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Decision

Matter of: Synoptic Systems Corporation; Contract Services, Inc.

File: B-290789.4, B-290789.5

Date: January 22, 2003

Kenneth B. Weckstein, Esq. and Raymond Fioravanti, Esq., Epstein Becker & Green, for Synoptic Systems Corporation, and Darcy V. Hennessey, Esq., Moore Hennessey & Freeman, for Contract Services, Inc., the protesters.

Capt. Charles K. Bucknor, Jr. and Raymond Saunders, Esq., Department of the Army, for the agency.

Glenn G. Wolcott, Esq., and Michael R. Golden, Esq., GAO participated in the preparation of this decision.

DIGEST

1. Protester's assertion that solicitation was "devoid" of any requirements regarding proposal content is without merit where request for proposals (RFP) § M listed multiple evaluation factors and subfactors, RFP § L contained separate instruction paragraphs for each evaluation factor and subfactor describing information offerors were expected to provide, and the solicitation advised offerors that "proposals may be considered technically unacceptable due to lack of minimum content or failure to address all evaluated areas."

2. Agency reasonably evaluated protesters' proposals as unacceptable where evaluation record supports source selection authority's conclusion that both protesters' proposals failed to comply with multiple solicitation requirements.

DECISION

Synoptic Systems Corporation (SSC) and Contract Services, Inc. (CSI) protest the Department of the Army's evaluation of proposals under request for proposals (RFP) No. DAKF19-02-R-0002 to provide installation logistics support services at Fort Riley, Kansas. SSC and CSI each protest that the agency improperly evaluated their respective proposals as technically unacceptable, and that the agency improperly evaluated the proposal submitted by Logistics & Environmental Support Services Corporation (LESCO) as technically acceptable.

We deny the protests.

BACKGROUND

On April 25, 2002, the Army published the solicitation at issue, seeking proposals to provide various base support services¹ for a 1-year base period and six 6-month option periods,² and advised offerors that “award will be made using the Lowest Price Technically Acceptable (LPTA) process.” Agency Report, Tab 8, RFP, at 106. The RFP required offerors to submit “quality” proposals in the form of oral presentations,³ and directed that the oral presentations address the following non-price evaluation factors: quality control plan; management plan;⁴ work execution;⁵ experience;⁶ and past performance. Agency Report, Tab 8, RFP at 106-07. RFP § L contained proposal instructions and identified specific information that offerors were expected to provide under each evaluation factor. RFP § M warned offerors that “proposals may be considered technically unacceptable due to lack of minimum content or failure to address all evaluated areas.” Agency Report, Tab 8, RFP at 106.

¹ The solicitation sought services to support the following activities: general support and direct support maintenance; army oil analysis; central vehicle wash facility; transportation motor pool; full food service dining facility; hazardous material control center; central issue facility; ammunition supply point; general storage and warehousing; and bulk petroleum oil and lubricant operations. Agency Report, Tab 8, RFP, at 37.

² The solicitation explains that the agency intends to award an interim contract for various currently contracted-out activities that are part of an ongoing commercial activities study being conducted pursuant to Office of Management and Budget (OMB) Circular A-76. Agency Report, Tab 8, RFP, at 35.

³ The solicitation directed offerors to provide the agency with the written slides intended for use during their presentations, further advising offerors, “it is recommended that the number of slides be limited to a maximum of 20.” Agency Report, Tab 8, RFP at 99.

⁴ Under the evaluation factor for management plan, the RFP listed the following subfactors: corporate structure and staff; on-site personnel structure; plan for project management; interaction between government/contractor staff; purchasing system; payroll and labor relations; and capability and willingness to actively utilize automated methods for accomplishment of contract administration.

⁵ Under the evaluation factor for work execution, the RFP listed the following subfactors: integration of subcontract work; subcontractor control; and rationale for selection and utilization of subcontractors.

⁶ Under the evaluation factor for experience, the RFP listed the following subfactors: ability to simultaneously manage multiple services operations; and scope of work in previous projects.

Finally, the solicitation advised offerors “there will be no negotiations or discussions,” and stated that price proposals “will be requested only from those offerors whose Quality Proposal[s are] determined to meet all evaluation factors and criteria in section L.” Agency Report, Tab 8, RFP, at 106.

Proposal slides and required certifications⁷ were submitted by four offerors prior to the specified May 31 closing date; thereafter, oral presentations were made by each offeror. Following the oral presentations, the agency reviewed and evaluated the proposals. Although the solicitation advised offerors that proposals would be rated only as to acceptability/unacceptability,⁸ the agency initially evaluated proposals using a relative ranking system.⁹ Based on that evaluation, the agency found two proposals (including SSC’s) acceptable, and two proposals (including CSI’s) unacceptable.

On June 26, CSI filed a protest with this Office challenging various aspects of the agency’s evaluation.¹⁰ Following our development and review of the record in that matter, this Office conducted a telephone hearing during which testimony was provided by various Army personnel involved in that initial evaluation. On September 27, this Office conducted a conference call with the parties’ counsel, during which various perceived evaluation flaws were discussed. By letter submitted later that day, the Army advised this Office that it intended to take corrective action, including reevaluation of proposals and new determinations of acceptability/unacceptability. On the basis of that pending corrective action, we dismissed CSI’s protest as academic. Contract Servs., Inc., B-290789, B-290789.2, Sept. 30, 2002.

⁷ Offerors were required to submit various representations and certifications in response to section K of the RFP.

⁸ Consistent with the concept of selecting the lowest priced technically acceptable proposal, the Federal Acquisition Regulation (FAR) mandates that, when using the LPTA process, “[non-price] [p]roposals are evaluated for acceptability but not ranked,” and also establishes that “[t]radeoffs are not permitted.” FAR § 15.101-2.

⁹ Proposals were rated under each evaluation factor and subfactor using a color-coded rating system wherein a “dark blue” rating reflected a proposal containing “significant advantages [that are] not offset by disadvantages”; a “green” rating reflected a proposal containing “one or more advantages [that are] not offset by disadvantages”; a “yellow” rating reflected a proposal in which “any advantages are offset by disadvantages”; and a “red” rating reflecting a proposal containing “major errors, omissions, or deficiencies.” Agency Report, Tab 37, at 10.

¹⁰ On August 15, following receipt of the agency report responding to its June 26 protest, CSI filed a supplemental protest.

Thereafter, the agency's source selection authority (SSA) reviewed the videotape record of each offeror's oral presentation,¹¹ reevaluated each proposal to determine whether or not each met the solicitation requirements,¹² and concluded that SSC's and CSI's proposals were unacceptable. Specifically, the SSA found that SSC's proposal failed to meet the solicitation requirements under the evaluation factors for management plan and experience; and that CSI's proposal failed to meet the solicitation requirements under the evaluation factors for quality control plan, management plan, work execution, and experience. By letters dated October 4, SSC and CSI were notified of the SSA's determinations. These protests followed.

DISCUSSION

SSC and CSI each challenge the agency's evaluation of their respective proposals. Based on our review of the record, we find no basis to question the agency's rejection of both proposals.

Evaluation of SSC's Proposal

SSC protests that the SSA erred in finding that SSC's proposal failed to meet the solicitation requirements, first arguing that the solicitation contained no requirements. Specifically, SSC asserts, "the Army issued a solicitation that was devoid of any specific requirements," and argues that, rather than requirements, the solicitation contained only "amorphous suggestions." SSC Comments on Agency Report, Nov. 25, 2002, at 2. The record is to the contrary.

RFP § L contained instructions to offerors regarding proposal content. Among other things, section L directed that offerors' proposals/oral presentations "should . . . cover all areas specified in Section M, Paragraph B, Evaluation Factors."¹³ Agency Report, Tab 8, RFP at 100. Paragraph B of RFP § L mirrored paragraph B of RFP § M, covered two complete solicitation pages, and contained separate instruction paragraphs for each evaluation factor and subfactor. For example, with regard to the evaluation factor for quality control plan, RFP § L stated:

¹¹ The SSA was not part of the agency's evaluation team in the initial evaluation and was not present during the offerors' oral presentations.

¹² In resolving these protests, GAO conducted a hearing on the record in the GAO building during which testimony was provided by the SSA. At that hearing, the SSA testified that, in performing his reevaluation, he did not apply the prior relative evaluation plan under which a proposal's "advantages" offset its "disadvantages." Hearing Videotape (VT) at 10:08.

¹³ Paragraph B of RFP § M listed the five non-price evaluation factors, along with their multiple subfactors.

Provide a general overview of your proposed Quality Control Plan to include your process to ensure the effectiveness of your short and long term corrective actions, a brief explanation of how you intend to integrate any subcontractors you plan to use, and any planned interaction between your quality control personnel and the Government's quality assurance personnel. Outline your quality control staffing structure to include experience, training and education requirements. If you intend to internally train your Quality Control personnel, describe that process as well. Address quality control staff responsibilities, authority, and outline the quality control reporting and documentation procedures, to include both those internal to the contractor and from the contractor to the Government. Provide a brief overview of a safety plan.

Agency Report, Tab 8, RFP at 100.

In arguing that the solicitation contained only "suggestions" for proposal content, SSC refers to a provision in RFP § L, immediately preceding the detailed instructions quoted above, that stated: "The following suggestions are offered to assist you in developing your presentation." Agency Report, Tab 8, RFP at 100. Relying on this provision, SSC argues that "[s]ection L of the solicitation contained only suggestions as to what should be discussed at the presentation," maintaining that "the so-called evaluation factors did not contain actual requirements." SSC Protest, Oct. 15, 2002, at 5; SSC Comments on Agency Report, Nov. 25, 2002, at 7. We disagree.

Here, the solicitation clearly disclosed the multiple evaluation factors and subfactors against which offerors' proposals would be evaluated. Further, RFP § L contained separate instruction paragraphs for each factor and subfactor, describing the specific information the agency expected offerors to provide.¹⁴ Finally, RFP § M warned offerors that "proposals may be considered technically unacceptable due to lack of minimum content or failure to address all evaluated areas." Agency Report, Tab 8, RFP at 106. It is difficult to imagine how this solicitation could have more explicitly placed offerors on notice regarding the bases for the agency's pending acceptability/unacceptability determinations. SSC's assertion that the solicitation contained only "suggestions" is simply without merit.

¹⁴ For example, under the evaluation factor for quality control, the solicitation specifically directed offerors to discuss: procedures for short and long term corrective actions; integration of subcontractors; interaction between contractor quality assurance personnel and government personnel; quality control staffing structure, including educational, training and experience requirements; responsibilities and authority of quality control staff; and reporting and documentation procedures.

SSC next challenges the reasonableness of the agency's determination that SSC's proposal failed to meet the solicitation requirements under various evaluation factors and subfactors. Based on our review of the record, we find nothing that would render the agency's rejection of SSC's proposal unreasonable.

Our Office will not independently evaluate proposals; rather, where there is a challenge to an agency's evaluation, we will examine the evaluation record, considering, as appropriate, testimony from the parties involved, and assess whether the evaluation was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Advanced Tech. and Research Corp., B-257451.2, Dec. 9, 1994, 94-2 CPD ¶ 230 at 3; Information Sys. & Networks Corp., B-237687, Feb. 22, 1990, 90-1 CPD ¶ 203 at 3. An offeror's mere disagreement with the judgment of the evaluators does not render the evaluation unreasonable. Medland Controls, Inc., B-255204, B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260 at 3.

The record shows that SSC's proposal was evaluated as unacceptable with regard to the evaluation factor for management plan, and, more specifically with regard to the subfactor for on-site personnel. In this regard, RFP § L stated:

The Management Plan shall contain no listing of actual personnel but rather list proposed management staff backgrounds and educational requirements and their respective positions with regard to this contract management plan for on-site staff to include key managers.

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(b) Outline the on-site staff positions to include the minimum qualifications (experience, education, work discipline) required for each position and the respective authority and responsibilities. Outline the minimum on-site staffing levels, and describe how and when the on-site staffing levels will be adjusted.

Agency Report, Tab 8, RFP at 100-01.

In concluding that SSC's proposal failed to meet these requirements, the SSA stated:

[SSC's proposal provided] [n]o indication of the staffing levels that were projected. The experience that was presented for the key on-site personnel was individual specific rather than position specific. . . . [t]here was nothing presented that provided minimum levels of education, experience, and work discipline for those positions.

Agency Report, Tab 20, at 5.

SSC acknowledges that it did not provide position-specific qualifications, explaining: “[SSC] recognized that[,] after award[,] [SSC] would be called upon to submit a management plan that contained minimum educational qualifications for on-site staff positions.” Protest at 13. Nonetheless, SSC argues that its proposal should have been found to meet the solicitation requirements on the basis that it discussed the qualifications of various individuals SSC proposed to fill key positions.

At the GAO hearing, the SSA further discussed the solicitation requirements regarding on-site staff and his evaluation of SSC’s proposal, testifying:

[The requirement for position-specific qualifications] was an attempt to obtain a level of professional capability at our installation with some assurance that that level of professionalism will continue [throughout contract performance]. . . . If [an offeror] put[s] together a proposal and propose[s] the resumes of individuals . . . and then something changes, and that individual goes [away], [the agency] ha[s] no way of knowing what the qualifications of the follow-on individual is going to be. . . . When we [asked for] the minimum qualifications for a position, those qualifications would stay regardless of who sat in that position.

VT at 9:33-9:36.

As shown above, the solicitation specifically directed each offeror to identify the minimum qualifications the offeror associated with various on-site positions. SSC acknowledges that it did not provide the requested information. Further, it is clear that SSC’s failure to provide the required qualifications effectively precluded the agency from assessing the qualifications that SSC would provide, throughout the contract period, for various on-site positions. On this record, we find no basis to question the agency’s determination that SSC’s proposal failed to meet the solicitation requirements.

The SSA also rated SSC’s proposal unacceptable with regard to the management plan subfactor for corporate structure. With regard to this subfactor, RFP § L stated:

(a) Outline the proposed Corporate staff and their responsibilities and authorities in regard to this contract. Outline their backgrounds for their respective positions

Agency Report, Tab 8, RFP at 101.

In evaluating SSC’s proposal as failing to meet this requirement, the SSA stated, “[SSC’s proposal] failed to identify key positions within the corporate staff, to include a corporate staff structure and the backgrounds for the positions.” Agency Report, Tab 20, at 2.

SSC asserts that its proposal met the corporate staff requirements because SSC's oral presentation incorporated a slide (captioned "communications") depicting a diagram with lines drawn between boxes labeled "Synoptic Systems Corporation Management," "program manager," "senior [subcontractor] management" "contract officer," and "Commander Fort Riley." Agency Report, Tab 13, at 15. We disagree.

The oral presentation slide on which SSC relies addresses lines of communication between SSC's corporate management and various other parties involved in contract performance; it provides no information regarding the structure and background of SSC's corporate staff.¹⁵ Based on our review, it is clear that nothing in SSC's proposal discussed SSC's corporate staff structure or backgrounds for those corporate positions. Accordingly we find nothing unreasonable in the SSA's conclusion that SSC's proposal failed to comply with this requirement.

Based on these examples of SSC's failure to comply with the solicitation requirements, we cannot question the agency's rejection of SSC's proposal as unacceptable.¹⁶ As noted above, the solicitation directed offerors to "cover all areas" specified in the evaluation factors, warned offerors that "lack of minimum content or failure to address all evaluated areas" could render a proposal unacceptable, stated that "there will be no negotiations or discussions," and advised offerors that "pricing proposals will be requested only from those offerors whose Quality proposal[s] [are] determined to meet all evaluation factors and criteria in Section L." Agency Report, Tab 8, RFP at 100, 106. Since the record supports the agency's conclusion that SSC's proposal failed to address various solicitation requirements, SSC's proposal was properly rejected as unacceptable.

Evaluation of CSI's Proposal

CSI similarly challenges the agency's determination that its proposal was unacceptable. Echoing SSC's assertions that the solicitation contained only "suggestions," CSI repeatedly asserts that the RFP sought only "general" information, and maintains that the agency's multiple criticisms of CSI's proposal reflected an unreasonable view that more than "general" information was required.¹⁷

¹⁵ Similarly, the transcript of SSC's oral presentation establishes that SSC provided no additional substantive information regarding its corporate staff structure during the oral presentation. See Agency Report, Tab 15.

¹⁶ The SSA also concluded that SSC's proposal failed to meet solicitation requirements under the management plan subfactor for purchasing system, and the evaluation factor for experience.

¹⁷ In making this assertion, CSI relies on the agency's response to an offeror's question, wherein the agency stated: "The Government is looking for a general and brief overview of the contractors' intended operation[s]. The [oral] presentation
(continued...)"

As discussed above, RFP § L clearly established multiple, specific types of information that offerors were required to provide, and the solicitation expressly warned offerors that “proposals may be considered technically unacceptable due to lack of minimum content or failure to address all evaluated areas.” Agency Report, Tab 8, RFP at 106. To the extent CSI’s protest is based on its repeated assertions that the solicitation did not require submission of specific information, the protest is without merit.

As noted above, the agency evaluated CSI’s proposal as unacceptable under each of the following evaluation factors and various associated subfactors: quality control plan; management plan, work execution, and experience. CSI asserts that the agency erred in each instance. We have reviewed the record in its entirety and conclude that the agency reasonably rejected CSI’s proposal based on various failures by CSI to properly address the solicitation requirements.

For example, the agency evaluated CSI’s proposal as unacceptable under the evaluation factor for work execution. In this regard, the solicitation stated, in part:

Describe extent and rational for in-house/subcontract work distribution; subcontracting support capability; criteria for subcontractor selection; plan for coordinating, scheduling, and ensuring timeliness of work execution and completion of multiple projects with multiple subcontractors. Such areas of consideration should be:

(a) Explain how the subcontracted effort will be integrated into the total contract effort. Provide a proposed list of subcontractors and show what means of communication will there be between contractor and subcontractors. Explain how multiple projects affect plans.

Agency Report, Tab 8, RFP at 101.

In evaluating CSI’s proposal as unacceptable under this evaluation factor, the SSA stated:

There was no clear process apparent for the integration of the subcontracted effort. The offeror stated several times that there were two subcontractors but only named one of the two and didn’t indicate what portions of the work that named subcontractor would be

(...continued)

should only present [material that is] to the point and not contain any irrelevant material.” Agency Report, Tab 39, at 4.

responsible for. The other subcontractor remained unnamed, but it was indicated that it would be responsible for food service. Due to the lack of identification, the Government could not even discern whether the unnamed [sub]contractor was debarred or suspended from Government contracting.

Agency Report, Tab 19, at 2.

There is no factual dispute that CSI failed to identify one of its two proposed subcontractors. Specifically, CSI acknowledges this fact, stating: “Clearly, CSI did not identify [its proposed] food service subcontractor.”¹⁸ CSI Comments on Agency Report, Nov. 29, 2002, at 3. As noted above, the solicitation specifically directed offerors to “[p]rovide a proposed list of subcontractors.” Thus, there can be no dispute that CSI failed to comply with this solicitation requirement.

As discussed above, the RFP directed offerors to “cover all areas” specified in the evaluation factors, warned offerors that “lack of minimum content or failure to address all evaluated areas” could render a proposal unacceptable, and advised offerors that “there will be no negotiations or discussions.” Agency Report, Tab 8, RFP, at 99-102, 106. Since the record clearly establishes that the agency reasonably evaluated CSI’s proposal as failing to meet the solicitation requirements with regard to the evaluation factor, work execution, CSI’s proposal was properly rejected as unacceptable.¹⁹

¹⁸ In its protest, CSI similarly states: “CSI admits it did not state the name of this subcontractor, but for the reason that it had only concluded discussions with this subcontractor.” CSI Protest, Oct. 15, 2002, at 13. It is not clear why, if discussions had been concluded with the subcontractor, CSI was unable to disclose the subcontractor’s identity during its oral presentation.

¹⁹ As noted above, CSI’s proposal was also evaluated as unacceptable with regard to the evaluation factors for quality control plan, management plan, and experience. In challenging the agency’s evaluations under these multiple factors, CSI repeatedly relies on its assertion that the solicitation required only “general” information and a “brief overview,” arguing, for example, “CSI addressed each required factor and subfactor at least in a ‘brief and general overview’ fashion.” CSI’s Post-Hearing Comments, Dec. 23, 2002, at 18. As discussed above, we reject CSI’s assertions that the solicitation did not contain specific informational requirements.

Evaluation of LESCO's Proposal

Finally, both SSC and CSI assert that the agency improperly evaluated LESCO's proposal as technically acceptable. Both offerors discuss various areas of LESCO's proposal that, they argue, should have been evaluated as failing to meet the solicitation requirements and/or reflect unequal treatment of the offerors' proposals.

As noted above, our Office will not independently evaluate proposals; rather, where there is a challenge to an agency's evaluation, we will examine the evaluation record, considering, as appropriate, testimony from the parties involved, and assess whether the evaluation was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. A protester's mere disagreement with the judgment of the evaluators does not render the evaluation unreasonable. Here, we have reviewed all of the protesters' arguments and find no merit in them. In short, after reviewing the videotape record of LESCO's oral presentation and the accompanying slides, the agency's evaluation record, the SSA's hearing testimony, and the solicitation requirements, we do not find unreasonable the SSA's determination that LESCO's proposal acceptably addressed the solicitation requirements. Specifically, the slides LESCO displayed during its oral presentation addressed the required information that was identified in RFP §§ L and M. Although SSC and CSI argue that LESCO's proposal failed to meet various requirements, our review of the record leads us to conclude that the SSA's determination to the contrary was reasonable.²⁰

The protests are denied.

Anthony H. Gamboa
General Counsel

²⁰ SSC and CSI also assert that the agency conducted discussions with LESCO in connection with its oral presentation. We disagree. Immediately following each oral presentation, the agency evaluators posed various questions for each offeror. Based on our review of LESCO's oral presentation, including the agency's questions and LESCO's responses, we conclude that the agency sought information from LESCO only with regard to evaluation factors under which LESCO's proposal was reasonably evaluated as acceptable without reference to the additional information. That is, none of LESCO's responses to the agency's questions effectively changed LESCO's proposal from being unacceptable to being acceptable. Accordingly, in the context of this procurement, the agency's questions did not constitute discussions.