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Comptroller General
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United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: LOGMET LLC

File: B-400355.2

Date: September 22, 2008

Wayne C. Rankin, LOGMET LLC, for the protester.

Karen M. Reilley, Esq., National Aeronautics and Space Administration, for the agency.

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DIGEST

Protest challenging agency's evaluation of protester's proposal as technically unacceptable is denied where the record supports the reasonableness of the evaluation.

DECISION

LOGMET LLC protests the award of a contract to Government Contracting Resources, Inc. (GCR) by the National Aeronautics and Space Administration (NASA), under request for proposals (RFP) No. NNN07207243R, for mail processing and delivery services at the Kennedy Space Center. The protester contends that NASA's award decision was flawed because the agency's evaluation of its technical and price proposals was unreasonable, and because the selection decision was flawed.

We deny the protest.

BACKGROUND

The RFP was issued on February 6, 2008, and sought proposals to provide services to process and deliver official mail, communications, forms, and parcels up to 70 pounds, for locations at the Kennedy Space Center. Offerors were required to propose to provide all required personnel, vehicles, and materials required for contract performance. The RFP was amended on March 7 to clarify requirements concerning employee pay and benefits, and to provide more information concerning the evaluation of offerors' technical and price proposals.

The RFP anticipated the award of a fixed-price contract, with a 1-year base performance period and four 1-year option periods. The competition was restricted to service-disabled veteran-owned small business offerors. The RFP stated that proposals would be evaluated on the basis of the following factors: price, technical capability, and past performance. The technical capability evaluation factor had the following subfactors: management proposal, incumbent capture plan, staffing plan, quality control plan, phase-in plan, and safety and health plan. Offerors were advised that proposals must be “specific, detailed, and comprehensive enough to clearly and fully demonstrate your understanding of the requirements and the inherent risks associated with the objectives of this procurement.” RFP at 41.

The RFP stated that award would be made “utilizing the lowest price technically acceptable offer techniques described in FAR part 15.101-2, on the basis of the lowest evaluated price of [the] proposal meeting or exceeding the [solicitation] requirements.”¹ Id. at 49.

As relevant here, the RFP provided offerors with historical workload estimates for the performance of the contract for the years 1998-2008, a copy of the collective bargaining agreement (CBA) for the incumbent contract, and Department of Labor Wage determinations. The RFP stated that offerors were required to “pay wages and fringe benefits . . .” at least equal to those contained in the current CBA, and to “describe how the offeror will comply with the economic terms of the existing [CBA] that is referenced in Attachment 4.1-03, as required by [Service Contract Act] sections 22.1002-3 and 22.1008-2.” RFP amend. 1 at 43.

NASA received nine proposals by the closing date of March 20, 2008. As relevant here, NASA concluded that GCR’s proposal was acceptable under the technical capability factor, but that LOGMET’s proposal was unacceptable under that factor; both offerors were evaluated as having acceptable past performance. Of the remaining offerors’ proposals, five were rated as technically acceptable, and two were rated as technically unacceptable. Tab N.1, Source Selection Decision (SSD), at 3.

NASA identified two deficiencies in LOGMET’s staffing plan, in each case based on the offeror’s failure to demonstrate an understanding of the solicitation requirements. First, the agency concluded that LOGMET overestimated the available labor hours for performance of the contract requirements based on the protester’s failure to propose correct hours for sick leave and holidays in conformance with the requirements of the CBA. AR, Tab I.1, LOGMET Technical Evaluation, at 3-4.

¹ The RFP also stated that technical capability was more important than past performance, and the two factors were, when combined, significantly more important than price. RFP amend. 1 at 48. To the extent the solicitation sets forth potentially conflicting bases for the award, none of the potential offerors, including the protester, challenged the RFP before the closing date.

Second, the agency concluded that the protester proposed an unbalanced mix of staff, with too few messenger drivers and too many procurement support staff and clerks. Id. at 5. The agency also identified three deficiencies in LOGMET's management proposal, again based on the offeror's failure to demonstrate an understanding of the solicitation requirements. First, the protester proposed to provide mail room support at Patrick Air Force Base, despite the fact that the solicitation does not require services at that location. Second, the protester failed to propose to utilize facilities at the Cape Canaveral Air Force Station, as required by the PWS. Third, the protester incorrectly described the services required under performance work statement (PWS) section 1.2.8, regarding processing of time-sensitive bids or proposals. Id. at 7-8.

The final ratings for LOGMET were as follows:

	LOGMET
TECHNICAL CAPABILITY	UNACCEPTABLE
Management Proposal	Unacceptable
Incumbent Capture Plan	Acceptable
Staffing Plan	Unacceptable
Quality Control Plan	Acceptable
Phase-In Plan	Acceptable
Safety And Health Plan	Acceptable
PAST PERFORMANCE	ACCEPTABLE

AR, Tab I.1, LOGMET Technical Evaluation, at 1; Tab L.1, GCR Technical Evaluation, at 1; Tab N.1, SSD, at 5.

Based on its evaluation of LOGMET's proposal as unacceptable under the technical capability evaluation factor, NASA excluded the protester's proposal from award consideration. NASA then selected GCR's proposal for award because its \$12.6 million proposed price was the lowest among the technically-acceptable proposals. AR, Tab N.1, SSD, at 5. LOGMET requested a debriefing, which was provided on July 18. This protest followed.

DISCUSSION

LOGMET argues that the agency's evaluation of its technical and price proposals was unreasonable. The protester further contends that selection of GCR's proposal was unreasonable because LOGMET proposed a lower price. For the reasons discussed below, we find that NASA reasonably concluded that the protester's proposal was unacceptable under the technical capability factor, and was therefore ineligible for award.

The evaluation of an offeror's proposal or quote, including experience, is a matter within the agency's discretion. IPlus, Inc., B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 7, 13. In reviewing a protest of an agency's evaluation of proposals or quotes, including technical evaluations, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. See Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. A protester's mere disagreement with the agency's judgment in its evaluation of the relative merit of competing proposals or quotes does not establish that the evaluation was unreasonable. C. Lawrence Constr. Co., Inc., B-287066, Mar. 30, 2001, 2001 CPD ¶ 70 at 4.

Staffing Plan Evaluation

LOGMET argues that NASA unreasonably found that its proposal was technically unacceptable. Under the staffing plan subfactor of the technical capability evaluation factor, NASA concluded that LOGMET's proposal did not reflect an understanding of the CBA. As discussed above, offerors were required to "describe how the offeror will comply with the economic terms of the existing [CBA]." RFP amend. 1 at 43. The CBA stated that employees are entitled to receive 272 hours of paid leave each year, as follows: 12 holidays, totaling 96 hours per year; 12 days of sick leave, totaling 96 hours per year; and 10 days of vacation leave, totaling 80 hours per year. Tab E.3, RFP, CBA, at 28, 31, 34.

In its staffing plan, LOGMET proposed 2,080 hours per year per employee, consisting of 1,920 "productive hours," 80 hours for holidays, and 80 hours for vacation. The protester explained its calculations of its staffing hours as follows:

We start with 2080 "available" hours in a year. This is the number of hours that a full time employee will be paid, regardless if it is time worked, vacation or holiday. From the 2080 hours per year, we subtract the number of hours vacation, number of holiday hours, and come up with the full time equivalent hours that an employee will work during the twelve month period.

AR, Tab H.1, LOGMET Proposal, Staffing Plan, at 4.

Based on LOGMET's proposal for staffing hours, NASA concluded that the company had overestimated that number of productive hours that would be available for contract performance. In this regard, because the CBA required 272 hours of vacation, sick leave, and holiday hours, the agency calculated that LOGMET's actual productive hours would be 1,808--which was 112 hours short of the protester's assumption of 1,920 productive hours. AR, Tab I.1, LOGMET Technical Evaluation, at 3. The agency concluded that this 112 hour shortfall demonstrated a lack of understanding of the requirements of the solicitation. Id.

The protester does not meaningfully challenge NASA's analysis, but instead argues that the RFP did not require offerors to provide a detailed statement of how offerors derived their proposed labor hours. Protest at 16. We disagree. The RFP clearly required offerors to provide employees with the same benefits as those under the current CBA, e.g., holiday, vacation, and sick leave hours, and to demonstrate their understanding of this requirement. RFP amend. 1 at 43. We think the agency's assessment of a deficiency here was reasonable because the 112 hour shortfall would have had numerous repercussions on the protester's assumptions of the costs and staffing requirements for contract performance. On this record, we find no basis to sustain the protest.

Under this subfactor, NASA also found that LOGMET's proposal did not demonstrate an understanding of the PWS requirements based on its proposed skill mix. The agency concluded that LOGMET's proposed number of full time equivalent (FTE) staff deviated significantly from the government's estimated staffing--i.e., the protester proposed fewer than half of the messenger drivers identified in the government estimate, seven times as many procurement support staff, and almost twice as many clerks. AR, Tab I.1, LOGMET Technical Evaluation, at 4-5. In each case, NASA decided that the protester had failed to provide "adequate information and supporting data to justify the quantity of FTEs proposed" for the positions. Id.

LOGMET argues that the agency's evaluation was unreasonable because the government estimate for the number of FTEs for each category required was not provided in the RFP. The protester also argues that the agency could not reasonably conclude that its proposal was overstaffed in any given area since the protester's proposed price was lower overall than either the government estimate or the awardee's proposed price.

We agree with the protester that the RFP did not identify the government's estimates for the number of FTEs required for each position. However, the RFP provided historical workloads for each task required under the PWS and required offerors to explain how their proposed staffing levels would achieve successful performance. See RFP, Historical Workload Estimates, at 1-2. For example, the RFP identified 228 buildings at which mail drop-off points are located, and provided estimates of the mail volumes on an annual and daily basis. Based on these historical data, NASA concluded that LOGMET had proposed insufficient FTEs for messenger drivers because each of the proposed drivers would be required to drive more than 11 hours per day to make the required delivery stops identified in the RFP, thereby exceeding the maximum allowable workweek. AR, Tab I.1, LOGMET Technical Evaluation, at 4.

Moreover, despite the protester's arguments to the contrary, NASA's criticism of LOGMET's proposal went beyond the concern that the protester's proposed staffing was different than the government estimate. Instead, the agency criticized the protester's failure to explain why the proposed level of staff was appropriate. In its proposal, LOGMET identified the number of FTEs for each position, but did not

explain its rationale for the numbers of staff proposed for these positions. It also did not explain why the staffing levels were appropriate for the PWS requirements. See AR, Tab H1, LOGMET Proposal, Staffing Plan. For the same reasons, we find no merit to the protester's argument that NASA could not criticize its proposal for overstaffing positions, in light of the protester's lower overall price. On this record, we conclude that NASA reasonably identified the two deficiencies in LOGMET's proposal, and that the agency reasonably rated the protester's proposal as "unacceptable" for the staffing plan subfactor.

Management Proposal Evaluation

Next, LOGMET argues that NASA unreasonably concluded that its proposal was technically unacceptable under the management proposal subfactor of the technical capability evaluation factor. As discussed above, the agency identified two deficiencies in the protester's proposal for this subfactor, and concluded that these deficiencies merited a rating of "unacceptable." LOGMET does not dispute the merits of two of NASA's criticisms: that the protester proposed to staff a mail room at an Air Force Base that was not part of the requirements of the solicitation, and failed to propose staffing for a required facility at the Cape Canaveral Air Force Station.² Instead, the protester contends that it could have resolved these deficiencies through discussions with the agency. See Protester's Comments on AR at 2.

Despite the protester's assertion to the contrary, the RFP expressly advised offerors that NASA did not intend to conduct discussions. RFP amend. 1 at 36. Where, as here, an RFP provides for award on the basis of initial proposals without discussions, an agency may make award without discussions, unless discussions are found to be necessary. Federal Acquisition Regulation (FAR) § 15.306(a)(e); Synectic Solutions, Inc., B-299086, Feb. 7, 2007, 2007 CPD 36 ¶ at 11. Since the agency concluded that six of the nine offerors were technically acceptable, it reasonably decided that no discussions were required.

In sum, we think NASA reasonably evaluated LOGMET's proposal as technically unacceptable. For this reason, we agree with the agency that the protester's

² The protester did not challenge the third deficiency concerning its management proposal—its failure to accurately demonstrate its understanding of the requirements of PWS ¶ 1.2.8. See AR, Tab I.1, LOGMET Technical Evaluation, at 8.

proposal was reasonably excluded from the competition under the evaluation scheme announced in the RFP.

The protest is denied.³

Gary L. Kepplinger
General Counsel

³ Because LOGMET's proposal was not eligible for award, we need not address the protester's arguments concerning the evaluation of its proposed price and the reasonableness of the selection decision. In addition, LOGMET raised several collateral challenges to its technical evaluation. We have reviewed all of the protester's arguments, and conclude that none of them provides a basis for sustaining the protest.