



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

Comptroller General
of the United States

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: AAR Airlift Group, Inc.

File: B-409770

Date: July 29, 2014

Malcolm L. Benge, Esq., and Jolyon W. Silversmith, Esq., Zuckert, Scoutt & Rasenberger, L.L.P., for the protester.

Col. Robert J. Preston II, Michael G. McCormack, Esq., Department of the Air Force, and Peter B. Ries, Esq., and Robert D. Bowers, Esq., United States Transportation Command, for the agency.

Noah B. Bleicher, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Solicitation requirement that offerors meet minimum aircraft lift capability specifications does not unduly restrict competition where the record shows that the requirement is reasonably related to the agency's needs.

DECISION

AAR Airlift Group, Inc., of New Palm Bay, Florida, protests the terms of request for proposals (RFP) No. HTC711-14-R-R006, which was issued by the Department of Defense, United States Transportation Command (USTC), for airlift support services. AAR contends that the solicitation is unduly restrictive of competition.

We deny the protest.

BACKGROUND

The RFP at issue here sought proposals for one fixed-wing aircraft--and related personnel and equipment--to perform short take-off and landing (STOL) low cost/low altitude (LCLA) aerial delivery of resupply bundles, cargo, passenger, and combined air transportation services between locations in Afghanistan, Kyrgyzstan, Pakistan, and Uzbekistan. Performance Work Statement § 1.1. The solicitation, issued on November 18, 2013, contemplated the award of a fixed-price indefinite-delivery, indefinite-quantity contract for the airlift services to support Combined Joint Special Operations Task Force - Afghanistan (CJSOTF-A). RFP

at 1, 18; Contracting Officer's Statement at 2. The RFP identified a 5-month base period and two 6-month option periods. RFP at 3-12. Pursuant to the RFP, award would be made on a best-value basis, considering the following four factors: Fly America Act preference,¹ technical, past performance, and price.² RFP, amend. 4, at 9.

The solicitation included a performance work statement (PWS) that specified various requirements for the aircraft being proposed. PWS at § 1.2. For example, the PWS required that the proposed aircraft be a fixed-wing, twin-engine turbo prop with the flexibility to transport cargo and passengers. Id. at §§ 1.2.1, 1.2.2. In addition, the aircraft had to have ballistic protection around the crew area and a rear ramp able to accommodate bundle drops as “[p]ara-drop resupply bundles or as palletized cargo.” Id. at §§ 1.2.1, 1.2.4, 1.2.10.

Of relevance here, the PWS also specified minimum aircraft lift capability requirements. When it was first issued, the PWS advised that the estimated largest piece of cargo to be transported was 48 inches by 48 inches by 60 inches with a gross weight of 600 to 800 pounds each. Id. at § 1.6.1. The original PWS required that the aircraft be capable of “dropping 6 to 8 bundles each mission or flight operation scheduled.” Id. at § 1.9.3. After the submission of initial proposals--including a proposal by AAR--the agency revised these lift capability requirements.

At issue in this protest is the agency's revision of the PWS' minimum lift capability requirements. With respect to the size of the cargo, the agency ultimately amended the specifications such that the cargo would be either six bundles (at 48 inches by 48 inches by 60 inches) or eight bundles (at 48 inches by 40 inches by 60 inches) “for each flight.” RFP, amend. 6, PWS at § 1.6.1. With respect to the aircraft's air drop capabilities, the revised PWS further required that the aircraft be capable of dropping the six bundles or the eight bundles (of the sizes specified) on “each flight.” Id. at § 1.9.3.

According to AAR, the firm originally proposed a single [deleted] aircraft that was able to “satisfactorily perform the required airlift services by operating two flights with its offered aircraft instead of one.” Protest at 3; see also Agency Report (AR),

¹ The RFP advised that if a firm offering a U.S.-flagged aircraft was not available for award, the government would award the contract to a “reasonably available” foreign-flagged aircraft offeror that represented the best value to the government. RFP, amend. 4, at 9.

² The RFP identified the following seven technical subfactors: technical approach, aircraft technical capability, Federal Aviation Administration certification documentation, proof of aircraft ownership, airdrop manuals/procedures, operational date, and information assurance and cyber security. RFP, amend. 4, at 9.

exh. 13, AAR Proposal, at 11 (confirming capability to drop “6 to 8 bundles each mission or flight operation scheduled”). After the agency amended the PWS, AAR submitted a revised proposal that offered a two-aircraft solution--two [deleted] “in tandem per flight.” AR, exh. 27, AAR Response to EN-AAR-0010-0011, at 3. The agency subsequently confirmed with AAR that the PWS required a single aircraft. AR, exh. 25, Oral Discussions with AAR, at 1; see also AR, exh. 7, RFP Question and Answers Round 1, at 2 (stating that “[t]he requirement is for only 1 aircraft”).

Prior to the agency’s final deadline for the submission of proposals, AAR filed this protest challenging the revised PWS requirements.

DISCUSSION

AAR objects to the agency’s requirement for a single aircraft capable of dropping six or eight bundles (of the sizes specified) in one flight. Specifically, AAR argues that the PWS’ aircraft lift capability requirement is unduly restrictive of competition and has “no rational relation to the air-drop resupply services” being procured. Protest at 4-5. The protester contends that it “makes no difference” whether the cargo bundles are delivered in one flight, two flights, or simultaneously by two aircraft. Id. at 5. AAR further claims that the incumbent contractor is the “only bidder” with an aircraft that meets the PWS specifications. Id. at 4.

A contracting agency has the discretion to determine its needs and the best method to accommodate them. Womack Mach. Supply Co., B-407990, May 3, 2013, 2013 CPD ¶ 117 at 3. In preparing a solicitation, a contracting agency is required to specify its needs in a manner designed to achieve full and open competition, and may include restrictive requirements only to the extent they are necessary to satisfy the agency’s legitimate needs. 10 U.S.C. § 2305(a)(1) (2014); Innovative Refrigeration Concepts, B-272370, Sept. 30, 1996, 96-2 CPD ¶ 127 at 3. Where a protester challenges a specification as unduly restrictive, the procuring agency has the responsibility of establishing that the specification is reasonably necessary to meet its needs. Streit USA Armoring, LLC, B-408584, Nov. 5, 2013, 2013 CPD ¶ 257 at 4; Total Health Res., B-403209, Oct. 4, 2010, 2010 CPD ¶ 226 at 3. The adequacy of the agency’s justification is ascertained through examining whether the agency’s explanation is reasonable; that is, whether the explanation can withstand logical scrutiny. See SMARTnet, Inc., B-400651.2, Jan. 27, 2009, 2009 CPD ¶ 34 at 7; Chadwick-Helmuth Co., Inc., B-279621.2, Aug. 17, 1998, 98-2 CPD ¶ 44 at 3. A protester’s disagreement with the agency’s judgment concerning the agency’s needs and how to accommodate them does not show that the agency’s judgment is unreasonable. Dynamic Access Sys., B-295356, Feb. 8, 2005, 2005 CPD ¶ 34 at 4. Where, as here, a requirement relates to national defense or human safety, an agency has the discretion to define solicitation requirements to achieve not just reasonable results, but the highest possible reliability and/or effectiveness. Vertol Sys. Co., Inc., B-293644.6 et al., July 29, 2004, 2004 CPD ¶ 146 at 3; Caswell Int’l Corp., B-278103, Dec. 29, 1997, 98-1 CPD ¶ 6 at 2.

Here, the record supports the reasonableness of the agency's determination that a single aircraft capable of delivering six or eight resupply bundles (at the sizes specified) during each flight meets the agency's needs. The agency's aerial delivery officer in charge of all air drops in the combined joint operations area--who also serves as a contracting officer representative (COR)--validated the airlift capability requirements several times during the procurement and again subsequent to AAR's protest. He explained that the PWS' single-aircraft, single-flight requirement "is the best method of delivering supplies at the operational and tactical levels, substantially enhances operational response, improves load survivability, reduces the logistics footprint, hastens [drop zone] recovery operations, and, of critical significance, improves U.S. military safety and force protection." AR, exh. 29, USTC COR Declaration, at 3. According to the COR, the use of one aircraft conducting one flight "reduces the likelihood of personnel injury or death and possible loss of aircraft." Id. at 2. Specifically, the COR explained that a two-aircraft solution, or one aircraft completing two separate airdrop sorties, "creates an unacceptable hazard to operations and U.S. military personnel" because "the threat level rises dramatically for both the aircraft and team" when more than one pass is required over a delivery drop zone. Id. at 1-2. The COR further explained that the use of multiple aircraft or multiple flights increases the vulnerability to enemy air defense systems, increases the likelihood of injury or death to U.S. military personnel securing the drop zone, increases the required effort to plan and execute the LCLA airdrop missions, and increases the logistics footprint, *i.e.*, additional fuel, ramp space, and lodging space would be required. Id. Moreover, the COR stated that CJSOTF-A has "never encountered a LCLA mission that would require two aircraft." Id. at 1. We find that these considerations support the reasonableness of the PWS' one-aircraft, one-flight requirement for the airlift support services.

In its protest and subsequent filings, AAR offers various reasons as to why its two-aircraft approach is, in its view, "superior." Protest at 5-6. First, AAR asserts that two aircraft provide a "back-up capability for maintenance support," a "stronger parts pool," and back-up crew support in the event of illness or injury. Id. The protester also contends that a two-aircraft approach allows for one aircraft to support the other in the event of an emergency or hostilities, provides "increased capacity in the event of a surge in demand," and can deliver 25 percent more cargo on a single pass. Id. at 6. In addition, AAR claims that its two-aircraft approach is less expensive than what is currently being paid for the services. Id. at 4-5. The protester also counters the COR's explanations, discussed above, arguing that its two-aircraft approach is actually safer because each aircraft would have to spend less time over the drop zone (than one aircraft dropping all eight bundles). Comments at 5. AAR contends that the agency is ignoring "obvious advantages" of its two-aircraft approach, such as "higher mission completion rates and greater reliability. . . ." Id. at 6.

In our view, the agency has convincingly rebutted AAR's rationalizations. Specifically, the agency counters that small arms, light anti-aircraft artillery, and

man-portable missiles are prevalent threats in Afghanistan. Supplemental (Supp.) AR, attach. 2, Declaration of Aerial Delivery Non-Commissioned Officer in Charge for CJOSTF-A, at 1. The agency maintains that the use of two aircraft, or one aircraft flying multiple sorties “significantly reduces the ability of LCLA airdrop to remain stealthy. . . .” Id. at 2. The agency reiterates that this “significantly increases the likelihood of mission failure and injury/death to U.S. military and contractor personnel.” Id. at 1. The agency also credibly refutes AAR’s contentions regarding drop zone accuracy, and the agency provides adequate explanation of why multiple aircraft or sorties would require a more extensive airdrop operations planning effort and a larger logistical footprint.³ Id. at 2-3.

Given the critical need to ensure the safety of military and contractor personnel, including both those on board the aircraft and those who will be in close proximity to the supply drop zones, we find that the agency’s interest in requiring a one-aircraft, one-flight solution is reasonable to achieve the highest level of reliability and effectiveness. While the protester has presented information in support of its two-aircraft approach and argues that the agency “dramatically overstated the threat” to aircraft, Supp. Comments at 2, we note that it is the agency’s role, not the protester’s, to define both the agency’s underlying needs and the best method of accommodating those needs. Dwight Tellier Church Organs, Inc., B-292825, Dec. 9, 2003, 2003 CPD ¶ 226 at 3. Indeed, the fact that a requirement may be burdensome or even impossible for a particular firm to meet does not make it objectionable if the requirement properly reflects the agency’s needs. See JBG/Naylor Station I, LLC, B-402807.2, Aug. 16, 2010, 2010 CPD ¶ 194 at 4. On the record here, we find that the agency has adequately established that the PWS aircraft lift capability requirements are reasonably necessary to meet its requirements. The protester’s objections to the agency’s single-aircraft specification reflect its disagreement with the PWS requirements and do not provide a basis to sustain the protest.

The protest is denied.

Susan A. Poling
General Counsel

³ The contracting officer also explained that AAR’s two-aircraft approach would require 30,000 more gallons of fuel than would be required under another offeror’s one-aircraft proposal. Supp. Contracting Officer’s Statement at 2.