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**Comptroller General
of the United States**

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

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Decision

Matter of: Anwar Al-Anduols

File: B-401550; B-401550.3

Date: September 22, 2009

Dorothy E. Terrell, Esq., Jonathan D. Shaffer, Esq., and Mary Pat Gregory, Esq., Smith Pachter McWhorter, for the protester.

Robert B. Neill, Esq., Department of the Army, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly evaluated proposal as unacceptable is denied where record shows agency reasonably determined that materials list and conceptual layout required by solicitation were inadequate or incomplete.

DECISION

Anwar Al-Anduols of Iraq protests the Department of the Army's rejection of its proposal as unacceptable under request for proposals (RFP) No. W91GY0-09-R-0028, for the design and construction of buildings and facilities in Iraq.

We deny the protest.

The RFP called for the design and construction of buildings and facilities, including an operations center, toilets and showers, a medical clinic, generator plants, a distribution center for electrical power, a water supply and distribution center, a reverse osmosis system, a water tank and pumping facility, and a facility for waste water treatment. RFP, Statement of Work. The RFP provided for award to the offeror that submitted the lowest priced, technically acceptable proposal. A technical proposal would be deemed acceptable where:

The contractor submits a technical proposal containing a Design Package which clearly demonstrates the proposed method of construction and includes details which demonstrates a logical solution for the method of construction being proposed and include the following:

* * * * *

Conceptual Layout with major utility connections (buildings, major parking lots, road layout, substations, transformers, location of connections to material sources)

Materials list that clearly describes what materials will be used for the proposed method of construction....

RFP § M.

Anwar's proposal was evaluated as technically unacceptable based on a finding that it included an incomplete materials list and an inadequate conceptual layout. As for the materials list, the agency found that the proposal listed materials for the exterior construction of the K-span type buildings described in its proposal, but did not list the materials needed to construct the interior of the K-span buildings. Agency Report (AR) at 8. The agency further found that the proposal included basic diagrams for a medical building and toilets and showers that did not appear to be of K-span construction, but neither indicated how these facilities would be constructed, nor listed the materials needed to construct them (*i.e.*, for the walls, roof, plumbing and electrical system). *Id.* at 7. Regarding the conceptual layout, the agency found that, while Anwar's proposal identified a water treatment plant, it did not identify any electrical substations or transformers, and also did not identify the locations of connections to commercial sources of water and electricity, as required. *Id.*

Anwar asserts that, since the solicitation required a list of materials only for the "proposed method of construction," it was not required to provide a materials list for the entire project. According to Anwar, its "proposed method of construction" was the use of K-spans, so it was required to, and did, provide a material list only for the K-spans. Anwar concludes that it was unreasonable for the agency to reject its proposal as unacceptable based on this reason.

In reviewing a protest of an agency's proposal evaluation, it is not our role to reevaluate proposals. Rather, we will consider only whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. CWIS, LLC, B-287521, July 2, 2001, 2001 CPD ¶ 119 at 2.

We think the protester reads the RFP language too narrowly. While the protester proposed a K-span-based approach for the structure of the buildings, nothing in the quoted language, or elsewhere in the RFP, limited the required materials list to only the structural elements of the buildings. Rather, the term "proposed method of construction," on its face, appears to relate to all aspects of the buildings' construction—including the interior space—and this is the interpretation the agency states was intended. See AHNTECH, Inc., B-291998, Apr. 3, 2003, 2003 CPD ¶ 90 at 4 (GAO relies on plain meaning of language to interpret solicitation). Anwar did not include on its list the materials needed to complete the interior of the K-span

buildings, and also did not include a materials list for the buildings that were not being built with K-span construction. Thus, we find no basis to question the agency's determination that the materials list in Anwar's proposal was deficient.

As for the conceptual layout, Anwar asserts that its proposal did in fact include an electrical substation, but that it was mislabeled on the layout diagram. However, as the location of the substation was not apparent on the layout, the agency reasonably determined that the layout was inadequate. Anwar argues that the agency should have requested Anwar to clarify this point; however, agencies are not required to request clarifications. Federal Acquisition Regulation (FAR) § 15.306; Government Telecomm., Inc., B-299542.2, June 21, 2007, 2007 CPD ¶ 136 at 8. As for the missing utility connections, Anwar asserts that the solicitation only required that they be established during construction. However, as the above-quoted RFP language shows, the RFP specifically required the utility connections to be shown as part of the conceptual layout. Since the connections were not shown, the agency reasonably determined that the conceptual layout in Anwar's proposal was inadequate.¹

Based on the foregoing, the agency reasonably determined that Anwar's proposal was unacceptable.

The protest is denied.

Daniel I. Gordon
Acting General Counsel

¹Anwar asserts that the connections could not realistically be identified at this stage of the design because they had to be coordinated with appropriate Iraq utility ministry during the design phase of the project. This argument is untimely. The identification of the location of the connections was required by the solicitation and Anwar did not protest the requirement prior to the closing time for proposals, as required under our Regulations for protests of alleged solicitation deficiencies. 4 C.F.R. § 21.2(a)(1) (2009).