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Decision

Matter of: URS Federal Services, Inc.

File: B-413333

Date: October 11, 2016

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Roshan D. Shah, Esq., Scarinci & Hollenbeck LLC, for AASKI Technology Inc., the intervenor.

Stacy G. Wilhite, Esq., and David C. DeFrieze, Esq., for the Department of the Army, Army Materiel Command, for the agency.

Katherine I. Riback, Esq., Nora K. Adkins, Esq., and Amy B. Pereira, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Challenge to the agency’s evaluation of the protester’s proposal is denied where the evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

URS Federal Services, Inc., of Germantown, Maryland, protests the award of a task order to AASKI Technology Inc., of Ocean, New Jersey, under request for task execution plan (RTEP) No. R23G-0876, issued by the Department of the Army, U.S. Army Contracting Command – Aberdeen Proving Ground, for scientific, technical, professional, and engineering expertise to support the missions of: the Adaptive Counter-Improvised Explosive Devices/Explosive Ordinance Disposal (CIED/EOD) Solutions Division (G-38); Support Division (ODS); Cyberspace and Information Operations Division (ODCI); Electronic Warfare Division (ODE); and the Protection Division (G-34). URS alleges that the agency misevaluated its proposal.

We deny the protest.

BACKGROUND

The RTEP, issued on November 27, 2015, contemplated the award of a task order with cost-plus-fixed-fee contract line item numbers (CLINs), for a 1-year base period

with two 1-year option periods.¹ RTEP at 7-8. The objective of this procurement was to provide the various Army divisions named above (G-38, ODS, ODCI, ODE, and G-34) with scientific, technical, professional, and engineering expertise to support the Army's CIED/EOD mission. Id. at 7.

The solicitation provided that award would be made on a lowest-cost² technically acceptable basis considering the following three factors: technical, cost, and cost control factors.³ RTEP at 12-13. The technical evaluation factor had five subfactors: (1) quality assurance plan (QASP), (2) manpower, (3) key personnel, (4) corporate experience, and (5) transition plan. Id. at 4-6. The RTEP stated that to be considered overall technically acceptable, an offeror must receive a rating of acceptable, and meet the requirements of the Performance Work Statement (PWS), for each subfactor.⁴ Id. at 12-13.

As relevant here, the RTEP required offerors to submit under the key personnel subfactor the following: one resume (not to exceed three pages) for all key personnel as outlined in the labor category descriptions attachment to the RTEP to demonstrate that each proposed key person "meets or exceeds the requirements/criteria of the R2-3G base labor categories and the [] PWS paragraphs listed below." Id. at 5. The solicitation listed eleven key personnel positions, including, as relevant to this protest, the position of EOD Senior Program Analyst (G-38). Id. at 5. For this position, the labor category description attachment provided that the minimum requirements were a graduate degree, and "15 years military or specific experience," which could be substituted for "5 years HQDA [Headquarters, Department of the Army] experience". RTEP, Attachment 0002 at 1. The RTEP labor category description attachment also included the following for the

¹ The RTEP was issued under the Army's Rapid Response Third Generation (R2-3G) Multiple Award Contract pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5. Agency Report (AR) at 1.

² While the solicitation contains various references to price, the evaluation was based upon offerors' proposed cost. RTEP at 14-15. For the purposes of this decision we use the term cost.

³ The solicitation provided that each offeror's proposal would be evaluated under the cost control factor based on its proposal submissions and outside sources, and would be assigned one of the following ratings: satisfactory confidence, unknown confidence and no confidence. RTEP at 15-16.

⁴ The RTEP provided that an acceptable technical proposal "meets requirements and indicates an adequate approach and understanding of the requirements. Proposal has no deficiencies." RTEP at 13-14. The RTEP provided that an unacceptable technical proposal "does not meet requirements and contains one or more deficiencies or is otherwise unawardable." Id.

EOD Senior Program Analyst under the heading “Sample Description of Work performed”:

provide scientific, technical, administrative, operational, engineering and analytical support to enable the division mission to ‘Focus, lead, advocate, coordinate, integrate and synchronize Army initiatives and manage the Army Explosive Ordnance Disposal (EOD) program in order to rapidly man, train, equip, and organize, Army formations with the inherent ability to apply and defeat emergent asymmetric threats and adaptive networks including Weapons of Strategic of Influence (WSI) and asymmetric weapons (Improvised Explosive Devices) in support of full spectrum operations.’ In addition the Contractor shall compose correspondence/reports, research, draft or abstract reports, update and manage databases.

RTEP, Attachment 0002 at 1; see also PWS at § C ¶¶ 3.2, 3.2.1.

The solicitation stated that the agency would evaluate under the key personnel subfactor to determine if the offeror provided resumes for all key personnel, whether the resumes met the page limitations, and if the qualification requirements outlined in the labor categories description attachment were met. RTEP at 14. A proposal that properly addressed all of the aforementioned requirements would be rated as technically acceptable. Id.

On January 11, 2016, the agency received initial proposals from two offerors, URS and AASKI. AR at 4. The agency rated URS’ proposal unacceptable because the agency found that two of URS’ proposed key personnel, Information Operations Analyst and Senior Cyber Program Analyst, failed to meet certain “PWS/RTEP requirements.” AR, TAB H, Initial URS Technical Evaluation at 11; AR, Tab J, URS Initial Discussion Letter (May 6, 2016), at 1-2. The agency opened discussions with the offerors and requested revised proposals.

On May 6, the agency received revised proposals from both offerors, and after evaluation, both proposals were rated technically acceptable. AR, Tab L, Revised Technical Proposal Evaluation. Subsequently, an organizational conflict of interest (OCI) was brought to the attention of the contracting officer. Specifically, the contracting officer’s representative informed the contracting officer that an individual proposed by URS for the key personnel position of the EOD Senior Program Analyst had accepted a position at the Army as the Deputy Division Chief of G-38, the requiring activity for this procurement. AR at 6.

The contracting officer notified URS of this OCI and URS revised its proposal replacing the originally proposed candidate with the candidate’s spouse, who was

also the Chief Executive Officer of a proposed subcontractor for this procurement.⁵
Id.

Upon receipt of URS' revised proposal, the contracting officer requested a mitigation plan from URS, which the agency received and reviewed. The agency determined that URS' mitigation plan would not resolve the OCI, however the contracting officer noted that as part of its mitigation plan URS stated that if the agency reopened discussions, it would remove the subject subcontractor, thereby removing the OCI. Id. The agency reopened discussions and requested final proposal revisions (FPRs). AR, Tab N, Final Proposal Request.

On May 26, URS submitted a FPR which proposed a new individual as the EOD Senior Program Analyst. The agency's evaluation of URS' FPR found the proposal to be unacceptable under the key personnel subfactor (and thus technically unacceptable) because the resume of the new individual URS proposed failed to meet the solicitation's minimum requirements. AR, Tab P, Final Technical Evaluation Consensus, at 4. In this regard, the agency found that the individual proposed met the educational and years of experience requirements, but did not meet certain PWS/RTEP requirements. Id. at 4. Specifically, the agency determined that this individual lacked EOD specific training and experience. The agency's analysis included the following:

Part 3: Key Personnel

URS [] proposed key personnel does not meet the requirements of the RTEP.

* * *

R2-3G #43 Program Analyst, Senior (EOD)--URS provided a resume that does not exceed 3 pages that does not meet the requirements and criteria of PWS paragraph 3.2 "G-38 overview" and the attachment 0002 OD Support Contract – R2-3G-0876 Labor Category Descriptions Addl Reqmnts.

[URS' candidate] has a Graduate Degree, as required. He does have over 25 years of military experience and over 5 years' experience at HQDA. . . . He does have 4 years CIED experience [The candidate] meets the requirements of the proposed R2-3G labor

⁵ The agency notes that URS failed to alert the contracting officer or propose a mitigation plan as required by clause H-1 of the base contract. AR, Tab F, Base Contract at 45; AR at 6.

category #43 and the requirements of attachment 0002 OD Support Contract – R2-3G-0876 Labor Category Descriptions Addl Reqmnts.

[URS' candidate] does not meet the RTEP/PWS requirements of having knowledge of scientific, technical, administrative, operational, engineering and analytical support to enable the division mission to Focus, lead, advocate, coordinate, integrate and synchronize Army initiatives and manage the Army Explosives Ordnance Disposal (EOD) program in order to rapidly man, train, equip, and organize, Army formations with the inherent ability to apply and defeat emergent asymmetric threats and adaptive networks including Weapons of Strategic of Influence (WSI) and symmetric weapons (Improvised Explosive Devices) in support of full spectrum operations. . . . [URS's candidate] does not have EOD specific training and experience. . . . There is nothing in the resume of [URS' candidate] that indicates [that] he has knowledge and experience in the Army EOD program, only experience in CIED strategy, equipping and operations primarily from the Joint Staff level, not Army.

URS's proposed key personnel . . . is not acceptable.

AR, Tab P, Final Technical Evaluation Consensus, at 2, 4. The agency found AASKI's proposal to be technical acceptable, and on June 15, the agency made award to AASKI. AR, Tab R, Source Selection Document; AR at 7. This protest followed.⁶

DISCUSSION

URS contends that the agency unreasonably found its lower-cost proposal unacceptable by applying an unstated evaluation criterion in the evaluation of key personnel. In the alternative, URS argues that even if the agency did not utilize an unstated evaluation criterion, its evaluation was unreasonable because the agency discounted the "significant IED experience" that its proposed EOD Senior Program Analyst possessed at the joint staff level. Protest at 18. The protester also argues that the agency ignored over 25 pages of its proposal that demonstrated URS' understanding of and ability to meet the PWS requirements as an organization. We have reviewed the record and conclude that the agency's evaluation and award

⁶ As the estimated value of the task order at issue is approximately \$25 million, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award IDIQ contracts. 10 U.S.C. § 2304c(e)(1)(B).

decision were reasonable and in accordance with the solicitation's requirements. We therefore find no basis to sustain the protest.⁷

The task order competition here was conducted pursuant to FAR subpart 16.5. The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6; Optimal Solutions & Techs., B-407467, B-407467.2, Jan. 4, 2013, 2013 CPD ¶ 20 at 6. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. Logis-Tech, Inc., B-407687, Jan. 24, 2013, 2013 CPD ¶ 41 at 5; Bay Area Travel, Inc., et al., B-400442 et al., Nov. 5, 2008, 2009 CPD ¶ 65 at 9. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

In arguing that the agency unreasonably concluded that its proposed candidate was unacceptable, URS contends that the RTEP provided "no textual basis" for offerors, such as itself, "to classify any part of the Specific Task description [located in the labor category description attachment] as a mandatory minimum requirement for resumes submitted for individual Key Personnel candidates." Protest at 16. Instead, URS argues that the only requirements for technical acceptability for the position of EOD Senior Program Analyst were: (1) a resume, not to exceed 3 pages, and (2) the two qualification requirements outlined in RTEP labor category description attachment--a graduate degree and either "15 years military or specific experience" or "5 years HQDA experience." URS Comments at 3, citing RTEP, Attachment 0002 at 1. URS argues that its proposal should have been determined to be acceptable because its proposal included a resume that addressed these two requirements.

In response, the agency states that in evaluating the resumes of the key personnel, the evaluators first considered the minimum education and time in service requirements specified in the labor category description attachment. The evaluators then considered the sample description of work requirements, which, as the agency explains were copied directly from the PWS and were also part of the labor category

⁷ URS' protest and supplemental protest raised numerous allegations. While our decision here does not specifically discuss each and every argument and/or variations of the arguments, we have considered all of the protester's assertions and find none furnish a basis for sustaining the protest.

description attachment.⁸ AR, Tab W, Decl. of Technical Evaluator (August 17, 2016), at 1. Thus, the agency argues it reasonably concluded that while URS' candidate met the minimum education and time in service requirements, he did not meet the additional requirements of the PWS, and was not reasonably qualified for the position of Senior EOD Program Analyst. Id.

We find the agency's evaluation unobjectionable. An agency must evaluate proposals based on the solicitation's enumerated evaluation factors. RTI Int'l., B-411268, June 26, 2015, 2015 CPD ¶ 206 at 12. Although a solicitation must identify all major evaluation factors, it need not identify all areas within each factor that might be taken into account in an evaluation, provided such unidentified areas are reasonably related to, or encompassed by, the stated evaluation factors. DV United, LLC, B-411620; B-411620.2, Sept. 16, 2015, 2015 CPD ¶ 300 at 12.

Here, the solicitation stated that the agency would evaluate offerors on the qualification requirements in the labor category description attachment. The sample task description language was a part of the labor category description attachment. The record demonstrates that the agency determined that URS' candidate for the position of EOD Senior Program Analyst met the education and time in service requirements, but lacked required EOD knowledge and experience.⁹ As such, the agency's evaluation of the sample task description language was not, as the protester argues, based on unstated evaluation criteria.

In addition, the agency reasonably considered EOD specific training and experience. The solicitation sought an EOD Senior Analyst with knowledge of scientific, technical, administrative, operation, engineering and analytical support to

⁸ According to the agency, while it could have used either the sample description of work description in Attachment 0002, or the PWS, in its evaluation, it decided to use the PWS because "it was more accurate and was specifically referenced in the RTEP." AR, Tab W, Decl. of Technical Evaluator (August 17, 2016), at 1.

⁹ While the protester is correct that the evaluation documents reference URS meeting "the requirements of the proposed R2-3G labor category #43 and the requirements of attachment 0002 OD Support Contract – R2-3G-0876 Labor Category Descriptions Addl Reqmnts," we agree with the agency that this sole reference "ignores the context of that statement in the evaluation report and the substance of the evaluation process." AR, Tab W, Decl. of Technical Evaluator (August 17, 2016), at 1. Indeed, the same evaluation document, only a few sentences earlier, states that URS' candidate "does not meet the requirements and criteria of PWS paragraph 3.2 "G-38 overview" and the attachment 0002 OD Support Contract – R2-3G-0876 Labor Category Descriptions Addl Reqmnts." Id. Thus, we have no reason to question the agency's ultimate conclusion that the resume failed to meet the requirement of the RTEP.

enable the division mission to “[f]ocus, lead, advocate, coordinate, integrate and synchronize Army initiatives and manage the [] EOD program...” AR, Tab W, Decl. of Technical Evaluator at 3; Tab P, Final Technical Evaluation Consensus, at 4. We find that the consideration of specific training and experience of the candidates are logically encompassed by the sample description of work performed language, which required knowledge of numerous aspects of the EOD program. On this record we find that the agency reasonably evaluated the protester’s EOD Senior Program Analyst in accordance with the solicitation criteria.

While the protester alleges there was nothing in the solicitation to alert offerors to these requirements, the Sample Task Description language was clearly included in the labor category description attachment, which the RTEP advised would be the basis for the agency’s evaluation of an offeror’s key personnel. Therefore, if URS had any question as to the requirements of the labor category description attachment’s sample task description language, URS was required to protest prior to the solicitation’s closing date. 4 CFR § 21.2(a)(1).

In any event, we find that the protester’s interpretation of the solicitation requirements, which would exclude in its entirety the sample task description language from the labor category descriptions attachment, is not reasonable. Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. SNAP, Inc., B-402746, July 16, 2010, 2010 CPD ¶ 165 at 3. Notwithstanding the protester’s arguments to the contrary, our review of the record here leads us to conclude that the agency’s reading of the solicitation was the only reasonable interpretation. To accept the protester’s interpretation would render completely meaningless the sample task description portion of the labor category description attachment requirements. Accordingly, we find no merit to the protester’s argument that the agency’s approach amounted to the use of unstated evaluation criterion.

Alternatively, the protester contends that even if the agency did not use an unstated evaluation criterion, the agency unreasonably discounted the “significant IED experience,” that its candidate possessed. Protest at 18. Specifically, URS argues that the agency overlooked the experience of its proposed candidate at the joint staff level and experience with CIED strategy, equipping and operation in Mosul, Iraq, and failed to consider how this experience met the EOD Senior Program Analyst requirements. Id.

The agency states that the protester is “ignoring the difference” between EOD and CIED demonstrating URS’ misunderstanding of EOD and CIED. AR, Tab W, Decl. of Technical Evaluator, at 10. The agency explains that EOD (explosive ordnance disposal) and CIED (counter-improvised explosive device) are different specialties and that “EOD is a technically-intensive specialty that encompasses much more

than just CIED operations.” AR, Tab W, Decl. of Technical Evaluator, at 3. The agency further notes that CIED operations refer to a “holistic approach to defeat IEDs at the strategic and tactical level,” and that there is no formal qualification for CIED training. Id. at 3. The agency also notes that G-38 includes both CIED and EOD branches, and to that end, both the EOD Senior Program Analyst and the CIED Senior Program Analyst, have a leadership role in their respective branches. Id. at 5.

While the protester argues that the agency’s evaluation was unreasonable because URS’ proposed candidate had CIED and Army experience which involved “counter IED operations,” URS does not contend that its candidate had specific EOD training or experience. URS Comments at 10. The protester’s argument in this regard amounts to no more than mere disagreement with the agency and provides no basis to question the reasonableness of the agency’s evaluation. We therefore have no basis to object to the agency’s evaluation of this aspect of URS’ proposal.

In addition, the protester argues that the agency erred by not considering the section of URS’ technical proposal that demonstrated that it, as an entire company, had EOD experience, and therefore could meet the RTEP/PWS requirements for G-38 support. This argument however, does not recognize that the evaluation criterion was limited to the proposed key personnel candidate and could not be satisfied by the companies’ EOD experience. Since we concluded that the agency’s evaluation of URS’ key personnel was reasonable, the protester’s argument that this key personnel requirement could have been fulfilled by the contractor as a whole has no merit.¹⁰

The protest is denied.

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General Counsel

¹⁰ In any event, the agency states that it did indeed consider the EOD capabilities of URS as a whole, and otherwise found URS technically acceptable for all other technical subfactors, except key personnel. Supp. AR at 5-6.