



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: MTP (JV)

File: B-276903

Date: July 31, 1997

John Lukjanowicz, Esq., Oles Morrison & Rinker, for the protester.
Karen S. Hindson, Esq., for D.E.W. Joint Venture, an intervenor.
Elizabeth Rivera Bagwell, Esq., Department of the Navy, for the agency.
C. Douglas McArthur, Esq., and Christine S. Melody, Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Where solicitation contained specific qualification requirements for project manager, including educational requirements (high school diploma and community college certificate, for which candidate could substitute experience) and experience requirements (3 years in food service, with 2 years as a supervisor); protester provided no information on time periods during which candidate for project manager worked at positions listed on resume; and agency advised protester during discussions that it had failed to provide information for evaluation of project manager's qualifications, protester should have recognized need to provide basic information necessary to evaluate its proposal, notwithstanding that agency specifically identified only failure to provide information on high school diploma as aspect of qualifications not addressed.

DECISION

MTP (JV), a joint venture of Traction Systems, Inc. and McClean's Restoration Services, protests the award of a contract to D.E.W. Joint Venture under request for proposals (RFP) No. N00604-96-R-0063, for mess attendant services at the Marine Corps base, Kaneohe Bay, Hawaii. MTP contends that discussions were inadequate to alert it to the omission from its proposal of information necessary to establish the qualifications of its project manager.

We deny the protest.

On October 16, 1996, the agency issued the RFP for a firm, fixed-price contract, to provide labor and supplies to serve food and clean the dining halls at the base, for a base period (established through subsequent amendment as 6 months), with four 1-year option periods. The solicitation provided for evaluation of technical and past performance factors, in addition to price. The RFP stated that past performance was more important than price and that the agency intended to make award to the

responsible offeror whose proposal met the government's minimum technical requirements and offered the best past performance.

The RFP stated that the evaluators would consider whether offerors met minimum technical requirements in the areas of key personnel, manning charts, quality control program, strike/job plan, and housekeeping/cleaning plan. Initially, the agency considered the positions of project manager and alternate project manager as key personnel; the Navy subsequently modified the solicitation to delete the requirement for an alternate project manager.¹ The RFP required key personnel to submit two forms attached to the solicitation, a "personnel qualifications sheet" and a "personnel data form" (PDF), demonstrating that they possessed the necessary education/training and experience for the position.

The education/training requirements for the project manager, set out in paragraph L101c.(2)(a)(1)A., were as follows:

- (i) Must possess, at a minimum, a high School Diploma or equivalent, and
- (ii) Successful completion of a Community College Certificate in Food Service or similar course work. Based on curriculum which included courses in food service operations and food service management
- (iii) Substitution for paragraph A.(ii) shall equal not less than five years of institutionalized, e.g., military, hospital, prison, school or college, food service.²

The experience requirements, set out in paragraph L101c.(2)(a)(1)B., were as follows:

- (i) Three years in government/commercial galley/kitchen and dining room facilities with equipment and operations equivalent to that involved in the performance of this contract, and

¹The agency failed to delete all references to the requirement and discovered, after receipt of best and final offers (BAFO), that one offeror had included an alternate project manager in its proposal. The agency issued an amendment clarifying the issue and allowed the offeror to submit a new offer, without the alternate project manager position. There was no effect on the protester or the awardee and the error has no relevance to the protest issues here.

²In the initial version, subparagraph (iii) contained the phrase "minimum education necessary" after the reference to paragraph A.(ii) and the list beginning with "e.g." was contained by parentheses through the word "college."

(ii) Two years of work experience as a manager over work force described in previous paragraph.

The RFP provided instructions on preparation of the PDF, directing offerors to identify the areas of work experience pertinent to the required effort. It specifically mentioned the need to indicate the periods of time served in the qualifying positions.

On December 10, the agency received nine proposals, which it referred to a technical evaluation board (TEB). On January 14, 1997, the TEB advised the contracting officer that, of the nine, only one was technically acceptable as submitted. The agency determined that all nine offerors were in the competitive range and opened discussions.

With respect to MTP, the firm had simply failed to include any dates on the project manager's resume, making it impossible to determine how long he had served in the positions indicated. There was no indication that the individual had the required high school degree. There was no claim that the individual had a community college certificate in food service or, absent any meaningful information on the individual's experience, whether the protester intended to offer experience as a substitute for the certificate. Absent any information on the length of time involved in the jobs listed, the evaluators found the proposal unacceptable for every portion of the required qualifications for the project manager.

By letter of February 20, the agency requested information regarding certain areas of MTP's proposal, advising the protester that failure to submit the "required information, corrections, and/or clarifications" might result in rejection of the proposal. With regard to key personnel, the agency advised the protester as follows:

Insufficient information was provided to review the qualifications of the proposed Project Manager. Clause [L101c.(2)(a)(1)A.] states that the Project Manager must possess, at a minimum, [a] high school diploma or equivalent.

Thus, although the agency generally advised the protester that it had failed to provide information necessary to review the candidate's qualifications, it made a specific reference only to the high school diploma requirement. It made no specific reference to the remaining educational and experience requirements that the protester had failed to provide--the community college certificate in food service or substituted institutional experience, the 3 years experience in equivalent facilities, or the 2 years experience as a manager. With the discussion questions, however, the agency did issue amendment No. 0005 to the RFP, requiring submission of the

PDF,³ which calls for offerors to identify the experience requirement to which each job experience related, along with the time periods involved.⁴

With its revised proposal, MTP provided a revised resume, indicating that its candidate met the minimum educational qualifications in that he had graduated from high school in 1963. MTP did not provide the required PDF. Although the revised resume did indicate that one job, involving caretaker services, had lasted from April 1993 to April 1996, it still omitted any indication of how long the individual had served in five of the six positions. While the resume did contain a statement that the list of positions represented 30 years of military experience, only one of the positions involved mess attendant services; the remaining experience involved quality of life programs, personnel work, and inventory control not obviously relevant to the instant effort. The resume stated that the individual was a "certified food service sanitation instructor" and contained a list of courses taken (generally quartermaster courses); it did not address the community college certificate or how any of the employment might substitute for the certificate. As a result, the evaluators were unable to determine whether the candidate had the required 3 years experience in food service or 2 years managerial experience in food service. Further, MTP's proposal did not demonstrate that the candidate met the minimum education requirement--either a community college certificate in food service or 5 years of experience. As a consequence, the TEB found MTP's proposal technically unacceptable because it contained insufficient information to establish that the protester was offering a project manager who met the mandatory qualification requirements.

Overall, the TEB determined that five of nine offers were acceptable; all five offerors received "excellent" past performance ratings. On March 6, and again on March 14, the agency requested the submission of BAFOs from the offerors remaining in the competitive range.⁵ After review of the BAFOs, the agency

³As initially issued, the RFP stated that "[k]ey personnel must submit a resume (refer to Attachment 2-'Personnel Qualifications Sheet' and Attachment 3-'Personnel Data Form')" demonstrating the required education/training and experience. Amendment No. 0005 changed this reference to the two forms to a requirement, stating that "[k]ey personnel shall submit Attachment 2-'Personnel Qualifications Sheet' and Attachment 3-'Personnel Data Form'. . . ." (Emphasis added.)

⁴That is, whether the job served as a substitute for the community college certificate, whether it satisfied the requirement for 3 years experience in institutional food service, or whether it satisfied the requirement for 2 years supervisory experience in an institutional food service setting.

⁵The agency included the five acceptable proposals in the competitive range established for March 6; it included two proposals in the final competitive range.

selected D.E.W. for award based on its low price and excellent past performance rating, which was equal to that of the offerors remaining in the competitive range. After a debriefing by telephone on April 21, MTP filed this protest with our Office.

The protester contends that, by failing to alert MTP explicitly to its failure to provide information on the project manager's experience, the Navy breached its statutory duty to inform the protester of deficiencies in its proposal and engage in meaningful discussions. The protester points out that while the record indicates that the TEB specifically noted MTP's failure to address five of the six qualification requirements of the solicitation, the agency only brought one of these failures to the protester's attention during discussions.⁶ Further, the protester asserts, the agency did not identify this concern as a deficiency but merely as a point needing clarification. Prior to rejecting the proposal, after submission of BAFOs, the agency never expressed concern over the proposed project manager's experience. The agency misled it, MTP argues, by asking only whether the candidate had a high school degree, obscuring the concern over experience and denying MTP the opportunity to revise its proposal to meet the agency's concerns.

The Competition in Contract Act of 1984 and the Federal Acquisition Regulation (FAR) require that written or oral discussions be held with all responsible offerors whose proposals are within the competitive range. See 10 U.S.C. § 2305(b)(4)(A)(i) (1994); FAR § 15.610(b). In order for discussions in a negotiated procurement to be meaningful, contracting agencies must furnish information to all offerors in the competitive range as to the areas in their proposals which are believed to be deficient so that offerors may have an opportunity to revise their proposals to satisfy the government's requirements. FAR § 15.610(c)(2); Pan Am World Servs., Inc. et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446 at 11. In evaluating whether there has been sufficient disclosure of deficiencies, the focus is not on whether the agency describes deficiencies in such detail that there could be no doubt as to their identity and nature, but whether the agency imparts sufficient information to the offeror to afford it a fair and reasonable opportunity in the context of the procurement to identify and correct deficiencies in its proposal. Huff & Huff Serv. Corp., B-235419, July 17, 1989, 89-2 CPD ¶ 55 at 3. Agencies are only required to reasonably lead offerors into those areas of their proposals needing amplification, given the context of the procurement. Eagan, McAllister Assocs., Inc., B-231983, Oct. 28, 1988, 88-2 CPD ¶ 405 at 5. Here, we conclude that the agency reasonably led MTP into the area of its proposal needing revision.

⁶Five of the requirements are those set out in paragraph L101c.(2)(a)(1)A.(i)-(iii), and paragraph L101c.(2)(a)(1)B.(i)-(ii), quoted above. The sixth requirement, from paragraph L101c.(2)(a)(1)G., was for a letter of intent or commitment from individuals not employed by the offeror.

As an initial matter, the failure to provide any dates for the candidate's experience reflects gross carelessness by MTP, frustrating any attempt to determine whether the candidate met the RFP requirements. Further, having made the error in its initial proposal, even a cursory review prior to the submission of BAFOs should have alerted MTP to the omission of information relative to the candidate's qualifications. In addition, in the discussions letter the agency specifically advised the protester of the omission ("insufficient information was provided to review the qualifications of the proposed Project Manager") and, overall, the RFP itself sets the requirements out very simply and very specifically. (As noted above, they include, in addition to the high school diploma, the community college degree (or experience), 3 years food service experience, and 2 years supervisory experience.) Moreover, during discussions the agency issued an amendment to the RFP which required submission of the PDF, a form which specifically calls for offerors to provide the kind of information missing from MTP's proposal.

Under the circumstances here, we cannot conclude that a reasonably prudent offeror, reviewing the agency's question in conjunction with the material that it had submitted with its proposal, could have failed to recognize the need to provide the basic information necessary for evaluation of its proposal. See Textron Marine Sys., B-243693, Aug. 19, 1991, 91-2 CPD ¶ 162 at 8 (although agency orally ascribed a deficiency to the wrong key employee proposed by protester, a reasonably prudent offeror would have ensured that each of its proposed key personnel met the requirements of the RFP, given the specificity of the RFP requirements for education and experience, and general written guidance and oral advice from the agency regarding key personnel qualifications). Given this conclusion--that MTP received sufficient notice that its proposed project manager did not meet the RFP requirements--we see no basis to conclude that the agency failed to hold meaningful discussions with MTP because it did not more specifically identify the omissions in MTP's proposal. Accordingly, in light of the protester's failure to demonstrate that its proposed project manager had the qualifications required by the RFP for the position, we further conclude that the evaluation and determination that MTP's proposal was technically acceptable were reasonable and consistent with the RFP. Jet Invs., Inc., B-276215, B-276215.2, May 22, 1997, 97-1 CPD ¶ 193 at 2-3.

The protest is denied.

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