldg 648 Floor Plan: The Floor Plan also provides a list of 8 functional space characteristics (offices, conf room, locker room, etc) listed under the "Admin" heading and associated with the existing building. The Floor Plan sheet also states that the new

addition will have 'similar function as existing space'. Is this statement intended to mean that the new addition is to have the same 8 functional space characteristics as defined for the existing building?

Id. at 14. The agency responded to the question as follows: "The 8 functions shall be distributed in the new and existing areas." Id.

The agency received 34 proposals in response to the RFP by the November 7 closing date. ABBA submitted the apparent lowest-priced proposal for the small business category. The agency, however, evaluated ABBA's technical approach as unacceptable because ABBA's proposal did not address how it planned to provide for the functional administrative areas (except for the rest rooms, which ABBA provided in its proposed building addition).

On July 8, 2014, the agency notified ABBA that the agency made three awards to other small businesses at prices slightly higher than ABBA's proposed price. After receiving a debriefing, ABBA filed an agency-level protest on July 18. ABBA essentially argued, among other things, that it was not required to address the administrative areas in its proposal because the RFP only required 35-percent drawings. ABBA explained that its drawings included the existing building space, and that it intended to place cubicles in that space to meet the administrative area office requirements. The agency denied that protest by decision of July 21. In its decision, the agency indicated that ABBA's proposal did not provide sufficient and adequate detail to effectively evaluate if ABBA was proposing a complete and usable facility, since, other than the rest rooms, ABBA's proposal "did not provide all eight admin areas." Agency Report Exhibit 29, Agency-level Protest Decision at 1-2.<sup>2</sup> Id. On July 28, ABBA filed its protest with our Office challenging the agency's rejection of its proposal as technically unacceptable.

In reviewing a protest against the propriety of an evaluation, it is not our role to independently evaluate proposals and substitute our judgment for that of the contracting activity. Barents Group, L.L.C., B-276082, B-276082.2, May 9, 1997, 97-1 CPD ¶ 164 at 6. Rather, we will review an evaluation to ensure that it was reasonable and consistent with the evaluation criteria in the solicitation and applicable procurement statutes and regulations; a protester's mere disagreement with the evaluation does not show it lacked a reasonable basis. Id. An offeror is responsible for demonstrating affirmatively the merits of its proposal and risks

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<sup>2</sup> Although the protester asserted after award that it intended to place cubicles in the existing building, as offices and open work spaces, the agency notes that this information was not in ABBA's proposal and therefore could not be considered, and that such information was itself insufficient since it failed to address how the remaining required administrative areas would be constructed. Contracting Officer Statement at 17.

rejection if it fails to do so. See John Blood, B-402133, Jan. 15, 2010, 2010 CPD ¶ 30 at 3-4; HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5. No matter how competent an offeror may be, the technical evaluation must be based on information included in the firm's proposal. See Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371 at 3-4.

ABBA contends that the agency's evaluation was inconsistent with the terms of the RFP and therefore improper. According to ABBA, since the solicitation advised that only a minimum of information was required, and sought only 35-percent design drawings, its proposal should have been found technically acceptable-- notwithstanding its failure to provide a drawing of all of the required administrative areas to be constructed and its failure to discuss the layout or provision of those administrative areas in the narrative portion of its proposal. ABBA principally contends that since its proposed 35-percent design drawings include the existing building space with diagonal hatch markings, the agency should have known the firm had provided that space to construct the administrative areas. According to ABBA, this level of information should have been considered sufficient to be found technically acceptable.

While it is true that offerors were not required to submit detailed drawings for more than 35 percent of the project scope, as noted above, offerors were also required to submit a sufficiently detailed technical proposal demonstrating its intended step-by-step technical approach to meeting the sample project's requirements. These requirements were set forth in the SOO which referenced the project floor plan, and the floor plan included the eight functional administrative area requirements. These areas were required items to be constructed within the scope of the sample project as confirmed in the agency's responses to offeror questions. Where ABBA's proposal did not address these requirements sufficiently, we have no basis to question the propriety of the agency's rejection of the protester's proposal as technically unacceptable under the terms of the RFP.

The protest is denied.

Susan A. Poling  
General Counsel