



Decision

Matter of: Yang Enterprises, Inc.

File: B-415923

Date: March 12, 2018

Walter A.I. Wilson, Esq., Daniel A. Donohue, Esq., Claude P. Goddard, Jr., Esq., and Abbi M. Jankowski, Esq., Polsinelli PC, for the protester.
Kevin P. Mullin, Esq., Ethan E. Marsh, Esq., and James A. Tucker, Esq., Morrison & Foerster LLP, for ASRC Communications, Ltd., an intervenor.
Jason R. Smith, Esq., and Alexis J. Bernstein, Esq., Department of the Air Force, for the agency.
Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of awardee's proposal is dismissed as abandoned where protester, after receipt of the agency report, fails to provide a substantive response to the agency's detailed explanation of its actions.

DECISION

Yang Enterprises, Inc., of Oviedo, Florida, protests the award of a contract to ASRC Communications, Ltd., of Beltsville, Maryland, under request for proposals (RFP) No. FA2521-17-R-0001, issued by the Department of the Air Force for launch operations and infrastructure support services at Cape Canaveral, Florida. Yang argues that the agency misevaluated proposals and made an unreasonable source selection decision.

We dismiss the protest.

The RFP contemplates the award of a hybrid contract that includes both fixed-price and cost-reimbursement contract line item numbers (CLINs). RFP at 92. Firms were advised that the agency would evaluate the cost-reimbursement CLINS using a cost realism evaluation. *Id.* at 192. In its initial protest, Yang argued that the agency erred in failing to perform an adequate cost realism evaluation of the ASRC proposal. The agency provided our Office and the other parties a detailed agency report responding to Yang's protest. Specifically, the agency argued both that the protest was procedurally inadequate (because, according to the agency, Yang is not an interested party to

pursue this protest, and because the protest is factually and legally insufficient), and that it should be denied because the agency performed an adequate cost realism evaluation. The agency report also included documentation of the agency's cost realism evaluation of the ASRC proposal. In response to the agency's detailed report, Yang's comments, in their entirety, provided as follows:

Protestor has carefully reviewed the Agency Report. It is Protestor's position that the Report, and supporting documentation, do not contain sufficient analysis of the relation of the technical portions of ASRC's proposal to the cost analysis to justify the conclusion that the cost realism analysis performed by the Air Force was thorough, complete and accurate. For that reason, Protestor continues to maintain the position set forth in its protest to your Office and requests the relief set forth therein.

Protestor's Comments, Feb 26, 2018. After receiving the protester's comments, the agency requested that our Office dismiss Yang's protest as abandoned based on the brevity of its comments. In response to the agency's request, the protester provided the following additional statement:

Protestor has not abandoned its protest position. We respectfully disagree with the position of [agency counsel]. We understand the holding of the decision he cites but in the instant case it is Protestor's position that the arguments in the Protest are still valid and are not satisfied by the information provided in the Agency Report.

Protestor's E-mail, Feb. 27, 2018.

We dismiss the protest as abandoned. As we have noted, in responding to an agency report, protesters are required to provide a substantive response to the arguments advanced by the agency. enrGies, Inc., B-408609.9, May 21, 2014, 2014 CPD ¶ 158 at 4. Where a protester merely references earlier arguments advanced in an initial protest without providing a substantive response to the agency's position, our Office will dismiss the referenced allegations as abandoned. Id. Similarly, a protester's statement, without elaboration, that its initial arguments "are maintained" also will result in the dismissal of the arguments as abandoned. Citrus College; KEI Pearson, Inc., B-293543, et al., Apr. 9, 2004, 2004 CPD ¶ 104 at 8 n.4.

Here, Yang has failed to provide a response to the arguments advanced in the agency report. Yang has not provided a substantive or meaningful response to the agency's arguments on the merits regarding the propriety of its cost realism evaluation. Instead, the protester merely maintains--without elaboration--its view that the agency report does not contain sufficient analysis of the relation between the awardee's technical proposal and the agency's cost evaluation. However, Yang has not explained the basis for its conclusion or identified what documentation in the record it believes is inadequate.

Similarly, Yang has not rebutted--or even responded to--the agency's procedural arguments. As noted, the agency maintains that Yang is not an interested party and

that its protest is factually and legally insufficient. Yang's failure to respond to these arguments made by the agency leave us to question both Yang's interested party status to maintain its protest, as well as the legal sufficiency of its original filing.

Under the circumstances, we conclude that Yang has abandoned its protest. We therefore dismiss it without considering the merits of its arguments.

The protest is dismissed.

Thomas H. Armstrong
General Counsel