



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: A&D General Contracting, Inc.

File: B-409429

Date: April 17, 2014

Neal W. Clements, III, Esq., The Bruckner Law Firm, for the protester.
Ron Ashlock, Esq., Department of the Navy, for the agency.
Kenneth Kilgour, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest challenging evaluation of the protester's proposal under the experience factor is denied where the evaluation was reasonable and in accordance with the solicitation's evaluation criteria.

DECISION

A&D General Contracting, Inc., of San Diego, California, protests the Department of the Navy's evaluation of its proposal under Phase I of the competition under request for proposals (RFP) No. N62478-12-R-4000, for construction services in Hawaii. The protester asserts that the agency unreasonably evaluated A&D's proposal as unacceptable under the experience factor.

We deny the protest.

BACKGROUND

The solicitation, a small business set-aside, sought proposals for the award of multiple indefinite-delivery/indefinite-quantity (IDIQ) contracts for new construction, repair, alteration, and related demolition of existing infrastructure. The total maximum value of the acquisition is \$240 million for all contracts, with task order minimums and maximums of \$3 million and \$30 million respectively. Under Phase I of the competition, the government was to select a maximum of 10 offerors to compete in Phase II, based on an evaluation of four factors: (1) technical approach, (2) experience, (3) past performance, and (4) safety. Any proposal found to have a deficiency in meeting the stated evaluation requirements or performance objectives was to be considered ineligible for award. RFP at 4.

The experience evaluation factor required that offerors submit a maximum of five projects “[t]hat best demonstrate[] the Offeror’s experience on recent relevant projects that are similar in size, scope, and complexity to the RFP.” RFP, Evaluation Factors for Award, at 6. At least one of the projects “shall be repair/alteration or related demolition of existing infrastructure.” Id. Further, the solicitation provided that

the Offeror must have been a Prime Contractor for the projects and each project shall be approximately \$10,000,000.00 or more in dollar value and be completed within the past five (5) years of the date of issuance of this RFP. Approximately means that the proposed construction projects do not necessarily have to be exactly \$10M.

Id.

A&D was one of several firms to submit Phase I proposals. In its proposal, A&D referenced one prior contract with a total value of \$8,066,021 to satisfy the RFP’s repair/alteration experience requirement. A&D Proposal, attach. A, at 1. The agency evaluated the reference as not relevant, based on the low dollar amount of the effort. As a result, the Navy evaluated A&D’s proposal as failing to meet the requirement for a repair/alteration contract of approximately \$10 million or more, leading the agency to assess a deficiency, and thus making A&D’s proposal ineligible for further consideration. A&D Evaluation at 3, 5. The agency notified A&D that it was not selected to compete in Phase II, and this protest followed.

DISCUSSION

A&D asserts that the agency unreasonably evaluated as not relevant its approximately \$8.1 million repair/alteration contract; according to the protester, “[n]owhere in the SOLICITATION does the evaluation criteria state that a project submitted below the threshold of \$10M would be rejected as not relevant.” Protest at 3.

Our Office examines an agency’s evaluation of experience to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable statutes and regulations. Herve Cody Contractor, Inc., B-404336, Jan. 26, 2011, 2011 CPD ¶ 27 at 3. An agency has broad discretion, when evaluating offerors’ experience, to determine whether a particular contract is relevant to an evaluation of experience. See All Phase Env’tl., Inc., B-292919 et al., Feb. 4, 2004, 2004 CPD ¶ 62 at 3. A protester’s disagreement with the agency’s evaluation judgments, or with the agency’s determination as to the relative merits of competing proposals, does not establish that the evaluation or the source selection decision was unreasonable. Smiths Detection, Inc.; Am. Sci. & Eng’g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 6-7.

Here, the chairperson of the agency's technical evaluation team (TET) states that the TET determined that any project more than 10% less than the target of approximately \$10 million would be considered not relevant. Agency Response to Comments, Encl. 1, Declaration of TET Chair, ¶¶ 8-9. Thus, the protester's offered contract, valued at nearly 20 percent less than \$10 million, was evaluated as not relevant. A&D Proposal Evaluation at 3. The protester asserts that nowhere in the solicitation does the agency announce that a deviation of more than 10 percent below the required contract value will result in an evaluation rating of not relevant. Protester's Response to Agency's Response to Comments at 1-2.

The evaluation was reasonable. As an initial matter, in our view, the solicitation requirement that "each project shall be approximately \$10,000,000.00 or more in dollar value," RFP, Evaluation Factors for Award, at 6, clearly indicates that projects not meeting this standard will not be considered. Moreover, we note that even in the absence of such clear language, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Independence Constr., Inc., B-292052, May 19, 2003, 2003 CPD ¶ 105 at 4. Where, as here, a solicitation announces that the evaluation of the relevance of a prior contract will consider its size, we see nothing inherently unreasonable in the agency's establishment of a minimum relevance value; establishing a threshold value is sufficiently related to the relevance criteria. See AMI-ACEPEX, Joint Venture, B-401560, Sept. 30, 2009, 2009 CPD ¶ 197 at 4. Nor do we see anything unreasonable in the agency's determination to define the solicitation standard--"approximately \$10,000,000.00"--as encompassing no more than a 10% deviation. In any case, the value of the repair/alteration contract experience cited in A&D's proposal (\$8,066,021) was only 80.66% of the \$10 million target established by the solicitation; there simply is no basis for finding unreasonable the agency's conclusion that the value of the contract identified by the protester was outside the range encompassed by the "approximately" limitation. See Lexis-Nexis, B-260023, May 22, 1995, 95-2 CPD ¶ 14 at 7 (the propriety of an evaluation turns not on internal evaluation standards, but on whether the evaluation ultimately is carried out in accordance with the stated evaluation criteria). We conclude that the agency reasonably elected not to include A&D's proposal in the second phase of the competition.

The protest is denied.

Susan A. Poling
General Counsel