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Decision

Matter of: Unified Business Technologies, Inc.

File: B-411056

Date: May 1, 2015

Steven J. Koprince, Esq., and Amanda M. Wilwert, Esq., Koprince Law LLC, for the protester.

Debra J. Talley, Esq., and Kandis C. Gaines, Esq., Department of the Army, for the agency.

Matthew T. Crosby, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging agency misevaluated protester's technical proposal is denied where record reflects evaluation was reasonable and consistent with terms of solicitation.

DECISION

Unified Business Technologies, Inc. (UBT), of Troy, Michigan, protests the decision of the Department of the Army, Army Contracting Command, to eliminate its proposal from the competition under request for proposals (RFP) No. W56HZV-14-R-0030 for knowledge-based services. UBT alleges the agency's evaluation of its proposal was unreasonable.

We deny the protest.

BACKGROUND

The solicitation, issued on August 1, 2014, contemplated the award of multiple indefinite-delivery/indefinite-quantity (ID/IQ) contracts with ordering periods of five years. RFP §§ A.1, A.6. The scope of work was described as "knowledge-based services," to include "program or project management and administration, and the furnishing of professional advice or assistance, engineering and technical services, logistics management services, management support services, and professional services." *Id.* § A.3. The awards were to be made based on a best-value tradeoff considering the following four factors, listed in descending order of importance:

experience; technical; cost/price; and small business participation. RFP §§ M.1.1, M.4.2.

The solicitation included a statement of work establishing the requirements for the overarching ID/IQ contracts. RFP § C. The solicitation also included a performance work statement (PWS) for a task order requirement known as “Network Integration Exercise” (NIE).¹ AR, Tab 3-3, NIE PWS. The NIE PWS grouped the requirements into the following four areas: public affairs/protocol/administrative officer services; schedule, risk, and data management services; operations management services; and logistics support services. Id. §§ 5.1.1, 5.1.2, 5.1.3, 5.1.4.

Within their proposals for the overarching ID/IQ contracts, offerors were to provide a “specific technical approach” for performance of the NIE PWS requirements. RFP § L.5.1.2. The solicitation provided that under the technical factor, the agency would evaluate an offeror’s approach to the NIE PWS requirements as follows:

The Government will evaluate the offeror’s analysis and discussion of key success drivers and risks of the NIE PWS . . . in the areas of performance, schedule, and cost efficiencies, to assess the proposal risk probability that the offeror will successfully achieve task order requirements and objectives.

Based on the offeror’s analysis of the NIE PWS . . . , the Government will: (1) evaluate the extent to which the offeror identified specific and necessary tasks required for the completion of the task order requirements along with a detailed and reasonable explanation of the proposed approach for executing those tasks; and (2) assess the risk the offeror’s proposed technical approach will result in timely completion of the NIE task order requirements.

Id. §§ M.6.1.1, M.6.1.2.

The agency received a timely proposal from UBT. Contracting Officer’s Statement and Legal Memorandum ¶ 7. A source selection evaluation board (SSEB) evaluated the proposal and assigned it no strengths, one significant weakness, and four deficiencies under the technical factor. AR, Tab 5-1, UBT Technical Evaluation, at 5-6. The four deficiencies were assigned on the basis that UBT’s proposal lacked a technical approach to accomplish the requirements in each of the four NIE PWS task areas. Id. The substantial weakness was assigned on the basis that UBT’s proposal was ambiguous in its discussion of the “key success drivers” for performance of the NIE PWS. Id. at 2-3.

¹ The NIE task order was to be awarded within 45 days of the ID/IQ contract awards. Agency Report (AR), Tab 3-2, NIE Task Order Request, at 1.

Based on the evaluation results, the SSEB rated UBT's proposal "unacceptable" and "unawardable." AR, Tab 5-1, UBT Technical Evaluation, at 6. The agency then notified UBT its proposal would not be considered for award.² AR, Tab 6-1, Notice to Unsuccessful Offeror Ltr., at 1. Following a pre-award debriefing, UBT filed this protest with our Office.

DISCUSSION

UBT challenges the agency's evaluation of its proposal, arguing the deficiencies and substantial weakness assigned to its proposal resulted from the agency misreading or failing to read the proposal. More specifically, UBT argues its proposal included a technical approach to accomplish the four NIE PWS tasks, and it clearly discussed "key success drivers" for performance of the NIE PWS. Protest, attach. 1a, Grounds of Protest, at 1; Comments at 5-11; Supp. Comments at 5-8.

Contracting agencies are not required to retain a proposal in a competitive range where the proposal is not among the most highly rated or where the agency otherwise reasonably concludes the proposal has no realistic prospect of award. FAR § 15.306(c)(1); Wahkontah Servs., Inc., B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 4. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, exclusion from the competitive range is generally permissible. CMC & Maint., Inc., B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2. Proposals with significant informational deficiencies may be excluded, whether the deficiencies are attributable to either omitted or merely inadequate information addressing fundamental factors. Am. Med. Depot, B-285060 et al., July 12, 2000, 2002 CPD ¶ 7 at 6-7. In reviewing an agency's decision to eliminate a proposal from the competitive range, we will not evaluate the proposal anew, but rather, we will examine the agency's evaluation to ensure it was reasonable and consistent with the provisions of the solicitation; in this regard, a protester's mere disagreement with an agency's evaluation does not establish the evaluation was unreasonable. CMC & Maint., Inc., supra.

We have considered all of UBT's arguments regarding the agency's evaluation, and we conclude, based on the record, that none furnishes a basis on which to sustain the protest. In sum, the record supports the agency's finding that UBT's proposal lacked a technical approach to accomplish the requirements in the four NIE PWS task areas. As discussed above, the solicitation required proposals to include a "specific technical approach" for performance of the NIE PWS requirements. RFP

² The agency apparently eliminated UBT's proposal from the competition in conjunction with establishing a competitive range of proposals. See AR, Tab 6-1, Notice to Unsuccessful Offeror Ltr., at 1 (notifying UBT its proposal was eliminated from the competition consistent with Federal Acquisition Regulation (FAR) § 15.306(c)(1), which addresses procedures for establishing a competitive range).

§ L.5.1.2. Further, the solicitation advised the agency would “evaluate the extent to which the offeror identified specific and necessary tasks required for the completion of the [NIE] task order requirements along with a detailed and reasonable explanation of the proposed approach for executing those tasks.” Id. § M.6.1.2. Notwithstanding these provisions, UBT’s proposal included almost no discussion or detail to explain how UBT would accomplish numerous, specific requirements in the NIE PWS. For purposes of illustration, below we discuss the manner in which UBT’s proposal addressed the logistics support services task area.

The logistics support services task area included two subtasks: infrastructure logistics support and integration motor pool logistics support. AR, Tab 3-3, NIE PWS, §§ 5.1.4.1, 5.1.4.2. The infrastructure logistics support subtask included 11 discrete requirements, each of which was set forth in a separate PWS subsection. The 11 requirements included: supporting facility and infrastructure equipment repairs, upgrades, and new requirements (to include badging devices, security equipment, command and control equipment, telephones, computers, and Internet services); performing safety and maintenance inspections, then documenting needed repairs and routing the documentation through appropriate channels; analyzing the effect of program changes on facility and infrastructure equipment and implementing needed upgrades; interpreting logistics white papers and budget requirements; analyzing schedules and synchronizing efforts to avoid delay or interruption of events; tracking delivery, installation, use, maintenance, return, and disposal of infrastructure equipment; monitoring work orders and producing monthly status reports; completing base action requests and arranging contractor escorts; ensuring compliance with certain support services-related regulations; ensuring contractor personnel can lift up to 60 pounds; and attending and preparing materials for planning, program review, and program update meetings. AR, Tab 3-3, NIE PWS, §§ 5.1.4.1.1 - 5.1.4.1.11.

Like the infrastructure logistics support subtask, the integration motor pool logistics support subtask also included discrete requirements that were set forth in separate PWS subsections. There were nine such requirements, and they included: drafting recommendations for integration motor pool requirements; receiving repair requests and drafting work orders for approval; performing monthly motor pool safety and maintenance inspections; validating licensure and training for vehicle operation; inspecting vehicles for damage; maintaining vehicle service logs; conducting vehicle space analysis and assignments; ensuring service bay operability; identifying requirements for spares and consumables; monitoring service inventory, to include vehicle and forklift fuel requirements; supporting special visit, demonstration, and training activity planning and execution; meeting government-owned or leased vehicle operation requirements; ensuring contractor personnel can lift up to 60 pounds; and attending and preparing materials for planning, program review, and program update meetings. PWS §§ 5.1.4.2.1 - 5.1.4.2.9.

In evaluating UBT's proposal under the logistics support services task, the SSEB documented the following deficiency: "The offeror failed to provide a technical approach to accomplish the NIE PWS requirements related to paragraph 5.1.4." AR, Tab 5-1, UBT Technical Evaluation, at 4.

UBT claims its proposal "did provide [a] technical approach to Task Area 4" and it "addressed all of the requirements detailed in Task Area 4." Comments at 10; Supp. Comments at 8. In support of this claim, UBT points to the following passage from its technical proposal:

During the rehearsal, it is likely that suggested modifications or improvements to existing facilities could be requested. Our personnel will analyze input from all stakeholders and develop discrete infrastructure requirements to be coordinated with [three agency segments]. Additionally, we will develop work plans and manage the logistics for facilities repairs and upgrades (CDRL [contract data requirements list] A008, 5.1.4). Throughout the rehearsal, it will be very import[ant] to collect data from all participants and stakeholders to ensure that lessons learned are applied, and mid-course corrections can be given . . . to the staff facilitating the exercise.

Comments at 9 (quoting AR, Tab 4-1, UBT Technical Proposal, at 16).

For the reasons that follow, this proposal passage provides no basis to question the SSEB's conclusion that UBT's proposal lacked a technical approach to accomplish the logistics support services task area requirements. As an initial matter, nowhere does UBT's proposal include a section designated as addressing the NIE PWS logistics support services requirements. Thus, the passage quoted above is not identified as pertaining to logistics support services, but rather, is found within a part of UBT's proposal that outlines a broad, seven-phase process UBT would apply during performance of the first 12 months of the task order.³ See AR, Tab 4-1, UBT Technical Proposal, at 14-16. Further, while the proposal passage cited by UBT references a few of the logistics support services requirements--e.g., facility repairs and upgrades--the explanation of how UBT will achieve those requirements is general in nature. Moreover, the passage lacks any discussion of the vast majority of the logistics support services requirements in the NIE PWS. In short, because the proposal passage is not reasonably read to provide a technical approach to

³ We note the relationship between the content of UBT's seven-phase process and the specific requirements of the four task areas in the NIE PWS is largely ambiguous. We note also that although the solicitation established a 25-page limit for offerors' technical proposals, UBT's technical proposal was only 20 pages, and the "technical approach" section of its proposal was just four pages. RFP § L.1.2; AR, Tab 4-1, UBT Technical Proposal, at 14-17.

accomplish the numerous logistics support services task requirements in the solicitation, we see no basis to question the agency's assessment of a deficiency in this area.

UBT raises various other arguments claiming its proposal did provide a technical approach for the NIE PWS tasks. None are availing. For example, UBT points out its proposal included a "cross reference between labor categories and the NIE PWS task areas." Comments at 5 (citing AR, Tab 4-1, UBT Technical Proposal, at 9-11). This cross reference, however, merely shows UBT assigned labor categories to PWS tasks; beyond this, it does not include any narrative or set forth a technical approach for accomplishing the requirements. See AR, Tab 4-1, UBT Technical Proposal, at 9-11.

As another example, UBT points out its proposal referenced PWS section numbers and CDRLs. Comments at 6. However, the "technical approach" section of UBT's technical proposal referenced only a few of the dozens of PWS sections and CDRLs in the NIE PWS. See AR, Tab 4-1, UBT Technical Proposal, at 14-18. Further, regardless of these references, UBT's technical proposal is reasonably read as lacking a "specific technical approach" for accomplishing the numerous requirements of the NIE PWS, as required by the solicitation.

The protest is denied.

Susan A. Poling
General Counsel