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**Comptroller General
of the United States**

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

Decision

Matter of: Solstice Advertising

File: B-405529.2

Date: November 21, 2011

S. Lane Tucker, Esq., Stoel Rives LLP, for the protester.

Capt. Stephan D. Rice, Department of the Army, Corps of Engineers, for the agency.
Gary R. Allen, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

The agency reasonably excluded the protester's proposal from the competitive range, where the agency found that the protester failed to satisfy the solicitation's company experience requirements, and where the protester's unacceptable offer was not among the most highly rated proposals.

DECISION

Solstice Advertising, of Anchorage, Alaska, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. W912P9-11-R-0708, issued by the Department of the Army, Corps of Engineers for a range of communications services related to the agency's National Flood Risk Management and Dam/Levee Safety Programs.

We deny the protest.

BACKGROUND

Under the National Flood Risk Management and Dam/Levee Safety Programs, the Corps has undertaken several inter-agency initiatives to focus on a comprehensive approach to flood risk management. RFP § C at 4. The RFP, issued as a small business set-aside, sought proposals for the award of a fixed-price contract for various communications services supporting these programs. The successful contractor will assist the agency with improving effectiveness, efficiency and coordination among its flood risk related programs; developing associated communication, outreach, and training materials; implementing stakeholder

involvement strategies; and analyzing stakeholder feedback to inform program direction. Id.

Offerors were informed that award would be made on a lowest-price, technically acceptable basis, considering the following technical evaluation factors: company experience, qualifications of key personnel, past performance; and specialty knowledge. RFP § M at 137-39. The RFP warned that an unacceptable rating under any technical factor would eliminate the proposal from further consideration for award. Id. at 138. The RFP required offerors to format their proposals to provide a separate response to each technical evaluation factor and identified page limitations for each of these responses. RFP § L at 135.

With respect to the company experience factor, the RFP provided for the evaluation of an offeror's experience in facilitating meetings with multiple federal agencies and national committees/groups on topics and issues involving flood risk management and levee safety issues. This experience was stated to include organizing workshops to facilitate related national policy discussions. The following minimum acceptability standards were identified for this factor:

- Offeror must have at least three (3) projects that are same/similar effort such as found in this solicitation; AND
- At least two (2) of the projects submitted must be valued at over \$100,000.00, and they must have been completed, or underway, within the last 5 years.

RFP § M at 138. Offerors were informed that proposals were limited to 10 pages in responding to this evaluation factor. RFP § L at 135.

With respect to the qualifications of key personnel factor, the RFP requested resumes for proposed key personnel. Offerors were informed that in evaluating the qualifications of key personnel the agency would consider “[e]xperience on projects same/similar to the work in this solicitation working in the position they are assigned to under this contract.” RFP § M at 138.

With respect to the past performance factor, the RFP instructed offerors to provide at least three, and no more than five, completed past performance surveys for relevant projects underway or completed within the past 5 years. Id. at 136. Relevant past performance was defined to be experience working on similar types of work as described in the solicitation, and experience in organizing and planning Department of Defense meetings and/or workshops for at least three projects performed within the last 5 years. RFP § M at 139. The RFP provided that proposals were limited to 25 pages in responding to this factor. RFP § L at 135.

The Corps received seven proposals, including Solstice's. The proposals were evaluated by the Corps' source selection evaluation board (SSEB). Solstice's

proposal was found to be unacceptable under the company experience, qualifications of proposed personnel, and past performance factors. Agency Report (AR), Tab K, Competitive Range Memorandum, at 7; Tab M, SSEB Chair Memorandum for Source Selection Authority, at 4. Specifically, with respect to the company experience factor, the SSEB found that Solstice had failed to identify three projects that demonstrated its experience facilitating meetings related to national flood risk management and levee/dam safety issues. The evaluators noted that Solstice cited experience with unrelated projects, such as a regulatory program to protect and maintain the navigable capacity of the nation's waters, a gold mine, and a National Guard marketing campaign. AR, Tab J, Solstice Proposal at 4-12, 30-37.

Only two proposals were found by the SSEB to be technically acceptable, and those two proposals were included in the competitive range as being the most highly-rated offers. AR, Tab K, Competitive Range Memorandum, at 1. Solstice's proposal was excluded from the competitive range.

Following a debriefing, Solstice protested to our Office.

DISCUSSION

The protester complains that the agency unreasonably evaluated Solstice's proposal under the company experience, qualifications of key personnel, and past performance factors.¹

Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Int'l Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly-rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); D&J Enters., Inc., B-310442, Dec. 13, 2007, 2008 CPD ¶ 8 at 2. In this regard, a protester's mere disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. SPAAN Tech, Inc., B-400406, B-400406.2, Oct. 28, 2008, 2009 CPD ¶ 46 at 9.

¹ Because we find that Solstice's proposal was reasonably determined to be technically unacceptable under the company experience factor, we do not address the protester's arguments challenging the evaluation of the qualifications of its key personnel or its past performance. Solstice also argues that in its debriefing, the CO stated that its proposed subcontractors were not considered or evaluated. Protest at 3. In his statement of facts, the CO admitted that he misspoke concerning the evaluation of subcontractors. CO Statement, ¶ 15 at 4.

In its response to the RFP's requirements under the company experience factor, Solstice provided detailed information in its proposal about each of its projects, and about those of The Bohle Company, one of its proposed subcontractors. AR, Tab J, Solstice Proposal at 4-12. It did not, however, provide any detailed information about its other proposed subcontractor, Tetra Tech.² Our review of Solstice's proposal confirms that Solstice cited experience with several projects unrelated to the main experience sought by the company experience factor—that is, topics and issues involving national flood risk management and levee safety issues. Id. Furthermore, except in the most general of terms, Solstice did not describe how the projects it identified were comparable in size, recency and/or relevance to the solicitation requirements. The record thus supports the agency's conclusion that Solstice did not provide at least three projects (counting both, its own and its subcontractors' projects) that demonstrated the requisite company experience in accordance with the RFP criteria.

In short, we find that the agency's decision to exclude Solstice from the competitive range was consistent with the terms of the RFP and reasonable. Although, Solstice disagrees with the agency's judgment in this regard, its disagreement does not demonstrate that the agency's decision was unreasonable. SPAAN Tech, Inc., supra.

The protest is denied.

Lynn H. Gibson
General Counsel

² Solstice does not mention any Tetra Tech projects in its proposal, although Solstice states that Tetra Tech is the primary entity with flood-related expertise (one of the main objectives of the RFP). Instead, the proposal generally states in a few sentences that one of Solstice's strengths is the firm's partnership with Tetra Tech, an award-winning engineering consulting agency with experience working with the National Flood Insurance Program, as well as other programs and processes related to flood risk management. See AR, Tab J, Solstice Proposal at 3.