

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

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Strategic Resources, Inc.

File: B-411024.2

Date: April 29, 2015

Kristen E. Ittig, Esq., and Lauren J. Schlanger, Esq., Arnold & Porter LLP, for the protester.

Michael J. Kraycinovich, Esq., and Alex M. Cahill, Esq., Department of the Army, for the agency.

Kenneth Kilgour, Esq., Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency unreasonably evaluated the protester's proposal as noncompliant with the solicitation's requirements regarding the completion of required staffing and pricing tables is denied where the record shows that the agency's evaluation was consistent with the terms of the solicitation, and where the solicitation was not ambiguous.

DECISION

Strategic Resources, Inc. (SRI), of McLean, Virginia, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. W52P1J-13-R-0161, which was issued by the Department of the Army for logistics support services for the Army Prepositioned Stocks-3 (APS-3) Charleston Afloat program. The protester asserts that the agency unreasonably evaluated its proposal as noncompliant with the terms of the solicitation.

We deny the protest.

BACKGROUND

The RFP, which was open to holders of an Enhanced Army Global Logistics Enterprise (EAGLE) basic order agreement (BOA), sought proposals for the issuance of a single combination cost-plus-fixed-fee/fixed-price task order with a

12-month base period and four 1-year options.¹ RFP § M.1.1. The solicitation provided for the task order to be issued to the offeror whose proposal met the following criteria:² had the lowest total evaluated price that is fair and reasonable; was technically acceptable; had a past performance rating of substantial confidence; and was evaluated as at least acceptable for small business participation.³ RFP § M.1.1. To be evaluated as technically acceptable, a proposal was required to achieve at least an acceptable rating in each of the following three technical sub-factors: staffing and management plan; mission essential contractor services; and organizational diagram. RFP § M.5.1.

The solicitation included the following contract line item numbers (CLINs): CLIN No. 0001, one-time transition-in costs to be incurred in the base year; CLIN No. 0002, labor costs and fixed fees for mission and support; CLIN No. 0003, labor costs and fixed fees for oversized and outsized support; and CLIN No. 0004, a plug number of \$13,201,051 supplied by the agency for other direct costs (ODC). AR, Tab 4e, RFP Attach. 5, Cost/Price Matrix. The RFP required offerors to complete various solicitation attachments, including, as relevant here, attachment 5, the Cost/Price Matrix, and attachment 10, the Teaming Matrix.

The Cost/Price Matrix required offerors to provide the prices for each CLIN as well as their “Total Proposed Price.” AR, Tab 4e, RFP Attach. 5, Cost/Price Matrix. As discussed below, the Cost/Price Matrix included prepopulated fields for ODCs, and also included a space for offerors to include the price for a 6-month option to extend, under Federal Acquisition Regulation (FAR) clause 52.217-8.

The Teaming Matrix required offerors to list the firms that would be performing the contract, along with the estimated dollar value of their performance and what percentage of the total effort their contribution represented. AR, Tab 4i, RFP Attach. 10, Teaming Matrix. The Teaming Matrix also required offerors to provide

¹ The estimated value of the task order, including option years, is \$[DELETED]. Agency Report (AR) at 2. Accordingly, this procurement falls within our jurisdiction to hear protests related to the issuance of task orders under multiple-award indefinite-delivery/indefinite-quantity (ID/IQ) contracts valued in excess of \$10 million. 10 U.S.C. § 2304c(e)(1)(B).

² Technical factors would be rated as either acceptable or unacceptable. RFP § M.5.1.1. Past performance would be evaluated as substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. Id. § M.5.2.9. Small business participation would be evaluated as outstanding, good, acceptable, marginal, or unacceptable. Id. § M.5.4.2.

³ A best value trade-off was to be made only in the event that no proposals were evaluated as meeting the minimum standards for past performance or small business participation. See RFP at § M.4.1.

the “Total Estimated dollar value” of their proposed effort. *Id.* The solicitation advised offerors that they were to populate every column of the Teaming Matrix and that the “total estimated dollar value provided on [the Teaming Matrix] Attachment 0010 shall be equal to the Total Proposed Price found on Attachment 0005-Cost/Price Matrix.” RFP Amend. 4, § L.5.1.8. The solicitation further provided that failure to provide a Teaming Matrix compliant with the terms of RFP § L.5.1.8 “shall render the Offeror[’]s proposal non-compliant,” and that such a proposal would not be further evaluated for award. RFP Amend. 4, § L.5.1.8(d).

Eleven offerors, including SRI, submitted proposals by the October 6 closing date. AR at 2. As relevant here, the protester’s Cost/Price Matrix (attachment 5) contained a “Total Proposed Price” of \$[DELETED]. SRI Proposal, Attach. 5, Cost/Price Matrix. SRI’s Teaming Matrix (attachment 10), however, listed a “Total Estimated dollar value” of \$[DELETED]. SRI Proposal, Attach. 10, Teaming Matrix.

The agency evaluated SRI’s proposal as noncompliant because the “Total Estimated dollar value” on its attachment 10 did not match the “Total Proposed Price” on SRI’s attachment 5, as required by the solicitation. AR, Tab 16, Compliance Review Memorandum for Record, at 10. The agency notified the protester that its proposal was evaluated as noncompliant and eliminated from further consideration, and this protest followed.

DISCUSSION

SRI argues that the Army unreasonably found its proposal to be noncompliant based on an inconsistency between the protester’s total proposed price in attachment 5 and attachment 10. SRI argues that its pricing for each of the three CLINs was consistent throughout its proposal and proposal attachments. In this regard, SRI notes that its “Total Estimated dollar value” entry of \$[DELETED] in the firm’s attachment 10 Teaming Matrix equals its “Total Proposed Price” entry of \$[DELETED] in its attachment 5 Cost/Price Matrix, minus the \$13,201,051 ODC plug number provided by the agency. Protest at 6-7. SRI also argues that attachment 10 did not provide a space to insert the ODC plug number. Protest at 9. For the reasons discussed below, we find no basis to sustain the protest.

Our Office will review an agency’s evaluation and exclusion of proposals from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Cylab Inc., B-402716, July 13, 2010 CPD ¶ 163 at 4. 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. FAR § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5. It is the agency’s role to define both its underlying needs and the best method of accommodating those needs, and it is within the agency’s discretion to reject as unacceptable proposals that do not meet the solicitation’s requirements and to determine which of the proposals are

reasonably within the competitive range. See Companion Data Servs. LLC, B-410022, B-410022.2, Oct. 9, 2014, 2014 CPD ¶ 300 at 8. A protester's disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. CEdge Software Consultants, LLC, B-409380, Apr. 1, 2014, 2014 CPD ¶ 107 at 6.

As discussed above, the solicitation stated that the "total estimated dollar value provided on Attachment 0010 shall be equal to the Total Proposed Price found on Attachment 0005." RFP Amend. 4, § L.5.1.8. The record shows that SRI's attachment 5 indicated a "Total Proposed Price" of \$128,384,472, while attachment 10 indicated a "Total Estimated dollar value" of \$115,183,421.72. SRI Proposal, Attach. 5, Cost/Price Matrix; SRI Proposal, Attach. 10, Teaming Matrix. The difference between these two figures is equal to the ODC plug number set forth in the RFP.

Although SRI contends that the two figures would have matched if the agency had added the ODC plug number to the "Total Estimated dollar value" in the protester's attachment 10, an agency is not required to adapt its evaluation to comply with an offeror's submissions--the question is not what an agency could possibly do to cure a noncompliant submission, but, rather, what it is required to do. American Sys. Corp., B-409632, June 23, 2014, 2014 CPD ¶ 188 at 4 (rejecting protester's argument that omission was a "minor formal defect" and finding that agency reasonably found proposal unacceptable where proposal required agency to perform calculations in order to determine whether proposal was compliant); Herman Constr. Group, Inc., B-408018.2, B-408018.3, May 31, 2013, 2013 CPD ¶ 139 at 3. Moreover, where, as here, proposal submission requirements are clear, an agency is not required to assume the risks of potential disruption to its procurement to permit an offeror to cure a defect in its proposal submission caused by the offeror's failure to comply with a mandatory solicitation requirement. American Systems Corp., *supra*. Therefore, we find the agency reasonably found SRI's proposal to be noncompliant and ineligible for award.

The protester further asserts that, if its proposal was inconsistent with the terms of the solicitation, the inconsistency resulted from an ambiguity in the solicitation. Protest at 12-13. In this regard, SRI argues that, when reading the solicitation as a whole, the protester reasonably interpreted the RFP requirement that the total estimated dollar value in attachment 10 shall be equal to the total proposed price in attachment 5 to mean that "the labor values that SRI was to provide in each Attachment were to be equal and consistent." Protest at 12. The protester contends that attachment 10, which was provided in the RFP, did not have a space to include ODCs, and therefore indicated that offerors were not required to provide this information. Protest at 7.

An ambiguity exists where two or more reasonable interpretations of the terms or specifications of the solicitation are possible. A party's particular interpretation need not be the most reasonable to support a finding of ambiguity; rather, a party need

only show that its reading of the solicitation provisions is reasonable and susceptible of the understanding that it reached. DynCorp Int'l LLC, B-289863, B-289863.2, May 13, 2002 CPD ¶ 83 at 8.

In our view, the RFP's requirement that the “total estimated dollar value . . . on Attachment 0010 shall be equal to the Total Proposed Price found on Attachment 0005” is unequivocal and clear. RFP Amend. 4, § L.5.1.8 (emphasis added). The quoted provision requires the totals on these attachments, not merely the labor values, to be equal.

Moreover, the protester's interpretation of the solicitation is not reasonable. SRI argues that the RFP should be interpreted to mean that (1) attachment 5 and 10 must reflect the same total amount, but also that (2) the ODCs and 6-month option should only be addressed “where included.” See Comments at 3. However, nothing in the RFP supports the protester's proposed reading of the solicitation. In fact, we note that, while SRI argues repeatedly that attachment 10 did not contain a space for the insertion of the ODC plug number, Protest at 9; Comments at 2, SRI appropriately inserted the cost of a “6 month extension” in row 6, above the “total” line on that form. SRI Proposal, Attach. 10, Teaming Matrix (emphasis added). SRI has not explained why it could not have similarly inserted the ODC plug number in row 7 (another empty row directly above the “total” line on the form). Id. Given SRI's revisions to its attachment 10, the protester cannot demonstrate that its interpretation of the RFP is reasonable, that is, that offerors were prohibited from adding additional information to attachment 10, and that offerors were therefore required only to ensure that the total price for attachments 5 and 10 were identical as to CLINS 1-3. Since SRI's interpretation is not a reasonable interpretation of the solicitation's requirements, we find that SRI has failed to demonstrate any ambiguity in the solicitation.⁴

The protest is denied.

Susan A. Poling
General Counsel

⁴ The protester also contends that, if offerors are required to include the ODC plug number in the Teaming Matrix (Attachment 10), it will produce misleading evaluations of offerors' teaming matrixes. Protest at 13-14. Since this issue amounts to a challenge of the terms of the solicitation, but was filed after the closing date for receipt of proposals, it is an untimely challenge to the terms of the solicitation. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1).