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Decision

Matter of: TMPC Inc.

File: B-419554; B-419554.2

Date: April 23, 2021

Shane M. McCall, Esq., Nicole D. Pottroff, Esq., Quinten R. Fisher, Esq., and Christopher S. Coleman, Esq., Koprince Law, LLC, for the protester.
C. Peter Dungan, Esq., Alfred M. Wurglitz, Esq., Roger V. Abbott, Esq., and Jarrod R. Carman, Esq., Miles & Stockbridge P.C., for Sunik, LLC, the intervenor.
Colonel Patricia S. Wiegman-Lenz, and Isabelle P. Cutting, Esq., Department of Defense, for the agency.
Charmaine A. Stevenson, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the evaluation of the protester's key personnel is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

TMPC Inc., a small business of Tampa, Florida, protests the award of a contract to Sunik, LLC, a small business of Herndon, Virginia, by the Department of Defense (DOD), United States Special Operations Command, under request for proposals (RFP) No. H92400-21-R-0001 for support personnel to assist the Directorate of Logistics in implementing and systematically maintaining the Defense Property Accountability System Warehouse, Maintenance & Utilization, Registry, Property Accountability, Force Management, and Materiel Management modules across all Special Operation Forces' supply support activities. The protester contends that the agency's evaluation of its key personnel is unreasonable, and that award to Sunik creates an impaired objectivity organizational conflict of interest.

We deny the protest.

BACKGROUND

The RFP was issued on September 30, 2020, using the negotiated acquisition procedures of Federal Acquisition Regulation (FAR) part 15, and set aside for 8(a) small

businesses.¹ The RFP contemplated the award of a hybrid fixed-price and cost-reimbursement contract consisting of a 1-year base period and four 1-year option periods. Agency Report (AR), Tab 6, RFP at 1-6, 30.

The RFP included the following three evaluation factors: key personnel, management approach, and price/cost. *Id.* at 55. As relevant here, the RFP identified two key personnel positions: program manager and senior portfolio item manager. *Id.* at 38-39. For each key personnel position, the RFP provided specific minimum skill and experience qualifications and required that “[f]or each proposed candidate, the Offeror shall include a resume that provides information validating [the] required qualification and experience.” *Id.* at 50. The key personnel factor was to be assigned a rating of acceptable or unacceptable. *Id.* at 55. The RFP further stated: “An evaluation result of ‘Unacceptable’ in Factor 1 [Key Personnel] will make the offeror’s proposal unawardable and no further evaluation will take place.” *Id.*

The agency received four proposals, including from TMPC and Sunik, by the October 30 due date, and oral presentations were conducted on November 12 and 13.² Contracting Officer’s Statement (COS) at 8-9. In its evaluation of TMPC’s proposal, the agency assigned a rating of unacceptable under the key personnel factor, and did not further evaluate TMPC’s proposal. AR, Tab 22, Combined Source Selection Evaluation Board (SSEB) Report and Source Selection Decision Document (SSDD) at 8.

On January 20, 2021, in a combined notice of award and post-award written debriefing letter, the agency notified TMPC that a contract was awarded to Sunik, LLC. AR, Tab 23, TMPC Unsuccessful Offeror Letter at 1. The agency additionally debriefed TMPC, stating:

The Government found the resume provided for the Program Manager to be acceptable in qualification and certifications; however, the proposed Item Manager did not have the requisite 3-years of item management, the 5-years of material management with [a logistics information system (LIS)], or the master’s degree in one of the listed fields that is required in the [Statement of Work (SOW)]. [In accordance with RFP] Section M.2,

¹ Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. See 13 C.F.R. § 124.501(a) (SBA may enter into all types of awards, including contracts and orders). This program is commonly referred to as the 8(a) program.

² For the management approach factor, the RFP required each offeror to submit a slide deck to be used in a later-scheduled oral presentation for the purpose of presenting the offeror’s staffing approach, transition approach, and approach to issue management and reporting. RFP at 50-51.

as a result of the “Unacceptable” rating in Factor I, [Key Personnel,] no further evaluation was accomplished.

Id. at 2. This protest followed.

DISCUSSION

The protester argues that the agency miscalculated its proposal. Specifically, TMPC argues that the agency ignored information in the resume for the proposed senior portfolio item manager, and incorrectly concluded that the candidate did not possess the required qualifications. Protest at 4-10. The protester argues that but for this error, TMPC would have a substantial chance for award because its proposed price is lower than Sunik's. *Id.* at 10. The agency argues that it considered the information provided in the proposed candidate's resume and reasonably concluded that the minimum position qualifications in the RFP were not satisfied, assigned a rating of unacceptable, and did not further evaluate TMPC's proposal. Memorandum of Law (MOL) at 8-12.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals, nor will we substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *Dyncorp Int'l, LLC*, B-419100, B-419100.2, Dec. 16, 2020, 2021 CPD ¶ 7 at 7. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *AECOM Mgmt. Servs., Inc.*, B-417639.2, B-417639.3, Sept. 16, 2019, 2019 CPD ¶ 322 at 9. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. *Vertex Aerospace, LLC*, B-417065, B-417065.2, Feb. 5, 2019, 2019 CPD ¶ 75 at 8.

Here, the RFP included personnel and minimum skill qualifications, and specifically required that the senior portfolio item manager possess, among other things, a master's degree in logistics management, supply chain, or business-related field. RFP at 18; RFP attach. 3, Personnel Qualifications, ICP – SME III – SME I Tab. The RFP additionally required that the item manager possess a “[m]inimum [of] 10 Years of combined experience with DOD or other federal agency in Financial Management, Program Management, [Information Technology], Material Management or Logistics” to include “[a minimum of] 3 years of item management experience, . . . [and a minimum] of 5 years [of] experience in material management utilizing an LIS.” RFP attach. 3, Personnel Qualifications, ICP – SME III – SME I Tab.

The record shows that TMPC received a rating of unacceptable under the key personnel factor because the agency concluded that the proposed senior portfolio item manager “did not have the requisite 3-years of item management, the 5-years of material management with an LIS system, or the master's degree in one of the listed fields that is required in the SOW.” AR, Tab 22, Combined SSEB Report and SSDD at 8. The resume provided by TMPC for its proposed senior portfolio item manager provided a position crosswalk that stated, in pertinent part, as follows:

SOW Requirement	Individual Qualifications
Master's Degree required in logistics management, supply chain or business-related field	<ul style="list-style-type: none"> ▪ Master's Degree in [DELETED] ▪ Bachelor's Degree in [DELETED]
Minimum 3 years of item management experience	<ul style="list-style-type: none"> ▪ Over [DELETED] Years of experience in [DELETED]
Minimum of 5 years' experience in material management utilizing an ILS	<ul style="list-style-type: none"> ▪ Over [DELETED] years of [DELETED]

AR, Tab 19, TMPC Key Personnel Resumes at 5. The resume further specified that the candidate received a Master's degree in Education, [DELETED]. *Id.* The resume additionally included a detailed work history spanning from [DELETED] that provided a "Description of Position Duties/Required Occupational Skills" for three prior positions held by the candidate, however neither "item management" nor "material management utilizing an LIS" is mentioned. See *id.* at 6-8.

Based on our review, we find the agency's evaluation to be reasonable. The protester argues that "the proposed Item Manager's Master's and Bachelor's Degrees coupled together qualify the proposed candidate, as does their overall academic background." Comments at 3; see also Protest at 6 ("[T]he proposed Item Manager's degrees coupled together are more than enough to demonstrate expertise in the emerging field of financial technology sufficient to satisfy the SOW requirements."). The agency argues that it was not evident that the proposed item manager's Master's degree in Education, [DELETED] satisfied the RFP requirement for a degree in logistics management, supply chain, or a business-related field. In addition, the agency asserts that for it to have considered the combination of the candidate's bachelor's and master's degrees to determine that the requirement was met, as the protester argues, would have been contrary to the RFP. MOL at 9-10. We agree with the agency.

Clearly stated RFP requirements are considered material to the needs of the government, and a proposal that fails to conform to material terms is unacceptable and may not form the basis for award. *Adams & Assocs., Inc.*, B-417495, July 23, 2019, 2019 CPD ¶ 262 at 3. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. *Innovative Pathways, LLC*, B-416100.2, June 13, 2018, 2018 CPD ¶ 212 at 5. An offeror is responsible for affirmatively demonstrating the merits of its proposal and, as here, risks the rejection of its proposal if it fails to do so. *HDL Research Lab, Inc.*, B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5. Here, the protester has not demonstrated that the proposed senior portfolio item manager's master's degree in education satisfies the RFP requirement for a master's degree in logistics management, supply chain, or a business-related field.

In addition, the resume misstated the position qualification in the RFP as requiring five years of experience in material management utilizing integrated logistics support (ILS),

rather than the actual requirement for experience in material management utilizing a logistics information system (LIS) system. The agency explains that ILS and LIS are different concepts, and argues that material management utilizing an ILS can consist of a far broader range of tasks than providing material management using an LIS, which is an actual information system. COS at 15; MOL at 11. Similarly, the agency argues that logistics management is categorically broader than item management, and overall, while the resume demonstrated experience in logistics management, it did not demonstrate the specific item and material management experience explicitly required by the RFP. COS at 13-14; MOL at 10-11. As noted, neither “item management” nor “material management utilizing an LIS” are mentioned in the detailed work history provided in the proposed candidate’s resume to demonstrate experience in these areas as required by the RFP. On this record, we find the agency’s evaluation is reasonable.³

The protester also argues that the award to Sunik creates an impaired objectivity organizational conflict of interest. Supp. Protest at 4-6. Under our Bid Protest Regulations, a protester must be an interested party to pursue a protest before our Office. 4 C.F.R. § 21.1(a). An interested party is an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or failure to award a contract. 4 C.F.R. § 21.0(a)(1). As discussed, we have found reasonable and consistent with the terms of the RFP the agency’s evaluation of the protester’s key personnel, and its determination that the proposal is unacceptable and ineligible for award. Therefore, the protester is not an interested party to challenge the award to Sunik and we need not address this argument. *Arc Aspicio, LLC et al.*, B-412612 et al., Apr. 11, 2016, 2016 CPD ¶ 117 at 12-13.

The protest is denied.

Thomas H. Armstrong
General Counsel

³ To the extent we do not address certain arguments or variations of arguments presented by the protester, we have considered all of the allegations and find that none provides a basis to sustain the protest. For example, the protester argues that the agency should not have conducted its oral presentation because it implied that the agency accepted TMPC’s key personnel as compliant with the position qualification requirements, and that the agency should have asked for clarification regarding the senior portfolio item manager’s resume during the oral presentation. Protest at 9-10. However, the oral presentation related solely to the management approach factor; nothing in the RFP premised the conduct of the oral presentation on the agency’s final conclusion that the offeror’s key personnel were acceptable, or precluded the agency from concluding that key personnel were unacceptable on the basis of the oral presentation. See generally RFP. Thus, we find no merit in this allegation.