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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: ADC, Ltd.

File: B-297061

Date: October 14, 2005

Arthur D. Cordova, Jr., for the protester.

Maj. Peter H. Tran, Department of the Army, for the agency.

Jonathan L. Kang, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where the agency reasonably determined that the protester's proposal failed to adequately describe how solicitation's statement of objectives would be met.

DECISION

ADC, Ltd. protests the award of a contract to MPRI, Inc. under request for proposals (RFP) No. HHM402-05-Q-0134, issued by the Defense Intelligence Agency (DIA) for civilian employee applicant processing. The protester argues that the agency improperly evaluated its technical proposal and applied undisclosed evaluation criteria.

We deny the protest.

BACKGROUND

The RFP sought proposals to provide services to conduct civilian application human resource and security processing prior to entry on duty with the agency. The RFP anticipated award of a fixed-price contract and the procurement was conducted under the streamlined acquisition procedures of Federal Acquisition Regulation Part 12.6. The base performance period for the contract is 6 months, with four 1-year option periods. Award was restricted to offerors who possessed General Services Administration schedule contracts "pertaining to Human Resources and Professional, Administrative, and Management support services under the Federal Service Code R408." RFP amend. 2, Question and Answer (Q&A) 2.

The RFP advised offerors that proposals would be evaluated on the basis of price and three non-price factors: technical, past performance, and management. The non-price factors, when combined, were more important than price; the technical and past performance factors were equal to each other in weight and were each more important than the management factor. The performance requirements were set forth in a statement of objectives (SOO) that listed 18 requirements for meeting the agency’s needs. The solicitation did not list specific standards of performance or any particular approach to fulfilling the agency’s needs; rather, the solicitation instructed offerors to propose a statement of work (SOW) that explained the intended approach to meeting the SOO.¹

The agency received proposals from ADC and MPRI. The agency evaluated the offerors’ proposals as follows:

	ADC	MPRI
Technical	Unacceptable	Excellent
Past Performance	Marginal	Excellent
Management	Unacceptable	Excellent
Proposed Price	\$4,397,248	\$9,418,552

Agency Report (AR), Tab 12, Price Negotiation Memorandum/Source Selection Decision (SSD), at 3.

The agency concluded that ADC’s proposal was overall technically unacceptable. Contracting Officer’s Statement at 1. The agency then determined that MPRI’s technically superior, higher-priced proposal merited award. AR, Tab 12, SSD, at 4-5.

DISCUSSION

ADC primarily argues that the agency improperly determined that its proposal failed to adequately demonstrate that ADC could meet the human resource requirements identified in the SOO. The agency concluded that ADC’s proposal was unacceptable under the technical and management evaluation factors because: (1) ADC’s proposal did not adequately address all human resource pre-employment requirements as outlined in the SOO; (2) ADC’s proposal did not specifically indicate how human resource objectives would be met; (3) ADC’s proposal lacked substantive support for the agency’s civilian employment human resource applications; and (4) ADC failed to submit resumes on candidates with human resource skills required by the

¹ The solicitation refers alternatively to a “statement of work” and a “performance work statement” to describe the requirement that offerors detail their approach to meeting the SOO requirements in their proposals.

solicitation.² AR, Tab 10, ADC Technical Evaluation at 2, 4; AR, Tab 12, SSD, at 4; AR, Tab 14, ADC Debriefing, at 3. In reviewing a procuring agency's evaluation of an offeror's technical proposal, our Office's role is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. Our Office will not question an agency's evaluation judgments absent evidence that those judgments were unreasonable or contrary to the stated evaluation criteria. Kay & Assocs., Inc., B-291269, Dec. 11, 2002, 2003 CPD ¶ 12 at 4.

ADC first disputes the relative degree of importance of the human resource requirements in the SOO, arguing that the agency placed too much emphasis on those requirements in its evaluation of ADC's proposal. The record shows that of the 18 objectives listed in the SOO, the majority are clearly related to human resource requirements, with many having descriptions such as "HR [human resource] administrative support" and "prepar[ing] of HR employment and security nomination form and questionnaires." See RFP ¶ 3, Requirements. Moreover, the solicitation stated that its objective was to obtain "contractor services to conduct and complete civilian applicant HR and security processing prior to entry on duty" for the agency. RFP ¶ 1, Objectives. Thus, to the extent that ADC argues that the solicitation did not communicate the importance of human resource requirements in the evaluation of proposals, we find ADC's position unpersuasive, in light of the RFP language quoted above.

ADC next argues that the agency improperly determined that ADC's proposal failed to address all human resource requirements and further did not adequately address how human resource requirements would be performed. See AR, Tab 10, ADC Technical Evaluation, at 2, 4; AR, Tab 12, SSD, at 4. ADC argues that the solicitation lacked specific performance requirements or criteria, and ADC contends that the solicitation's incorporation of an SOO, instead of a specific set of performance standards or requirements, meant that offerors were not required to provide detailed explanations of their technical approach. In this regard, ADC states that it "interpreted this [SOO-based approach] to mean that a detailed listing of how all [human resource] functions would be met was not required." Comments at 4. Consequently, ADC contends that any evaluation that ADC failed to provide adequate details on how it would meet the solicitation's requirements was based on unstated evaluation criteria.

² The four weaknesses the agency identified in ADC's proposal are described slightly differently in the agency's technical evaluation, the SSD, and ADC's debriefing; the weaknesses are, however, identical in substance.

Contrary to ADC's argument, however, the solicitation required offerors to propose their own SOW that addressed how they would perform the generally-stated objectives in the SOO:

The technical proposal with Statement of Work (SOW) will be used to evaluate [each] firm's capability to perform the requirement set forth in the Statement of Objectives. Therefore, your proposal must present sufficient information to reflect a thorough understanding of the work requirements and a detailed plan for achieving the objectives. The technical proposal shall include a description of the techniques and procedures to be employed in achieving the proposed end results in compliance with the requirements of the Government's statement of objectives.

RFP Addend. to FAR § 52.212-1, ¶ 9.iii.

The technical evaluation factor further explained as follows:

The proposed technical solution and approach will be evaluated for its quality and evidence of the extent to which the contractor's solution will achieve DIA objectives. Evidence of the quality of the technical solution and approach includes (i) Subfactor (1) A comprehensive performance work statement and contract work breakdown structure that identifies the services to be delivered to meet program and mission requirements set forth in the SOO. (ii) Subfactor (2) A sound technical proposal that clearly demonstrates how implementation of proposal solutions will provide the various pre-employment functions necessary to ensure the agency can expeditiously and accurately process high-qualified personnel to meet hiring needs.

RFP, Criteria for Contract Award, ¶ (d).

We believe that the solicitation was clear as to an offeror's obligation to submit a detailed proposal that specifically addressed the offeror's approach to meeting the SOO requirements, and thus conclude that the agency's evaluation of ADC's proposal was consistent with the solicitation's stated evaluation scheme.³

³ To the extent that ADC objects to the solicitation's incorporation of a performance-based SOO, as compared to a detailed SOW prepared by the agency, this protest allegation is untimely. A protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed before that time. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2005).

ADC next argues that its proposal does in fact demonstrate the ability to meet the human resource requirements of the SOO, citing its proposal's description of the company's current experience performing security clearance and background investigation work. Protest at 8-11. As described above, the RFP advised offerors that their proposals must include an SOW that demonstrates how they would perform the SOO. Furthermore, offerors were advised that a lack of specificity or a general offer to perform the SOO would result in an unacceptable proposal: "A proposal which merely offers to conduct a program in accordance with the requirements of the Government's scope of objectives will not be eligible for award." RFP Addend. to FAR § 52.212-1, ¶ 9.iv.

Offerors bear the responsibility to submit an adequately written proposal with sufficiently detailed information to establish that their proposals will meet the solicitation requirements. G&M Indus., B-290354, July 17, 2002, 2002 CPD ¶ 125 at 4. An offeror is responsible for affirmatively demonstrating the merits of its proposal and risks the rejection of its proposal if it fails to do so. Knoll, Inc.; Steelcase, Inc., B-294986.3, B-294986.4, Mar. 18, 2005, 2005 CPD ¶ 63 at 3. Based on our review of ADC's proposal, we conclude that the agency reasonably determined that ADC did not specifically address how it would meet the required human resource requirements in the SOO. ADC's proposal does not explain in detail its approach to performing the SOO requirements; at most, ADC's proposal affirms that it has the capability to meet the agency's needs, citing as evidence its experience in performing background clearance work, which ADC now contends should have been considered analogous to, or encompassed within, the scope of human resource requirements in the SOO. See AR, Tab 16, ADC Proposal, at 7-9; Protest at 8-9. Accordingly, we believe that the agency reasonably determined that ADC's proposal was technically unacceptable.

ADC finally argues that the agency improperly determined that its proposal was technically unacceptable because it did not contain resumes for personnel qualified to perform human resource functions identified in the SOO. The agency determined that ADC was technically unacceptable under the technical and management evaluation factors because ADC's proposal lacked such resumes. AR, Tab 10, ADC Evaluation, at 2. ADC acknowledges that its proposed resumes did not specifically identify individuals with human resource skills or experience. Comments at 2. ADC argues, however, that the solicitation did not specifically identify positions that required human resource credentials. ADC explains that "[n]o resumes of persons specifically performing HR were included, because they were not asked for. None of the job titles provided in the solicitation contained the terms 'Human Resources' or 'Personnel,' and we were asked to provide resumes only for those key personnel." Comments at 2. In this regard, ADC notes that the price schedule required offerors to propose pricing for seven positions: business specialist II, information engineer I, system analyst II, logistics technician IV, program/project manager I, business analyst II, and quality assurance specialist II. RFP Price Schedule.

We believe, however, that the protester's interpretation of the solicitation as not requiring identification of personnel who possess human resource capabilities is unreasonable. Although the solicitation listed specific positions for which offerors were required to propose prices, the descriptions of the positions in no way altered the offerors' obligation to adequately detail how they would meet the SOO. Consistent with this requirement, the solicitation explained that offerors were required to propose an SOW that addressed in detail all requirements of the SOO. The solicitation further instructed offerors to demonstrate their proposed staffing would meet the SOO:

The technical proposal must include language on how the project is to be organized, staffed, and managed. Information should be provided which will demonstrate your understanding and management of the requirements in the Statement of objectives.

* * * * *

The technical proposal must list the names and proposed duties of the professional personnel, consultants, and key subcontract employees proposed for assignment to the project. Resumes should be included and should contain information on education, background, recent experience and specific technical accomplishments.

RFP ¶¶ 9.v, 9.vii.

Furthermore, the agency's response to a question specifically stated that human resource skills were required for personnel:

Q. There is no mention of specific personnel requirements. What skills must the individuals have besides Top Secret/SCI.

A. Management, Administrative, Human Resources, Security Skills.

RFP amend. 2, Q&A 18.

The solicitation, as supplemented by the Q&A response, clearly instructed offerors to propose personnel and provide resumes to demonstrate the ability to meet the SOO requirements for human resource functions. We believe that the agency reasonably evaluated ADC's proposal as unacceptable because, as ADC

acknowledges, its proposed resumes did not demonstrate the requisite human resource experience.⁴

The protest is denied.

Anthony H. Gamboa
General Counsel

⁴ ADC raises several other protest issues which we do not address above as we find none to have merit. For example, ADC argues that the agency was biased in favor of awarding the contract to MPRI, the incumbent, citing the length of time between contract award and performance. ADC contends that the short length of startup time was intended to favor MPRI. ADC, however, did not file a timely protest of this solicitation term (*i.e.*, the alleged short startup period), and is thus now untimely. 4 C.F.R. § 21.2(a)(1). In any case, ADC states that it could have performed the contract within this time frame, *see* Protest at 11, and thus cannot establish that it was in any way prejudiced by the schedule in the solicitation. *See McDonald-Bradley*, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; *Statistica, Inc. v. Christopher*, 102 F.3d 1577, 1581 (Fed. Cir. 1996).