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Decision

Matter of: Dellew Corporation

File: B-407159

Date: November 16, 2012

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DIGEST

Protest that terms of solicitation for logistical support failed to provide adequate workload data on which offerors could base their proposals is denied where the solicitation's provision of notional equipment density, percentages of equipment types, and key staffing positions by installation was sufficient information on which offerors could compete intelligently and on a relatively equal basis.

DECISION

Dellew Corporation protests the terms of request for proposals (RFP) No. W52P1J-12-R-0004, issued by the Department of the Army, Army Materiel Command (AMC), for integrated logistics support services (ILSS-2). Dellew asserts that the Army failed to provide sufficient historical workload data concerning the solicitation.

We deny the protest.

BACKGROUND

The U.S. Army Sustainment Command (ASC) serves as AMC's executive agent for property operations in South West Asia, the Continental U.S. (CONUS), and the U.S. Army Pacific Command in support of the execution of the Army's multi-faceted materiel management process. In this role, ASC has a requirement for logistics support, property accountability services, and maintenance, including professional readiness management, for several programs, including Left Behind Equipment

(LBE), Unit Maintained Equipment (UME), Theater Provided Equipment, Pre-deployment Training Equipment (PDTE), Property Accountability Augmentation Teams (PAAT), and Supply Support Activity (SSA). Support services are to be performed in accordance with the performance work statement (PWS), setting forth primarily performance-based requirements which rely on the contractor's experience in order to determine the methods to meet the requirements. The RFP encompasses three regions: the 401st Army Field Support Brigade (AFSB) (Afghanistan), 404th AFSB (Pacific), and 406th AFSB (CONUS East). The RFP contemplated the award of one contract for each region, each with a 1-year base period with 2 option years. The 404th AFSB, a small business set-aside, is the only aspect of the RFP protested by Dellew.

The solicitation included both fixed-price (FFP) and cost reimbursable (CPFF) contract line items (CLIN), broken down by site (e.g., Fort Lewis) and program requirement (e.g., LBE/UME, PDTE, etc.). Overall, the base year included 76 CLINs, 43 of which were CPFF. The fixed-price CLINs included base staff at each site, comprised of seven PWS-identified key positions, such as a program manager, property book team chief, logistics analyst, and master supply technician. Offerors could also include 10 non-key positions in the base staff, including data entry clerks, administrative assistants, equipment operators, inventory specialists, and various warehouse personnel for SSA work. The cost reimbursable CLINs included transition-in labor and surge staff. Offerors were instructed to carefully consider the location, workload and any other relevant factor(s) so as to staff the FFP requirement in the most cost effective and efficient manner. RFP § 3.H. No minimum or maximum number of employees or materials was specified.

Offerors were to prepare their offers using provided program workload data for each type of required work at each installation, expressed as density (i.e., the total number of commodities at an installation), with percentages for each commodity type. Question/Answer Nos. 118, 120; RFP attach. 18. The workload data was in proportion to, but not the actual current workload at each site. Supplemental Agency Report (SAR) 1 at 2. Further, the RFP did not otherwise include historical workload data. When Dellew requested the government to provide historical data, including the type and number of transactions performed on an annual basis, the agency responded that: "Historical workload data is not available at this time and has minimal impact to the workload required." Question/Answer No. 87. Offerors were instead referred to RFP attachment 18 (the notional program workload data). Id. On June 19, 2012, Dellew again requested additional information, including, e.g., the number of wheeled and tactical vehicles within the identified density figures and percentages; the specific equipment used in exercises; the hours per exercise; and the annual hours for each FTE. In response, the agency explained that "[t]he data requested would present an unacceptable operational security risk. All applicable density information has been provided." RFP amend. 0006.

On June 8, Dellew submitted a question requesting a site visit for the 404th Region, to which the agency responded (on June 15) that it would “conduct site visits on an as needed basis.” Question/Answer No. 86. No other offerors requested site visits. Agency Report (AR) at 9. On June 18, Dellew emailed the contracting officer requesting “an immediate site visit for Schofield Barracks, Hawaii,” part of the 404th Region. Protest attach. 6. The agency did not respond to this request prior to the June 25 closing date for receipt of proposals. Dellew did not submit a proposal; instead, prior to the closing time, Dellew filed an agency-level protest challenging the lack of a site visit and the lack of more detailed workload data. The agency denied that protest on August 9, and Dellew then filed this protest with our Office.

DISCUSSION

Dellew asserts that the RFP was flawed because it failed to provide sufficient historical workload data for prospective offerors to calculate their fixed pricing for staffing. In the protester’s view, by furnishing only the notional data, without more, the agency prevented it from assessing the number of full time employees (FTE) necessary to meet the performance obligations and provided incumbent offerors with an unfair advantage. According to the protester, but for the agency’s failure to provide more information, Dellew, with its “substantial history” performing similar contracts and 17 years of managing and operating logistics contracts at Schofield Barracks, could have submitted a successful proposal. Protest at 2.

As a general rule, a contracting agency must give sufficient detail in a solicitation to enable offerors to compete intelligently and on a relatively equal basis. Crown Contract Servs., B-288573, Oct. 31, 2001, 2001 CPD ¶ 179 at 2. Further, when an agency solicits offers for a requirements contract on the basis of estimated quantities, the agency must base its estimates on the best information available. While the estimates need not be absolutely correct, the estimated quantities must be reasonably accurate representations of anticipated needs. Inventory Accounting Serv., Inc., B-271483, July 23, 1996, 96-2 CPD ¶ 35 at 2-3.

Dellew has not established that the solicitation failed to include adequate information for preparing a proposal. While Dellew asserts that the agency should have provided more specific information, the record shows that this was not reasonably possible or necessary. In this regard, the record indicates that the number of pieces of equipment (density) and location of equipment under the programs covered by this solicitation have been fluctuating due to policy decisions and unit deployments, with the specific amount of labor required in the future likewise expected to change from site to site and from month to month. Agency Report (AR) at 5, 7. Due to these fluctuations, actual workload data was obsolete before the solicitation was issued. Further, more specific information was deemed

by the agency sensitive and/or classified and thus unavailable to all offerors.¹ AR at 3; SAR 1 at 3; SAR 2 at 1. Accordingly, the agency provided only the notional data for offerors' use. SAR 1 at 3.

Further, the record indicates that the notional data was reasonably related to likely workload. In this regard, in calculating the notional data, the agency took actual workload data for each installation for the 2 months prior to issuing the RFP, which best represented the requirements at that time. SAR 2 at 2. These figures were slightly randomized in order to provide numbers that were realistic, but avoided the release of sensitive specific equipment densities. Id. at 1. In this regard, the record shows that the notional density data for each installation was within 1% of the actual figures for the preceding months. SAR 2 at 1.

In addition, the record indicates that the notional data, in conjunction with the other provisions and data in the solicitation, furnished offerors an adequate basis for preparing their proposals without undue risk. In this regard, the notional data provided total equipment density for each type of work (LBE, PDTE, and PAAT) for each installation within a specific region. RFP attach. 18. The notional data further specified the percentage of commodities within each work type at each installation. For example, for Fort Lewis in the 404th Region, the RFP identified the LBE density as 1,350 commodities, of which 34% represented tactical vehicles, 32% non-MSI (maintenance significant items), and 12% medical and dental equipment. RFP attach. 18. (Other commodities, such as construction equipment, non-tactical wheeled vehicles (commercial design), communications equipment, and ammunition were identified as 2% to less than 1%. Id.) The PWS also identified the scope of work and key personnel for each work type. In addition, the data necessary for scheduling and determining the numbers of required personnel were available from several open sources, such as the Army's maintenance allocation chart, which includes the standard times for all service work. AR at 3.

The agency has further explained how the offerors could use the notional information to arrive at a bottom-up calculation of the fixed-price, base personnel requirements for each installation. SAR 1 at 4-8. For example, as explained by the agency, a basis of estimate for the staffing mix for a typical installation, such as

¹ Army logistics data is considered sensitive, and the Army is prohibited from providing the data over commercial networks, such as email or FedBizOpps. Army Regulation 25-2, ¶ 1-5. According to the agency, digital forms of the information can only be provided to offerors with Army-accredited information systems. SAR 2 at 3. While hard copy versions could be furnished, the agency states that they would be unusable because any recreation of the data in electronic form, without use of an accredited system, would be prohibited. Id. Since not all offerors had accredited systems, the agency provided the notional data in order to open the competition to a larger group of competitors. Id.

Fort Lewis, begins with a fixed management staff that will not vary based on workload. Using the equipment density figure of 1,350 units, as broken down by the equipment type percentages, and the average times for preventative maintenance for the different equipment, an offeror could calculate the number of operators needed, in addition to master supply technicians and managers, a property book team chief, an assistant program manager, and a program manager. SAR 1 at 7-8. Moreover, the agency expected the fixed price, fixed base staffing to be minimal and without fluctuation, with the majority of labor costs instead under the cost-reimbursable surge CLINs, leaving the agency to absorb the risk of unforeseeable equipment densities/labor requirements. AR at 5, 7.

Noting that the actual workload numbers fluctuated up or down at each installation (ranging from 4% to 22%) in the 2 months following the RFP, Dellew asserts that it was arbitrary not to provide a larger pool of data (e.g., 3, 6, or 12 months). Final Comments at 2. In our view, however, the solicitation's data was reasonable. In this regard, given the fluctuating nature of the agency's requirements which made historical data untrustworthy, the security limits on providing more specific information, and the totality of the available data, the agency reasonably determined that the notional data (coupled with offerors' own experience in these types of contracts) provided Dellew and the other offerors with sufficient information to prepare a proposal. In particular, Dellew has not shown that furnishing additional historical data, data which because of the fluctuations was an unreliable predictor of future workloads, would have better enabled offerors to anticipate such fluctuations. In addition, further supporting the conclusion that the RFP contained sufficient information for offerors to compete intelligently is the fact that the Army received eight proposals for the 404th Region, four of which were evaluated as technically acceptable, and none of which indicated that the offeror viewed the specifications as inadequate. See Metfab Eng'g, Inc.; Mart Corp., B-265934, B-265934.2, Jan. 19, 1996, 96-1 CPD ¶ 93 at 3. Under these circumstances, the agency's decision not to provide more detailed workload data was unobjectionable.²

² Similarly, we find unobjectionable the agency's refusal to provide Dellew with a site visit to Schofield Barracks, one of the 404th Region's four installations. In this regard, site visits and pre-proposal conferences are held at the discretion of the contracting agency when necessary to clarify contract requirements. Caltech Serv. Corp., B-240726, Dec. 18, 1990, 90-2 CPD ¶ 497 at 5. Here, in our view, since the RFP provided sufficient information on which offerors could base their proposals, as evidenced by the fact that no other offeror requested a site visit, the failure to provide Dellew with a site visit was not an abuse of the agency's discretion. (Indeed, given Dellew's claimed 17 years of managing and operating logistics contracts at Schofield Barracks, Protest at 2, it is especially not clear what value a site visit would have had for Dellew.)

As for Dellew's argument that potential incumbent offerors would possess an unfair competitive advantage, the government is not required to compensate for a competitive advantage derived from a firm's status as the incumbent contractor, unless the advantage resulted from improper preferential treatment or unfair action. The Mangi Envtl. Group, Inc., B-299721.3, Aug. 2, 2007, 2007 CPD ¶ 144 at 3. Dellew has not shown the existence of either improper preferential treatment or unfair action in this regard. In any case, we note that Dellew could not have been competitively prejudiced by any alleged advantage possessed by the incumbent contractors because the record shows that no incumbent offerors submitted proposals for the 404th Region. See Joint Mgmt. & Tech. Servs., B-294229, B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 7 (prejudice is an essential element of every viable protest).

The protest is denied.

Lynn H. Gibson
General Counsel