



GAO

Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: AMS Group

File: B-299369

Date: April 12, 2007

Leo Reijnders for the protester.

Jennifer L. Longmeyer-Wood, Esq., Department of Homeland Security, Immigration and Customs Enforcement, for the agency.

Susan K. McAuliffe, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that solicitation for security guard services contains inconsistent terms regarding required training is denied where solicitation read as a whole provides no support for protester's general allegations of impropriety or its allegation that it could not prepare a proposal in response to the solicitation.

DECISION

AMS Group protests the terms of request for proposals (RFP) No. PIADC-07-01, issued by the Department of Homeland Security, Immigration and Customs Enforcement, for security guard services at the Plum Island Animal Disease Center in New York. AMS contends that the solicitation contains inconsistent training provisions which prevented the preparation of its proposal. AMS primarily contends that a chart in the RFP that summarizes some training requirements omits the hours for additional training requirements called for in the RFP, such as government-provided basic training, baton training, and chemical agent spray training.

We deny the protest.

The RFP, issued as a small business set-aside on December 6, 2006, contemplates the award of a fixed-price contract for security guard services for a base year and four 1-year option periods. RFP at 1-3. The contractor is responsible for the provision of personnel and equipment to meet the agency's requirements, including the training of security guards. *Id.* at 15. The RFP's training requirements are primarily set out in

a series of solicitation attachments, exhibits 4A through 4F of the RFP.¹ Id. at 84-106. The training required under the RFP constitutes a minor portion of the overall guard services work called for under the solicitation. Lists of topics to be covered in the training sessions were provided in the RFP; while the agency included recommendations for the amount of time to be spent on certain training topics, the RFP specifically advised that the contractor was to determine the amount of time to spend on any topic depending on the guards' comprehension of the material. Id. at 84, 101.

To assist in the preparation of their price proposals, all offerors were instructed to refer to a pricing template located at attachment A to the RFP. Id. at 125. The pricing template listed the estimated number of hours of required training. These estimates were presented in terms of the estimated number of yearly training hours anticipated for an estimated number of 45 guards.

AMS contends that the solicitation was defective for containing inconsistent training terms which allegedly prevented the firm from being able to prepare a proposal in response to the RFP. Specifically, AMS alleges that although there were additional training requirements provided in other sections of the RFP, a chart (at page 27 of the RFP) failed to list all of the RFP's training requirements, including the government-provided basic training required by exhibit 4C. Similarly, AMS argues that the chart failed to specifically mention the baton training requirement of exhibit 4E and the number of hours to be spent on chemical agent spray training under exhibit 4E. Another alleged inconsistency involves the RFP's requirement for 40 hours of annual refresher weapons training under exhibit 4F; the protester contends that this training requirement is inconsistent with an RFP instruction (at page 29, paragraph D of the RFP) that no specific additional training is required for a guard's annual requalification.²

¹ Exhibit 4A provides for basic training for the guards, exhibit 4B provides for supervisory training, exhibit 4C describes certain government-provided training, exhibit 4D sets out requirements for refresher training every 3 years, exhibit 4E provides for the guards' initial weapons training and qualification, and exhibit 4F provides for annual refresher weapons training and qualification for the guards in accordance with the requirements of exhibit 4E, which were incorporated by reference.

² To the extent AMS generally alleges that the training hours stated in the pricing schedule do not match training hours listed in the pricing template and exhibits 4A through 4F, the protester fails to provide sufficiently detailed support for the contention to constitute a valid basis of protest. AMS, for instance, fails to pinpoint what hours in which of the documents are allegedly inconsistent, and, as such, has failed to meet its obligation to present an adequately detailed statement of the factual and legal grounds for its protest. Bid Protest Regulations, 4 C.F.R. § 21.5(f) (2006). In its comments responding to the agency report, the protester for the first
(continued...)

The agency, which reports that it received 12 proposals under the RFP, and that no other offeror questioned the RFP's training requirements, contends that, when read as a whole, the solicitation adequately presents the agency's training requirements, and that the protester's generally stated assertion that it was unable to prepare its proposal because of allegedly inconsistent terms in the RFP is unpersuasive. We agree.

Where a dispute exists as to the actual meaning of a solicitation requirement, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions. See Sea-Land Serv., Inc., B-278404.2, Feb. 9, 1998, 98-1 CPD ¶ 47 at 5. Here, as stated further below, although we cannot find that this solicitation for security guard services is a model of clarity regarding the agency's overall training requirements for the guards, we believe that, when read as a whole, the requirements are sufficiently clear to have allowed AMS to prepare its price proposal.

Initially, although AMS asserts that a chart of training requirements included in the RFP is inconsistent with the training requirements set out elsewhere in the RFP, the record does not support the protester's contention. Although the RFP provides that all security guards working under this contract must take the training specified in the chart, there is no indication that the chart was intended or presented as a definitive and complete list of the numerous training requirements listed throughout the RFP. Instead, as discussed below, the solicitation must be read as a whole to assess the full extent of the training required here, including the requirements of exhibits 4A through 4F.

While the protester asserts that the RFP's training chart failed to list the number of hours for chemical agent spray training (one training subject listed under exhibit 4E), the RFP, as noted above, specifically advised that the contractor was to decide

(...continued)

time challenges apparent mathematical errors in the pricing schedule regarding the estimated training hours for each year. (Specifically, AMS challenges that while 72 training hours are listed as the unit of hours per guard for each year, with a constant multiplier of 45 guards each year, i.e. 45 guards x 72 hours, there are different extended numbers of hours listed for each year.) The argument is untimely filed as it involves an apparent impropriety in the solicitation filed after the closing time for the receipt of proposals. 4 C.F.R. § 21.2(a)(1). We note, however, that despite the listing of the incorrect multiplier of 72 hours, the pricing schedule shows the same extended hours as those shown in the pricing template which offerors were specifically instructed to use in the preparation of their proposals; we think this information was adequate to allow for the preparation of a price proposal.

how many hours would be necessary for each training topic. The omission of an estimate of hours for chemical agent spray training topic in no way prevented the protester from making that determination of hours for chemical agent spray training based on its own knowledge, experience, research, and business judgment. Additionally, while, as the protester points out, the RFP training chart also failed to include exhibit 4C's government-provided training hours, the solicitation makes clear that such training was mandatory under exhibit 4C. In short, we do not agree with the protester that the chart in any way created a material inconsistency in the RFP that prevented intelligent preparation of a proposal under the solicitation.

As to the protester's other specific allegations—for instance, that the RFP is flawed for not listing baton equipment, under the RFP, the contractor was responsible for providing all equipment to perform the services required under this solicitation, including baton training; in our view, this would reasonably include the cost of the batons. Lastly, regarding the protester's contention that the requirement of 40 hours of annual refresher weapons training under exhibit 4F appears inconsistent with the RFP's general provision that no specific additional training is required for the guards' annual requalification, we agree that the solicitation is not a model of clarity concerning what "specific additional training" is referred to in the provision. Exhibit 4F, however, specifically requires no less than 40 hours of training using the course at exhibit 4E. Consequently, in our view, the solicitation's notation that no specific additional training is required can only refer to the fact that, in light of the mandatory training of exhibit 4F, no training for requalification beyond that referenced in exhibit 4F is required by the RFP.³

³ To the extent AMS contests the agency's decision not to conduct a site visit, the protester has not indicated what procurement statute or regulation allegedly has been violated by the agency's action. Moreover, the protester does not explain how a site visit would have provided the firm with additional insight as to the challenged training requirements. Additionally, to the extent the firm contends that the agency was required to respond to AMS's training questions raised shortly before the closing time for the receipt of proposals, the protester has provided no basis to question the propriety of the agency proceeding with receipt of proposals without providing a response to the protester's questions, given that those questions were not submitted until weeks after the question and answer period established under the RFP had ended. In our view, it was within the agency's discretion to proceed with receipt of proposals under the circumstances.

In sum, the protester has not provided any persuasive support for its general assertion that alleged inconsistencies render the RFP defective or prevented intelligent preparation of a proposal under the RFP.

The protest is denied.

Gary L. Kepplinger
General Counsel