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Decision

Matter of: Athena Technology Group, Inc.

File: B-409984

Date: September 11, 2014

E. Sanderson Hoe, Esq., and J. Hunter Bennett, Esq., McKenna Long & Aldridge LLP, for the protester.

James H. Roberts III, Esq., Van Scoyoc Kelly & Roberts PLLC, for Systems Kinetics Integration, Inc., the intervenor.

Debra J. Talley, Esq., Department of the Army, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where agency reasonably found that awardee had proposed personnel meeting solicitation requirement for immediate ability and practical experience with managing satellite communication database.

DECISION

Athena Technology Group, Inc. (ATG), of Falls Church, Virginia, protests the award of a contract to Systems Kinetics Integration, Inc. (SysKin), of Marston Mills, Massachusetts, under request for proposals (RFP) No. W15P7T-14-R-0006, issued by the Department of the Army for mission command modernization strategic services. The protester contends that it should have received the award as the only offeror submitting a technically acceptable proposal.

We deny the protest.

BACKGROUND

The RFP, which was issued on February 25, 2014, sought services in support of the Army Staff elements charged with operational mission command modernization and the Training and Doctrine Command. The awardee is to assist the Army in the analysis, assessment and development of strategic documents and programs for Program Objective Memorandum (POM) FY 16-20 and beyond, tied to the Army Force Generation Model process. Areas to be supported include: (1) development

of an operational mission command portfolio strategy; (2) requirement generation; and (3) satellite communication (SATCOM) support services. Performance Work Statement at 1.

The solicitation contemplated the award of a cost-plus-fixed-fee contract for a 3-year period (a base year, plus two 1-year options). The RFP provided for award to the offeror submitting the lowest-cost, technically-acceptable proposal. Proposals were to be evaluated under technical, cost, and past performance factors, and to be considered for award, a proposal had to be rated as acceptable under the technical and past performance factors.

According to the RFP, a proposal would be rated as acceptable under the technical factor if it clearly met the minimum requirements of the solicitation. RFQ, amend. No. 0001, at 14. Of relevance to this protest, one of these requirements was that the proposal address “immediate ability and practical experience with . . . [t]he Offeror[']s in-depth knowledge of Army and DoD satellite communications architectures, to include managing the Army SATCOM database.” Id. at 8.

The agency received eight proposals by the RFP’s April 14, 2014 closing date; ATG and SysKin were among the offerors. The agency evaluated the proposals, included all of them in the competitive range, conducted discussions, and sought revised proposals. All of the revised proposals were found to be acceptable under both the technical and past performance factors. SysKin’s evaluated cost of \$5,998,817 was lowest; thus, the Army selected SysKin for award. The protester’s evaluated cost of \$7,890,083 was seventh low.

By letter of June 9, the contracting officer notified the protester that award had been made to SysKin. The protester timely requested a debriefing, which the agency furnished on June 20. ATG protested to our Office on June 25.

DISCUSSION

ATG contends that it--and only it--had received an employment commitment from the sole individual with immediate ability and practical experience managing the Army SATCOM database (SDB); thus, the protester maintains, it was the only offeror able to propose a technically acceptable approach to meeting that requirement.

In this connection, the protester argues that for the past quarter of a century, the SATCOM database management services sought by the solicitation have been directed by a single individual, and that during this time period, he has been “solely responsible for i) coordinating directly with all Army Major Commands to develop their requirements and submit them to the SATCOM database for approval, ii) representing the Army’s interest as a member of the panel that votes to approve all SATCOM requirements requests, and iii) maintaining the entire Army portion of

the SDB, which includes reviewing, updating and coordinating requirements contained in the SDB with Army personnel.” Protest at 3. ATG maintains that because the individual in question is the only individual outside of government who meets the evaluation criterion for immediate ability and practical experience with managing the SATCOM database, no offeror could have been rated technically acceptable without proposing to employ him. The protester further argues that it was the only offeror authorized by this individual to include his resume in its proposal.

The protester supported its argument on this point with a declaration from the individual in question, in which he represented as follows:

- Prior to submission of this proposal, he made an exclusive commitment to serve as Athena’s Network Satellite Engineer in the event that Athena wins this award. Consistent with this commitment, he authorized Athena to include his resume in its proposal.
- In keeping with his exclusive commitment to Athena, prior to the submission of bids, he did not agree to work in any capacity for any other offeror who submitted a proposal in response to this solicitation. Nor did he authorize any offeror other than Athena to include his resume in its proposal.
- After the Army made award to [SysKin], he accepted an offer of employment from SysKin. He made no commitment to SysKin prior to the submission of proposals and did not authorize SysKin to include his name in its proposal.

Protest Exh. D; Declaration of Protester’s Proposed Network Satellite Engineer, June 24, 2014, at 2.¹

In reviewing protests of an agency’s evaluation of offerors’ technical proposals, our Office does not reevaluate proposals; rather, we review the evaluation to determine if it was reasonable, and consistent with the solicitation’s evaluation scheme, as well as applicable procurement statutes and regulations. HCI Integrated Solutions, B-409040.3, May 21, 2014, 2014 CPD ¶ 157 at 2.

As a preliminary matter, the Army argues that the protester is not an interested party to challenge the award to SysKin because there are a number of offerors that would be in line for award ahead of it were its protest to be sustained. This

¹ ATG also argued that because it was the only offeror authorized to include this individual’s resume in its proposal, any other offeror submitting his resume with its proposal had engaged in an impermissible “bait and switch.” After the agency responded that no offeror other than the protester proposed the individual in question to perform the support services at issue, the protester abandoned this argument.

argument is unavailing given that in addition to challenging the acceptability of SysKin's proposal, the protester has challenged the acceptability of all of the intervening proposals. A protester that is not next in line for award is an interested party to challenge an award where it also challenges the acceptability of all intervening proposals. See Integrity Mgmt. Servs., Inc., B-283094.2, May 3, 2000, 2000 CPD ¶ 67 at 2-3 n.2.

Regarding the merits of the protest, the agency maintains that the technical evaluator reasonably found that SysKin's proposal demonstrated immediate ability and practical experience with managing the SATCOM database. The Army notes in this connection that the awardee represented in its proposal that it had "experienced staff that [had] managed the Army SATCOM database." Declaration of Agency Technical Evaluator, Aug. 7, 2014, at 3, citing SysKin Technical Proposal at 24. The agency further notes that SysKin supported this representation with the resumes and qualifying narrative for three of its proposed staff members, which indicated that they had "varying degrees of exposure/experience with the planning, validation, data entry, and retrieval of information within the SDB." Declaration of Agency Technical Evaluator at 4. According to the agency, the combined experience of these proposed staffers adequately demonstrated SysKin's ability to perform both the administrative and the managerial functions associated with managing the database. The agency further notes that the individual whom SysKin proposed for the position of Network Satellite Engineer had performed a number of tasks involving use of the SDB or data produced by the SDB, which demonstrated his ability to manage a complex satellite infrastructure and database.

The protester raises several objections to the agency's explanation. ATG maintains that the RFP required experience managing the SDB, and that none of SysKin's proposed staffers have experience managing the SDB. ATG argues in this connection that while the resume for SysKin's proposed Network Satellite Engineer reflected experience in using the SDB, it did not reflect experience managing the SDB, and that the resumes for the other two named staffers reflected no experience with the SDB whatsoever. ATG also argues that the technical evaluator's explanation is at odds with the contemporaneous evaluation record, which makes no mention of these three staffers in the finding pertaining to SysKin's SDB management experience.

With regard to the protester's first argument, we first point out that the solicitation did not require experience managing the SDB--it required "experience with . . . managing" the SDB. While the difference in wording is slight, it is of significance vis-a-vis the protester's argument because experience with managing the SDB does not, in our view, necessarily imply experience in managing the database from the top, which is what ATG argues was required. Consistent with our interpretation, the agency maintains that "'managing' the SDB can occur in many forms--from tactical commands requesting certain specific satellite access, to operational level Battalions or Divisions managing their collective access, to the Departmental or

Agency level organizations responsible for managing the entire effort for the Army.” Id. The supporting narrative pertaining to SysKin’s proposed Network Satellite Engineer indicated that he had “more than 10 years of experience in the development, review and assessment of technical requirements documentation related to all aspects of both commercial and military satellite systems,” as well as “several years of experience and responsibility to maintain, update and ensure the integrity of data within the SATCOM database.” SysKin Technical Proposal at 15. In our view, this was adequate to show that he had experience with managing the SDB.²

Regarding the protester’s argument that the technical evaluator’s post hoc explanation is at odds with the contemporaneous evaluation record, which makes no mention of these three staffers in the finding pertaining to SysKin’s SDB management experience, the technical evaluator’s furnishing of additional detail here is the sort of non-contemporaneous explanation that we will consider. In this regard, we will consider post-protest explanations that provide a detailed rationale for contemporaneous conclusions by filling in previously unrecorded details. SENTEL Corp., B-407060, B-407060.2, Oct. 26, 2012, 2012 CPD ¶ 309 at 9 n.6.

The protest is denied.

Susan A. Poling
General Counsel

² Because the agency reasonably concluded that SysKin’s proposed Network Satellite Engineer had experience with managing the SATCOM database, we need not decide whether the other two proposed staffers also had such experience.