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Decision

Matter of: Data Management Services Joint Venture

File: B-299702; B-299702.2

Date: July 24, 2007

Joseph G. Billings, Esq., for the protester.

Douglas L. Patin, Esq., and Jeremy Becker-Welts, Esq., Bradley Arant Rose & White LLP, for Alon, Inc., an intervenor.

Gary L. Brooks, Esq., and Stephani L. Abramson, Esq., National Archives & Records Administration, for the agency.

Jennifer D. Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Where, for purposes of evaluation under corporate experience subfactor, request for quotations (RFQ) defined relevant work as work similar in scope, magnitude, and nature to solicited effort, it was not consistent with the terms of the RFQ for the evaluators to consider work of lesser magnitude relevant; protest is denied, however, where agency had reasonable basis for viewing efforts not meeting solicitation definition as relevant, and there is no evidence that protester was prejudiced by the agency's relaxation of its criteria for determining relevance.
2. Since, to demonstrate an impermissible "bait and switch," a protester must show not simply that a firm represented that it would rely on specific personnel whom it did not intend to furnish, but also that the misrepresentation had a material impact on the evaluation, allegation that successful vendor intends to substitute equally (or better) qualified personnel for the individuals specified in its quotation is legally insufficient since such a substitution could not materially affect the evaluation results.
3. Protest arguing that successful vendor's Federal Supply Schedule contract does not contain all required labor categories is denied where agency reasonably determined that vendor had proposed equivalent labor categories.

DECISION

Data Management Services Joint Venture (DMSJV) protests the National Archives & Records Administration's (NARA) issuance of a delivery order to Alon, Inc. under that firm's General Services Administration (GSA) Federal Supply Schedule (FSS) contract No. GS-35F-0325R.¹ The order was issued pursuant to request for quotations (RFQ) No. NAMA-07-Q-0004 for support staff for NARA's Electronic Records Archives (ERA) Program Management Office (PMO). The protester argues that the agency erred in its evaluation of quotations.

We deny the protest.

BACKGROUND

The RFQ, which was issued on November 3, 2006, sought quotations from firms holding FSS Information Technology Schedule 70 contracts. The solicitation contemplated the issuance of an order on a time-and-materials basis for a base period of 12 months, with four option periods of 12 months each. The RFQ included descriptions of, and requested pricing for, 64 labor categories; 13 of the 64 labor categories were designated as core positions.² Vendors were required to submit detailed information regarding the education and experience of the individuals whom they were proposing for the 13 core positions.

The RFQ provided for issuance of an order to the vendor whose quotation was determined to represent the best value to the government, with quotations to be evaluated on the basis of the following factors: achievement of socio-economic objectives; personnel; understanding of the work statement; past performance; and price. The understanding of the work statement factor, which was to be addressed through an oral presentation, consisted of two equally weighted subfactors: staff management and corporate experience. The solicitation explained that in the determination of best value, the achievement of socio-economic objectives factor would be significantly more important than the personnel factor, the personnel factor significantly more important than the understanding of the work statement factor, and the understanding of the work statement factor and the past performance factor of equal weight. The solicitation further explained that the technical evaluation factors, when combined, were significantly more important than price.

¹ DMSJV is a partnership between Data Management Services, an 8(a), woman-owned, Historically Underutilized Business Zone company, and American Systems Corporation (ASC), a large business. Protest at 1. ASC is the incumbent contractor for the services being solicited.

² The RFQ included separate line items for the core and the non-core labor categories, with the line items corresponding to the latter identified as optional.

Five vendors submitted quotations by the December 11, 2006 due date. The agency evaluators rated the quotations under the four technical evaluation factors as follows:

Offeror	Socio-Economic Objectives	Personnel	Understanding of Work Statement	Past Performance
Alon	[deleted]	[deleted]	[deleted]	[deleted]
DMSJV	[deleted]	[deleted]	[deleted]	[deleted]
Offeror A	Acceptable	Acceptable	Outstanding	Acceptable
Offeror B	Acceptable	Acceptable	Marginal	Better
Offeror C	Acceptable	Acceptable	Marginal	Acceptable

Vendor Screening Report at 7.³

The evaluators determined that the quotations of the two highest-rated firms, Alon and DMSJV, were essentially equal technically and that price would therefore play an enhanced role in the determination of best value. Alon's evaluated price was \$57,510,665 [deleted]. The evaluators concluded, after performing a paired comparison of the quotations, that the difference in price outweighed any difference in technical quality, and, accordingly, that Alon's quotation represented the best value to the government. Agency Report (AR), Tab 12, Vendor Screening Report at 54. The source selection authority agreed and selected Alon to receive the order. DMSJV was notified of the order to Alon on April 10 and protested to our Office on April 17.

DISCUSSION

The protester raises various challenges to the evaluation of both Alon's quotation and its own.

We begin by noting that in the context of an RFQ such as the one here, where an agency solicits FSS vendor responses and uses an evaluation approach similar to that used in Federal Acquisition Regulation (FAR) Part 15 negotiated procurements, our Office will review the agency's actions to ensure that the evaluation of vendors' submissions was reasonable and consistent with the solicitation's evaluation criteria

³ Quotations were to be rated as either acceptable or unacceptable under the achievement of socio-economic objectives factor; as outstanding, better, acceptable, marginal, or unacceptable under the personnel and understanding of the work statement factors; and as outstanding, better, acceptable, marginal, or no past performance under the past performance factor. AR, Tab 8, Vendor Screening Plan at 12-14.

and applicable procurement statutes and regulations. Advanced Tech. Sys., Inc., B-298854, B-298854.2, Dec. 29, 2006, 2007 CPD ¶ 22 at 8.

Corporate Experience

The protester argues first that Alon should not have received a rating of [deleted] under the understanding of the work statement factor because it lacks acceptable corporate experience. Specifically, DMSJV contends that Alon lacks experience on contracts of the magnitude of the effort solicited here, as required by the RFQ.

As previously noted, corporate experience was one of two equally-weighted subfactors under the understanding of the work statement factor. The RFQ provided for its evaluation as follows:

CORPORATE EXPERIENCE: Demonstrated recent and relevant corporate experience on work of similar scope, magnitude and nature: experience in staffing on-site program management support to major systems software development or integration projects.

RFQ at 74.

The evaluators assigned Alon's quotation ratings of [deleted] under both the staff management and the corporate experience subfactors, for an overall rating of [deleted] under the understanding of the work statement factor. AR, Tab 11, Consensus Evaluator Factor Rating Sheet for Factor 3 pertaining to Alon. With regard to the corporate experience subfactor specifically, the evaluators found that Alon had demonstrated [deleted] AR, Tab 12, Vendor Screening Report at 33. The evaluators further observed that the [deleted] Id.

The protester argues that Alon's contracts with the TSA, NWS, and MDA were not similar in magnitude to the effort solicited here and thus should not have been considered relevant work under the corporate experience subfactor. DMSJV notes in this connection that Alon represented in its quotation that the MDA contract had a final/present value of \$580,000 and the NWS contract a final/present value of \$750,000 (as compared with an evaluated price for the work here of over \$50 million), and that it furnished no information regarding the value of the TSA contract. The protester also argues that it was improper for the evaluators to consider the experience of Alon's "senior staff" under the corporate experience subfactor.

In response, the agency argues that the RFQ provided for consideration of not simply the magnitude of vendors' existing and prior contracts, but also their scope and nature, and that the evaluators reasonably determined that the similarities between Alon's prior contracts and the effort solicited here with regard to the scope and nature of the work to be performed outweighed any differences in magnitude. In

support of its position, the agency cites our decision in Computer Sys. Dev. Corp., B-275356, Feb. 11, 1997, 97-1 CPD ¶ 91, in which we found that a procuring agency had reasonably determined, in rating proposals under a corporate experience evaluation factor, that similarity with regard to the type of work performed outweighed similarity with regard to contract value. The agency also argues that since DMSJV was not present at Alon's oral presentation, it has no way of knowing whether Alon conveyed information regarding the value of its contract with the TSA during the presentation.

First, the agency's argument that the protester has no way of knowing whether Alon provided information regarding the value of its TSA contract at its oral presentation clearly is not dispositive of the issue, given that the agency has not asserted that Alon did in fact furnish such information. There simply is no evidence in the record that Alon's TSA contract (or its MDA or NWS contracts) were similar in magnitude to the effort here. Accordingly, the issue before us is whether it was consistent with the terms of the RFQ and reasonable for the evaluators to have considered relevant Alon's experience on projects that were highly similar in scope and nature, but not similar in magnitude to the effort solicited here.

In our view, it was not consistent with the terms of the RFQ, which essentially provided that prior work efforts had to be similar in scope, magnitude, and nature to be considered relevant, for the evaluators to have considered Alon's contracts with the TSA, NWS, and MDA relevant. See Si-Nor, Inc., B-292748.2 et al., Jan. 7, 2004, 2004 CPD ¶ 10 at 17. We think that this case is distinguishable from Computer Sys. Dev. Corp., cited by the agency above, in that in the cited case, the solicitation identified size, complexity, and participation as factors to be considered in determining the significance of a prior work effort, but did not require that a project have been similar in all three respects to be considered significant, whereas here, the RFQ defines relevant work as work of similar scope, magnitude, and nature, meaning that all three factors need to be present for a contract to be considered relevant.

That does not end our analysis, however, given that it is the agency's position that the terms of the RFQ notwithstanding, contracts of lesser magnitude than the effort here may in fact be relevant where sufficiently similar in scope and nature. In other words, the agency's position is, in essence, that the RFQ overstates the agency's requirements pertaining to prior work effort relevance.

Where an agency takes the position that a solicitation overstates its requirements, and proposes to evaluate vendor responses on the basis of its actual, as opposed to its stated, requirements, the relevant inquiry is whether the protester was prejudiced by the overstatement. Unfair competitive prejudice from a waiver or relaxation of the terms of the RFQ exists where the terms were not similarly waived or relaxed for the protester, or the protester would be able to alter its quotation to its competitive advantage if it were given the opportunity to respond to the relaxed terms. See

4-D Neuroimaging, B-286155.2 et al., Oct. 10, 2001, 2001 CPD ¶ 183 at 10. Here, the evaluators considered prior work efforts of lesser magnitude in their evaluation of both Alon's and DMSJV's corporate experience; that is, there is no evidence that the evaluators waived the requirement pertaining to similarity in magnitude for Alon while failing to waive it for DMSJV. Further, we see no basis to conclude that DMSJV would have cited different contracts as examples of its own corporate experience had it recognized that contracts dissimilar in magnitude might be considered relevant. Indeed, since three of the five contracts cited by the protester in its quotation as examples of its corporate experience have present values of less than 5 percent of its evaluated price for the services here, it appears that the protester, like the agency and the successful vendor, assumed that contracts dissimilar in dollar value might nonetheless be considered relevant if sufficiently similar in other respects. Given the apparent lack of prejudice to DMSJV, the agency's consideration of Alon's prior contracts despite their dissimilarity in magnitude provides no basis to object to the evaluation.

The protester argues that, because the RFQ had separate evaluation criteria for personnel and corporate experience, it was improper for the evaluators to consider the experience of Alon's "senior staff" under the corporate experience subfactor. See Dix Corp., B-293964, July 14, 2004, 2004 CPD ¶ 143 (an agency may consider the experience of key personnel in evaluating the corporate experience of a new business unless the terms of the solicitation reasonably preclude such substitution, such as where the solicitation includes separate evaluation criteria for corporate and key personnel experience). The agency responds that the reference to the experience of Alon's "senior staff" was a reference to the experience of Alon's president and vice-president, that is, Alon's corporate staff. Since, as NARA contends, the experience of these individuals was not considered under the personnel factor, we do not think that the evaluators were barred from considering it under the corporate experience subfactor.

Regarding the protester's argument that if Alon were given credit for the experience of its corporate staff under the corporate experience subfactor, then DMSJV should have been given the opportunity to receive credit for the experience of its corporate staff, the evaluation record reveals that DMSJV in fact did receive credit for its corporate staff under the corporate experience subfactor. As discussed below, one of the evaluators' justifications for rating the protester's quotation as [deleted] under the corporate experience subfactor was that the "[o]wner demonstrated good understanding of requirements." AR, Tab 11, Consensus Evaluator Factor Rating Sheet for Factor 3 pertaining to DMSJV. See also AR, Tab 12, Vendor Screening Report at 31. Further, regarding the protester's argument that there is no evidence in the record that the contracts worked on by Alon's corporate staff were similar in magnitude to the effort here, as discussed above, we think that the agency could properly consider such efforts provided the contracts were sufficiently similar in other respects.

The protester also takes issue with the rating of its own quotation as merely [deleted] under the corporate experience subfactor. DMSJV argues that its quotation should have received a more favorable rating than Alon's under this subfactor because it demonstrated both more, and more relevant, experience than Alon. The protester also argues that the evaluators improperly downgraded the rating of its quotation under the corporate experience subfactor based on concerns pertaining to the percentage of work to be performed by employees of the joint venture. DMSJV argues that this was improper since such concerns are matters of responsibility and contract administration.

As noted by the protester, the agency evaluators assigned DMSJV's quotation a rating of [deleted] under the corporate experience subfactor. The evaluators furnished the following justification for the rating on their consensus rating worksheet:

[deleted]

AR, Tab 11, Consensus Evaluator Factor Rating Sheet for Factor 3 pertaining to DMSJV. Similarly, the Vendor Screening Report identified the following strengths and weaknesses pertaining to DMSJV's corporate experience:

[deleted]

AR, Tab 12, Vendor Screening Report at 31.

Regarding the protester's argument that it should have received a more favorable rating than Alon under the corporate experience subfactor because it has more, and more relevant, experience, we think that the evaluation record demonstrates a reasonable basis for the assignment of ratings of [deleted] to both quotations under the subfactor. As explained above, we see no basis to conclude that the evaluators were required to assign Alon's quotation a rating lower than better. With regard to DMSJV's quotation, we think that a rating of [deleted] was justified given that only two of the five contracts cited by the protester as examples of its corporate experience were in fact performed by the joint venture (the other three having been performed by the mentor partner, ASC), and the present/final value of these two contracts were \$584,412 and \$1,909,661, respectively, meaning that both were, like Alon's prior contracts, of a magnitude considerably smaller than the effort here. Regarding the protester's complaint that concerns regarding the percentage of work to be performed by the joint venture should not have been considered a weakness under the corporate experience factor, we agree; since such concerns do not pertain to corporate experience, we see no rationale for considering them weaknesses under the subfactor. Nonetheless, given the above information pertaining to the number and value of the prior contracts performed by the joint venture itself, we see no basis to conclude that but for the wrongly attributed weakness, DMSJV should have received a rating of [deleted] under the corporate experience subfactor.

Past performance

The protester challenges the evaluation of both its own and Alon's quotations under the past performance factor. Both quotations received ratings of [deleted] under the factor.

The RFQ informed vendors that their past performance would be evaluated "under existing and prior contracts for similar products and services" and instructed them to submit "no more than five (5) Past Performance references" for similar efforts. RFQ at 52. The solicitation further provided that "[i]f the prime Contractor or its subcontractors have no past performance history in the requisite contract amount, the Offeror may submit information on past performance at lower dollar levels, providing that the Offeror adheres to the above limitations as to the number of chronologically consecutive contracts." Id.

The protester argues that Alon's past performance should have been rated as unacceptable because Alon "did not have contracts similar in size to the work of the RFQ and submitted only three contracts that could be evaluated for past performance."⁴ Supplemental Protest at 11.

Regarding the protester's first allegation, the RFQ explicitly permitted the submission of past performance information on contracts of lower dollar value than the effort here. To the extent that the protester is arguing that NARA should not have considered Alon's lower-value contracts relevant despite the RFQ language explicitly permitting the submission of past performance information pertaining to such efforts, we disagree; it would make no sense for the agency to permit vendors to submit information on lower-value contracts if it did not intend to consider it. With regard to DMSJV's argument that Alon's past performance should have been rated unacceptable because the agency received performance surveys pertaining to only three relevant contracts, the RFQ did not require past performance information on a specified minimum number of contracts--its only restriction pertained to the maximum number of projects that could be submitted for consideration. Moreover, even a total lack of relevant past performance on the part of a vendor would not have resulted in a rating of unacceptable for past performance; instead, under the procedures used here, it would have resulted in the neutral rating of "No Past Performance."⁵

⁴ While, consistent with the RFQ instruction that directed vendors to submit five references, Alon submitted information on five contracts, the evaluators determined one of the contracts to be not relevant; in addition, the point of contact on another failed to return the performance survey.

⁵ The Vendor Screening Plan noted that a rating of "No Past Performance" meant that the "[q]uote receives no merit or demerit for this factor." AR, Tab 8, Vendor Screening Plan at 14.

Regarding the evaluation of its own past performance, DMSJV takes issue with the evaluators' identification of the following weaknesses in the Vendor Screening Report:

[deleted]

AR, Tab 12, Vendor Screening Report at 45.

The protester argues that the agency should not have considered it a weakness that only two of the contracts that it submitted were for the joint venture itself (as opposed to the large business partner). DMSJV acknowledges that our Office has held that in evaluating past performance, an agency may appropriately consider the experience of the individual members of a joint venture and, at the same time, consider the lack of experience of the joint venture, see, e.g., Transventures Int'l, Inc., B-292788, Nov. 4, 2003, 2003 CPD ¶ 195 at 7; ITT Federal Servs. Int'l Corp., B-283307, B-283307.2, Nov. 3, 1999, 99-2 CPD ¶ 76 at 14, but urges us to reconsider these decisions. We see no basis for departing from our precedent. Since it is the joint venture that will be performing the work here, we see no reason that the agency could not properly have considered the extent of its experience in its evaluation.

DMSJV also takes issue with the evaluators' finding that the NARA references disclosed weaknesses in overall customer satisfaction. The protester argues that all of the negative comments cited by the evaluators are attributable to a single reference, and that this reference made positive, as well as negative, comments regarding customer satisfaction with its performance, but that the evaluators picked up on the negative comments only.

The reference's comments indicated that the government staff was satisfied with the performance of some ASC employees and dissatisfied with the performance of others.⁶ We think that the evaluators could reasonably have regarded customer dissatisfaction with a portion of the contractor workforce as a weakness.

Bait and switch

DMSJV argues that Alon does not intend to hire some of the individuals whom it identified in its quotation as key personnel, and that it has thus engaged in an impermissible "bait and switch." In its initial protest, the protester cited as evidence of Alon's purported intention to switch personnel, conversations between

⁶ The comments made by the individual reference were as follows:

[deleted]

Contractor Past Performance Evaluation Document at 3.

government contracting personnel and several employees of the incumbent, ASC, during the course of which the government personnel allegedly encouraged the ASC employees to seek employment with Alon. In commenting on the agency report, DMSJV cited as further evidence that Alon intended to hire incumbent personnel for certain core positions (and thus did not intend to rely upon the personnel whom it had identified in its quotation) an excerpt from one of Alon's oral presentation slides that stated that Alon had [deleted] AR, Tab 15, Alon Quotation, Oral Presentation Slides.

As previously noted, the RFQ identified 64 labor categories and designated 13 of them as core positions. Vendors were required to submit a Personnel Data Form for each individual proposed for a core position. The solicitation provided that "[t]he [c]ontractor agrees to assign to the task order those key persons whose Personnel Data Forms were submitted as required to fill the core requirements of the task order." RFQ at 79. The RFQ further provided that "the qualifications of the proposed personnel for whom Personnel Data Forms are submitted will become the minimum qualifications for any contractor personnel who may replace those personnel when performing under the affected labor category." *Id.* at 52.

To establish an impermissible "bait and switch," a protester must show that a firm either knowingly or negligently represented that it would rely on specific personnel that it did not expect to furnish during contract performance, and that the misrepresentation was relied on by the agency and had a material effect on the evaluation results. Advanced Tech. Sys., Inc., *supra*, at 10.

Even assuming for the sake of argument that there is evidence of an intention to switch here, the protester's argument that an impermissible "bait and switch" occurred must fail because there is no evidence of baiting. In this connection, DMSJV has not alleged that Alon intends to replace the individuals designated in its quotation with less qualified ones; its allegation is that Alon intends to substitute for the individuals named in the quotation equally (or better) qualified employees of the incumbent. Since the substitution of equally qualified individuals for the ones designated in a quotation could not have had a material effect on the evaluation results, such a substitution does not constitute an impermissible "bait and switch."⁷

Evaluation of Personnel

DMSJV argues that it was unreasonable for the agency evaluators to assign Alon's quotation a rating of [deleted] under the personnel evaluation factor given that they

⁷ We also note that NARA has protected itself against the possibility of a "bait and switch" by the successful vendor by including in the RFQ the above-cited language providing that the qualifications of proposed key personnel will become the minimum qualifications for those proposed to replace them.

identified the following deficiency pertaining to Alon's proposed senior risk management specialist:

Candidate has the following deficiency: [deleted].

AR, Tab 12, Vendor Screening Report at 12. The protester notes that the Vendor Screening Plan defined a deficiency as follows:

A "Deficiency" is a material failure of the quote to meet a requirement or a combination of significant weaknesses that increase the risk of unsuccessful performance to an unacceptable level.

AR, Tab 8, Vendor Screening Plan at 12. DMSJV contends that in view of the deficiency in experience and expertise pertaining to a key employee, Alon's quotation should have been rated as unacceptable under the personnel factor and its risk of nonperformance considered high.

In response, the agency explains that "when the [evaluators] stated that one of the candidates proposed by Alon for one of the key positions had a deficiency, the [evaluators] did not mean a 'deficiency' in the technical sense as a material failure," rather, "the [evaluation team] was noting that the candidate was deficient [deleted] Agency Reply/Report on the Supplemental Protest at 22. The agency observes that it was an "unfortunate use of the word." Id. While the protester disputes the agency's explanation, it seems reasonable to us. The RFQ defined desired, as opposed to required, qualifications for the position of senior risk management specialist, and we do not see how a failure to offer desired qualifications could be termed a failure to meet a solicitation requirement.

Mapping to FSS Schedule

Each vendor was required to furnish as part of its quotation a pricing table identifying for each labor category described in the RFQ the corresponding labor category from the vendor's FSS contract. The protester argues that three of the labor categories identified by Alon in its table are not equivalent to the labor categories described in the RFQ and that Alon's FSS contract thus does not contain all required labor categories. Specifically, DMSJV contends that Alon has not identified an equivalent labor category for the core positions of senior risk management specialist, facilities and operations specialist, and senior organizational development specialist.

The FSS program, directed and managed by GSA, gives federal agencies a simplified process for obtaining commonly used commercial supplies and services. FAR § 8.401(a). The procedures established for the FSS program satisfy the requirement for full and open competition. 41 U.S.C. § 259(b)(3) (2000); FAR § 6.102(d)(3); Tarheel Specialties, Inc., B-298197, B-298197.2, July 17, 2006, 2006 CPD ¶ 140 at 3.

Non-FSS products and services may not be purchased using FSS procedures; instead, their purchase requires compliance with the applicable procurement laws and regulations, including those requiring the use of competitive procedures. American Sys. Consulting, Inc., B-294644, Dec. 13, 2004, 2004 CPD ¶ 247 at 3. Accordingly, where an agency announces its intention to order from an FSS contractor, all items are required to be within the scope of the vendor's (or, if not prohibited by the solicitation, its subcontractors') FSS contract(s).⁸ Altos Fed. Group, Inc., B-294120, July 28, 2004, 2004 CPD ¶ 172 at 4.

The RFQ identified the function to be performed by, and the desired qualifications of, the senior risk management specialist as follows:

FUNCTION: Implements ERA Risk Program including support to the Risk Review Boards and Risk Review Teams. Facilitates formal Risk Management meetings. Manages operations of risk management tools. Develops risk scenarios and assesses impact on schedule, cost and program mission. Reviews ERA risk related deliverables from ERA PSI Contractor. Writes or updates ERA Program Management Risk Plans, procedures, and processes. Performs other tasks as directed.

DESIRED EDUCATION: Bachelor's Degree (BA/BS) in Business Administration, Public Administration, Engineering or related field. Eight years progressively responsible experience with increasingly more complex or difficult assignments may be substituted for educational requirement.

DESIRED GENERAL EXPERIENCE: Twelve years experience in planning or performing project or program risk analysis and management efforts.

DESIRED SPECIALIZED EXPERIENCE: Two years experience in facilitating risk review meetings and in applying currently available risk management tools such as @Risk and Risk Radar on project plans, technical approaches, project schedule or cost estimation.

RFQ at 16.

In its pricing table, Alon identified the labor category from its FSS contract that was equivalent to the above category as senior requirements analyst. Alon's FSS contract included the following description of that position:

Minimum/General Experience: 10 years experience gathering requirements for business and technical solutions. Must have strong writing and communications skills and the ability to interface with senior and executive management. Must be knowledgeable with the

⁸ The RFQ here did in fact require that all items be on the vendor's own schedule.

implementation of applicable Government mandates such as the President's Management Agenda and the Federal Acquisition Regulation (FAR). Master's degree is equivalent to two (2) years experience.

Functional Responsibility: Duties may include conducting process or requirements analyses, supporting IT systems development with subject matter knowledge, assisting in IT procurement, performing system audits, conducting training, and assisting in the preparation of management and financial reports and presentations.

Minimum Education: Bachelor's Degree in Computer Science. Eight (8) years of experience is equivalent to a Bachelor's Degree.

AR, Tab 15, Alon FSS Contract at 21-22.

The protester argues that the functions to be performed by an Alon senior requirements analyst do not encompass the functions required to be performed by a senior risk management specialist, as defined by the RFQ. DMSJV further argues that 12 years of experience are required for the position described in the RFQ, whereas Alon's "equivalent" position requires only 10 years of experience.

The agency responds that the only risks that the senior risk management specialist here will need to address are the risks associated with the development and implementation of the IT systems being acquired--that is, the only risks that will need to be addressed are those associated with the development and implementation of the system requirements--and that a senior requirements analyst is thus perfectly suited for the position. We think that the agency's position is reasonable. With regard to the argument concerning the number of years of experience, the RFQ did not state that 12 years of experience were required; it stated that 12 years of experience were desired. Since the RFQ did not define 12 years of experience as a requirement, we do not think that it was inconsistent with the position description for Alon to identify only 10 years of experience in its position description.

Turning to DMSJV's argument that Alon did not identify an equivalent labor category for the position of facilities and operations specialist, the RFQ included the following description of this position:

FUNCTION: Review substantive and complex technical documents related to ERA implementation, including documents and artifacts related to logistics, physical security, facilities planning, network and telecommunications planning, operations and maintenance planning, and installation. Performs other tasks as directed.

DESIRED EDUCATION: Bachelor of Science Degree in Electrical Engineering, Information Technology, Computer Science or related

field. Eight years progressively responsible experience with increasingly more complex or difficult assignments may be substituted for educational requirement.

DESIRED GENERAL EXPERIENCE: Ten years experience supporting large systems installations.

DESIRED SPECIALIZED EXPERIENCE: Eight years experience in area of expertise.

RFQ at 31.

Alon identified the position in its FSS contract equivalent to the above position as subject matter expert I. Alon's FSS contract described the position of subject matter expert I as follows:

Minimum/General Experience: Requires ten years experience in information systems, including five years of specialized experience providing state-of-the-art solutions in information systems technology. If the area of expertise is new state-of-the-art technology, experience must be consistent with the age of the technology. Vendor certification in RDBMS, development language, or telecommunication technology may be substituted for advanced degree or experience requirements.

Functional Responsibility: Duties may include providing expert services and leadership in specialized technical areas, generally providing technical expertise in state-of-the-art technology.

Minimum Education: Master's Degree or other equivalent degree program (or an additional 2 years general IT experience).

AR, Tab 15, Alon FSS Contract at 23.

DMSJV argues that the functions to be performed by a facilities and operations specialist, as defined by the RFQ, are distinct from those to be performed by a subject matter expert I, as defined in Alon's FSS contract. In this connection, the protester asserts that "[a] Facilities and Operations Specialist is responsible for the operation of the system and the facility where the system is located," whereas "[a] subject matter expert tells the requirements analyst what needs to be done by the computer system." Protester's Comments, May 29, 2007, at 37.

As noted above, the RFQ defined the function of a facilities and operations specialist as "[r]eview[ing] substantive and complex technical documents related to ERA implementation;" it did not contain the definition advanced by DMSJV. We think that it was reasonable for the agency to conclude that the functions to be performed by an Alon subject matter expert I—i.e., providing

expert services and leadership in specialized technical areas--are consistent with this function.

Finally, with regard to the protester's argument that Alon did not propose an appropriate equivalent labor category for the position of senior organizational development specialist, the RFQ described that position as follows:

FUNCTION: Identify and use methodologies and tools to assess user acceptance issues and requirements relative to a transformational information system such as ERA. Develop and execute strategies to facilitate and promote user acceptance of the ERA system. Identify opportunities and approaches for securing and expanding internal and external stakeholder involvement in the ERA program.

DESIRED EDUCATION: Masters Degree in Industrial or Organizational Psychology, Business or Public Administration, Human Resource Management or extensive study into human factors as part of an Information Technology, or related field. Fifteen years progressively responsible experience with increasingly more complex or difficult assignments may be substituted for educational requirement.

DESIRED GENERAL EXPERIENCE: Six years experience in developing and implementing organizational development plans, strategies and activities.

DESIRED SPECIALIZED EXPERIENCE: Three years experience facilitating meetings, seminars, workshops or similar events addressing information technology human factors, or user acceptance of new technologies.

RFQ at 32. Alon identified its equivalent labor category as information systems engineer IV, a position that its FSS contract described as follows:

Minimum/General Experience: Requires ten years experience. Relevant experience includes, but is not limited to, analysis and design of complex systems applications, such as web-based systems; use of programming languages; knowledge of database management systems; and software development management experience.

Functional Responsibility: Duties may include performing, leading, and coordinating activities for the development of complex systems in one or more of the following areas: requirements analysis, design analysis, design, programming, software integration, documentation, test and evaluation, and other technical tasks.

Minimum Education: Bachelor's Degree or other equivalent degree program (or an additional 4 years general IT experience).

AR, Tab 15, Alon FSS Contract at 25-26.

DMSJV maintains that the positions are not equivalent in that the function of a senior organizational development specialist is to facilitate the adaptation of stakeholders to a system, whereas an Alon information systems engineer IV "is involved primarily in developing systems applications, programming languages and software."

Protester's Comments, May 29, 2007, at 39.

The protester's argument overlooks the fact that the functional responsibilities described in Alon's FSS contract for the position of information systems engineer IV include the testing and evaluation of complex systems, as well as leading and coordinating such activities. We think that the functions to be performed by the senior organizational development specialist in connection with the work effort here--i.e., assessing and promoting user acceptance of the ERA--may reasonably be viewed as encompassed within the Alon position description.

Pricing

DMSJV argues that NARA should have found Alon's proposed pricing unreasonable because Alon intends to hire incumbent personnel to fill some of the core positions, but has proposed to pay these individuals at rates lower than their current salaries. The protester bases its allegation that Alon intends to hire incumbent employees on the previously-cited excerpt from Alon's quotation stating that it [deleted] DMSJV bases its allegation that Alon intends to pay these individuals at rates lower than their current salaries on the fact that Alon proposed hourly rates for the core positions lower than its own proposed rates, which the protester claims are based on the salaries that ASC is currently paying.

There is no indication in Alon's quotation as to the salaries that it intends to pay its employees; the quotation indicates only the hourly rates at which the services are offered. Thus, there is no evidence in the record (and DMSJV offers none) to show that Alon intends to compensate its employees at rates lower than the rates paid by the incumbent, ASC. As noted by the agency, Alon's lower prices might be due to lower overhead or profit margin--or even to Alon's willingness to take a loss on certain positions.

The protest is denied.

Gary L. Kepplinger
General Counsel