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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Consolidated Services Worldwide, Inc.

File: B-290751.7

Date: October 21, 2002

David J. Taylor, Esq., Tighe Patton Armstrong Teasdale, for the protester.
Adele Ross Vine, Esq., General Services Administration, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the rejection of proposal is denied where the protester did not unambiguously commit in its proposal to satisfy the solicitation's key personnel provision.

DECISION

Consolidated Services Worldwide, Inc. (CSWI) protests the rejection of its proposal under request for proposals (RFP) No. 6TA-02-MTV-0057, issued by the General Services Administration (GSA) for information technology services.

We deny the protest.

The RFP was issued as a set-aside for Historically Underutilized Business Zone (HUBZone) firms or for qualified HUBZone joint ventures for a 2-year base period and three 1-year option periods.¹ The RFP includes seven functional areas (FA) corresponding to various required services. For each FA, multiple awards will be made to the responsible offerors whose proposals represent the best values to the government; awardees will compete for subsequent task orders. The RFP advised that the agency intends to make the awards on the basis of initial proposals without conducting discussions. RFP § L.1, at L-1. The RFP also warned that a proposal would be considered unacceptable and would be ineligible for award if, among other

¹ The RFP is intended to result in a government-wide acquisition contract (GWAC) with a maximum GWAC ceiling amount of \$2.5 billion.

things, it took exception to any terms and conditions in the RFP or imposed additional conditions. RFP § M.1, at M-1.

As relevant here, section B of the RFP included a price schedule for each of the seven FAs for each period of contract performance. Each price schedule included contract line item numbers (CLIN) corresponding to specified labor categories and estimated hours for each labor category. Offerors were to insert an “hourly ceiling labor rate” for each labor category and to multiply this rate by the number of estimated hours to arrive at a total price for each labor category. Each price schedule also contained CLINs for supplies, travel, and other direct costs (ODC) and estimated costs for these items.

In addition, as relevant here, section G of the RFP, captioned “contract administration data,” stated that the contractor “shall provide all management, administrative, marketing, quotation, clerical and supervisory functions and actions required for effective and efficient Contract administration without direct cost to the Government.” RFP at G-1. For each contract awarded, the RFP required the contractor to designate a contract manager—the key personnel position for the contract—who would be responsible for the overall coordination of the contract with the government. The RFP listed the following requirements for the contract manager:

Organizes, directs, and coordinates planning and production of all Contract support activities[;] Has excellent oral and written communication skills, with a demonstrated capability for dealing with, and may meet with, all levels of internal personnel and external representatives[;] Formulates and reviews strategic plans, marketing plans, subcontracting, and deliverable items, determines Contract costs, and ensures conformity with Contract terms and conditions[;] Explains policies, purposes, and goals of the Contractor’s organization, and GSA’s policies and procedures applicable to this Contract, to Contractor personnel[;] Takes appropriate action as required to avoid personal services Orders[; and] Must be authorized to negotiate on behalf of and bind the Contractor to Orders[.]

RFP at G-10.

In accordance with the terms of the RFP, as stated above, contract management services were to be provided at no direct cost to the government.

CSWI timely submitted its proposal, in which it priced all CLINs for each of the seven FAs for each period of contract performance. However, after the section B price schedules, CSWI inserted the following page into its proposal:

FA 1 through FA 7 - - Price Schedule for All FA's -- Subset Schedule "ODC"

<u>CLIN</u>	<u>Category</u>	(A) <u>Estimated Hours</u>	(B) <u>Hourly Ceiling Labor Rate²</u>	<u>Total A*B</u>
100	Corporate Executive	NA	\$ [omitted]	
200	Program/Project Manager	NA	\$ [omitted]	

The forgoing labor categories are provided in order to establish a unit hourly price for senior management personnel. They serve as the Contractor's Contract Managers and are otherwise identified herein as Key Contract Personnel.

Labor Category Description: KEY CONTRACT PERSONNEL

Corporate Executive -- Experience conferring with executive management to define the Client's strategic business goals and advice in reengineering of business processes to meet these goals. Experienced in managing a diverse group of functional activities, subordinate groups of technical and administrative personnel. He or she is a senior professional who only has responsibility for managing projects, but also possesses strong technical skills. Minimum 10 years of progressive experience in managing, directing, and implementing projects and a Master's degree or ten-plus years of work experience in a specialized area of responsibility.

Program/Project Manager -- organizes, directs, and coordinates planning and production of all Contract support activities. He or she has excellent oral and written communication skills, with a demonstrated capability for dealing with, and may meet with all levels of internal personnel and external representatives. Formulates and reviews strategic plans, marketing plans, subcontracting, and deliverable items, determines Contract costs, and ensures conformity with Contract terms and conditions. Explains Policies, purposes, and goals of the Contract's organization, and GSA's policies and procedures application to this Contract, to Contractor Personal. Takes appropriate action as required to avoid personal services Orders; Is authorized to negotiate on behalf of and bind the Contractor to Orders.

Protester's Proposal at B-69.

² Because this decision is being issued as an unprotected document, we have omitted the actual hourly ceiling labor rates proposed by CSWI.

The agency rejected CSWI's proposal because the firm did not clearly and unambiguously agree in its proposal to provide the services of a contract manager at no direct cost to the government in accordance with the terms of the RFP. In this regard, while pricing all CLINs for each of the seven FAs for each period of contract performance, CSWI also added two unsolicited labor categories that were applicable to each of the FAs according to the captioning on page B-69 of the proposal, as shown above. For these two labor categories, CSWI specified hourly ceiling labor rates for purposes of "establish[ing] a unit hourly price for senior management personnel" and CSWI described these two labor categories as "serv[ing] as the Contractor's Contract Managers and are otherwise identified herein as Key Contract Personnel." CSWI also duplicated the RFP's contract manager description for its proposed program/project manager. On this record, it was not clear to the agency that CSWI intended to provide a contract manager at no direct cost to the government in accordance with the terms of the RFP.³

CSWI argues that its proposal was unreasonably rejected. More specifically, CSWI contends that it was clear from the face of its proposal that all of the required labor categories for each of the FAs could be purchased at the prices contained in the section B price schedules and that these labor categories would be supervised by executive level employees at no additional cost to the government in accordance with the terms of the RFP. CSWI states that the prices on page B-69 of its proposal would come into play only if additional managerial services beyond those contemplated by the RFP were desired (for example, defining strategic business goals and reengineering businesses processes to meet those goals). Protester's Comments, Sept. 30, 2002, at 7.

In reviewing a protest against an agency's proposal evaluation, we will consider whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Galen Med. Assocs., Inc., B-288661.4, B-288661.5, Feb. 25, 2002, 2002 CPD ¶ 44 at 2. Since the agency's evaluation must rely upon the information in the proposal, the offeror has the obligation to submit an adequately written proposal, and its failure to fulfill that obligation does not render the evaluation unreasonable. OMNIPLEX World Servs. Corp., B-282630.2, Sept. 22, 1999, 99-2 CPD ¶ 64 at 4-5.

We conclude that the agency reasonably rejected CSWI's proposal. As quoted above, in describing its proposed program/project manager, CSWI duplicated the narrative from the RFP for the contract manager position and inserted a per-hour ceiling labor rate. It is this duplication of contract manager requirements, plus the insertion of an hourly rate, that caused CSWI's proposal to be considered, at best, ambiguous with

³ The agency acknowledges that CSWI's description for its proposed corporate executive did not duplicate the duties required by the RFP for the contract manager position. Contracting Officer's Statement at 4.

respect to whether the firm intends to provide contract management services at no direct cost to the government in accordance with the terms of the RFP or whether the firm intends to charge an hourly rate as contained on page B-69 of its proposal for the required management services. On this record, where CSWI's intentions are not clear and unambiguous from the face of its proposal in terms of providing contract management services at no direct cost to the government, we have no basis to question the reasonableness of the agency's rejection of the firm's proposal.⁴

Finally, CSWI argues that the agency could have conducted discussions with the firm in order to resolve the issue of whether it intended to separately charge for contract management services. This is true, but does not provide a basis to challenge GSA's decision not to conduct discussions. Since the RFP provided that the agency intended to make awards on the basis of initial proposals without conducting discussions, GSA retained discretion to do that. Moreover, it would have been inappropriate for the agency to conduct discussions with CSWI to remedy that part of its proposal addressing a material RFP requirement without conducting discussions with the other offerors.

The protest is denied.⁵

Anthony H. Gamboa
General Counsel

⁴ In arguing that the RFP invited the submission of other labor categories and corresponding labor rates, CSWI relies on the RFP language that "additional labor categories not anticipated/covered in the pricing schedules may be quoted under the ODC line items subject to standard of review cited above." RFP at G-5. The quoted language is applicable to the competition for the issuance of task orders, not to the award of the umbrella contracts.

⁵ In its protest, CSWI argued that the agency was using CSWI's unacceptability as a pretext to "justify not awarding one or more HUBZone Set-Aside contracts in one or more [FAs]." Protest at 8. The agency responded to this argument in its administrative report. In its comments on the agency report, CSWI did not rebut the agency's position on this issue. Accordingly, we deem this issue to be abandoned. See Heimann Sys. Co., B-238882, June 1, 1990, 90-1 CPD ¶ 520 at 4 n.2.

We also note that CSWI raised other collateral arguments, each of which we have considered and find without merit.