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**Comptroller General
of the United States**

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

Decision

Matter of: AHNTECH Inc.

File: B-291998

Date: April 29, 2003

Sam Ahn for the protester.

Richard R. Kolkoski, Esq., Department of the Air Force, for the agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's rejection of protester's proposal for failing to meet two solicitation requirements was unobjectionable where record shows that proposal was unacceptable.

DECISION

AHNTECH Inc. protests the rejection of its proposal under request for proposals (RFP) No. F26600-02-R-B004, issued by the Department of the Air Force for automation support services at Nellis Air Force Base, Nevada. AHNTECH asserts that its proposal met the RFP requirements and should have been considered for award.

The protest is denied.

The RFP sought proposals to provide personnel and supervision to perform all training and testing operations using the Nellis Air Combat Training System and the Nellis Combined Air Operations Center. The support includes analysis, evaluation, graphics, computer programming, data entry, retrieval and processing, computer maintenance, technical library, software development, administrative support, and facility maintenance. The RFP contemplated the award of a fixed-price contract for a base year, with 4 option years.

Award was to be made to the offeror whose proposal was considered most advantageous to the government, considering three factors: technical, past performance and price. The RFP identified four technical subfactors, two of which--security and operations support/range training officer (RTO)--are relevant to this

protest. The technical factor was to be evaluated on a pass/fail basis and a proposal found to be unacceptable under any factor or subfactor would result in an overall technically unacceptable rating. Proposals found to be acceptable under the technical factor would be evaluated under the past performance and price factors. Discussions with offerors were not contemplated.

The agency found AHNTECH's proposal unacceptable under the security subfactor for failing to provide a copy of its Defense Security Service Facility Clearance (DSSFC) letter, and under the RTO subfactor for proposing an RTO lacking the requisite experience; the agency thus rejected the proposal as unacceptable.

AHNTECH asserts that the evaluation was flawed because it was based on an erroneous interpretation of the RFP requirements. In AHNTECH's view, its proposal met "the only possible, logical and grammatical interpretation" of the two requirements in question.¹ Comments at 2.

Evaluation and award in negotiated procurements must be in accordance with the terms of the solicitation. Industrial Data Link Corp., B-248477.2, Sept. 14, 1992, 92-2 CPD ¶ 176 at 4. Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. Fox Dev. Corp., B-287118.2, Aug. 3, 2001, 2001 CPD ¶ 140 at 2.

SECURITY SUBFACTOR

The security subfactor stated as follows:

- (i) "SECURITY (MUST PASS THIS FACTOR) Must have a Top Secret Facility Clearance (must provide a copy of their [DSSFC] letter)." RFP at 11.

AHNTECH asserts that the first part of this provision simply requires an offeror to possess the requisite clearance. AHNTECH apparently possesses this clearance, but claims it did not submit the appropriate letter with its proposal because it read the second, parenthetical, portion of the requirement as not requiring it to do so. In this regard, AHNTECH claims that, since the agency used the plural possessive pronoun "their" to identify the entity that was required to submit the letter, and AHNTECH is a single entity, it concluded that the language must refer only to subcontractors

¹ Notwithstanding AHNTECH's view of the clear meaning of the challenged provisions, we note that all other offerors submitted compliant proposals based on the agency's interpretation of the RFP's requirements.

(AHNTECH did not propose any subcontractors). AHNTECH therefore did not submit its DSSFC letter.

The protester's claimed interpretation of the RFP language is unreasonable. While the security subfactor provision does not expressly state that "offerors" must submit the DSSFC letter, it is plain that this is what it required. In this regard, since it was the offeror—not some other entity—that was to establish compliance with the RFP requirements in its proposal, there was no basis for reading any part of the subfactor language as referring to some other entity. We note that the work statement referenced in the evaluation subfactors provides that the "**contractor shall** have a Top Secret Facility clearance prior to the start date of the contract." RFP, attach. 5, at 6. Certainly, there was no basis for AHNTECH to assume that the word "their" was meant to refer to subcontractors, a term that was not even used in the provision. As for the protester's purely grammatical argument, if the provision is read as a requirement to be met by "offerors" (rather than an "offeror")—again, the provision did not specify one or the other—the use of a plural possessive pronoun in describing the requirement was in fact grammatically correct. In any case, it is the plain meaning of language, not necessarily technical grammatical correctness, that dictates whether we will consider an interpretation of a solicitation to be reasonable. We conclude that the RFP here required offerors to submit the DSSFC letter with their proposal. Because AHNTECH did not do so, the agency properly found its proposal unacceptable under the security subfactor.

RTO SUBFACTOR

The RTO subfactor (as well as the other subfactors) were listed under the heading "EXPERIENCE AND/OR PERSONNEL QUALIFICATIONS (AS SPECIFIED IN THE WORK STATEMENT)." The RTO subfactor instructed offerors that they "must pass one factor listed below," identified as follows:

Any of the following experience:

Fighter Pilot, 500 hours military aircraft experience (provide proof of experience with DD 214 or other official documentation), *or*

Fighter Weapons System Operator (WSO), 500 hours military aircraft experience (provide proof of experience with DD 214 or other official documentation), *or*

Weapons Controller [WC] experience, with a minimum 300 missions controlled, and Large Force controlling experience[.]

RFP at 12.

AHNTECH states that the "AND/OR" language in the heading, together with the "or" at the end of the first paragraph and the comma separating "fighter pilot" from

“500 hours military aircraft experience,” led it to conclude that the comma was intended as a “coordinating conjunction,” making the proper reading of the provision, “fighter pilot *or* 500 hours military aircraft experience.” Protest at 5. AHNTECH asserts that its interpretation that the requirement gave offerors a choice is supported by the reference in the heading to experience “and/or” personnel qualifications—under its interpretation, “fighter pilot” comprised the personnel qualifications alternative, and 500 hours of military aircraft experience comprised the experience alternative. *Id.* AHNTECH claims it met the requirement by proposing personnel with more than 500 hours of military aircraft navigator experience.²

AHNTECH’s reading of the subfactor language is unreasonable. Again, notwithstanding the protester’s view as to the grammatically correct reading of the provision, we think the listing of the experience/qualifications alternatives in three separate paragraphs, separated by the word “or,” made the agency’s intent clear. This structuring of the provision, along with the absence of the word “or” within each paragraph separating the position descriptions from the hours of experience, plainly indicated that personnel meeting the position description must also possess the specified hours of experience. Thus, we agree with the agency that the provision gave offerors three—not six—alternatives for meeting the requirement. We see no reasonable basis for AHNTECH’s reading that offerors had the choice of proposing personnel meeting either the position description or the hours of experience.³ We note that our reading is consistent—and AHNTECH’s is inconsistent—with the RFP’s work statement, which provides: “RTOs shall have fighter pilot, fighter weapons system operator with 500 hours military aircraft experience, or weapons controller experience with a minimum 300 missions controlled, and Large Force controlling experience.” RFP, attach. 5, ¶ 1.2.7. We conclude that AHNTECH’s proposal was reasonably rejected as unacceptable.

The protest is denied.

Anthony H. Gamboa
General Counsel

² In support of its argument, AHNTECH alleges that, at its debriefing, agency officials acknowledged that the protester’s personnel satisfied the requirement. The agency denies making the acknowledgment and, in any case, such an acknowledgment would not alter our view as to the only reasonable reading of the provision.

³ AHNTECH’s interpretation also is undermined by the fact that only two different experience levels were listed—the 500 hours military aircraft experience requirement is listed twice, once after fighter pilot and once after WSO. Under AHNTECH’s interpretation, the separate listings requiring 500 hours of experience would be redundant.