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**Comptroller General
of the United States**

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

Decision

Matter of: Olympus Building Services, Inc.

File: B-411474; B-411474.2; B-411474.3

Date: July 30, 2015

Ruth E. Ganister, Esq., Rosenthal and Ganister, LLC, for the protester.
Cheryl A. Smith, Esq., Department of Defense Education Activity, for the agency.
Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

1. Protest that solicitation for custodial services for schools does not require specific experience providing janitorial and custodial services for schools is dismissed as GAO will not consider protests that solicitations should be made more restrictive.
2. Protest that solicitation requires an inadequate number of custodians (two) per shift is denied where protester has misinterpreted the solicitation; while the solicitation indicates that a proposal will be rated unacceptable if it does not include at least two custodians at each school per shift, the solicitation further provides that to be deemed acceptable, a proposal must include a sufficient, detailed plan, including sufficient personnel, to perform all of the requirements of the performance work statement in a timely manner.
3. Protest that award should be based on the best value to the government rather than on the basis of the lowest-priced, technically acceptable proposal is denied where the agency reasonably determined that it could meet its needs using the later approach.

DECISION

Olympus Building Services, Inc., of Tempe, Arizona, protests the terms of request for proposals (RFP) No. HEVAS6-15-R-0001, issued by the Department of Defense Education Activity, Domestic Dependent Elementary and Secondary Schools, for janitorial and custodial services at the Fort Campbell School System in Kentucky.

We deny the protest in part and dismiss it in part.

The solicitation, for custodial and janitorial services at six elementary schools, two middle schools, and one high school, requires the successful contractor to provide daily and periodic janitorial and custodial services, other services (such as moving furniture), and support for specified events, such as athletic events and performances. RFP, Performance Work Statement (PWS), § 2.8. The solicitation provides for contract award to the offeror that submits the lowest-priced, technically acceptable offer. Proposals will be evaluated as acceptable or unacceptable for the following non-price factors: technical approach; management approach; quality control plan; and past performance. RFP at 5-7.

Olympus, the incumbent contractor, challenges several aspects of the terms of the solicitation. As an initial matter, Olympus protests that the solicitation improperly does not require specific experience providing janitorial and custodial services for schools. According to Olympus, providing janitorial and custodial services for schools is different than providing these services at federal office buildings, and thus requires that specialized experience be required. Protest at 4-9.

Olympus is essentially complaining that the requirements are not sufficiently restrictive. Generally, our Office will not consider protests that specifications should be made more restrictive since our role in reviewing bid protests is to ensure that the statutory requirements for full and open competition are met, not to protect any interest a protester may have in limiting competition through more restrictive specifications. Platinum Services, Inc.; WIT Associates, Inc., B-409288.3 et al., Aug. 21, 2014, 2014 CPD ¶ 261 at 6. Accordingly, this basis of protest is dismissed.

Olympus also protests that the solicitation only requires a minimum of two custodians at each school for each of the day and evening shifts, which, according to the protester, is not a sufficient number of staff to perform the tasks listed in the PWS. Olympus asserts that since the solicitation defines an acceptable rating as meeting the minimum requirements of the solicitation, an offeror proposing this minimum staffing would be evaluated as acceptable, and eligible for award, even though two custodians per shift is, in the protester's view, inadequate. Protest at 9-10.

Olympus' protest in this regard is based upon a misinterpretation of the solicitation. In this regard, we will resolve controversies over the meaning of a solicitation by reading it as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. Alluvium LLC, B-297280, Dec. 15, 2005, 2005 CPD ¶ 223 at 2.

Olympus essentially argues that the agency has improperly estimated the required custodial work under the PWS. Where an agency establishes an estimate of its

requirements in a solicitation, the estimate must be established in good faith, based on the best information available, and accurately represent the agency's anticipated needs. CW Government Travel, Inc.--Reconsideration, et al., B-295530.2, et al., July 25, 2005, 2005 CPD ¶ 139 at 7.

Here, however, it is clear from the solicitation when read as a whole that the agency was not setting forth in the solicitation an estimate of required custodians, but is instead simply indicating the minimum required staffing for the proposal to receive further consideration. In this regard, the agency explains that the stated minimum staffing levels are required to perform the immediate needs during the school day and evening shift, but this is not the only staff the contractor is required to provide to be acceptable. Agency Report at 6-7.

Further, nothing in the solicitation indicates that an offeror proposing only two custodians for each of the shifts without any regard to the work to be performed will be rated acceptable. While the solicitation requires that for each of the day and evening shifts the contractor must provide a minimum of two custodial workers at each school, PWS §§ 2.6.2.2, 2.6.2.3, the solicitation also sets out a detailed list of tasks that the contractor must perform (e.g., sweep and mop restroom floors) with the required frequency; details regarding the square footage of the various areas of the school (e.g., classrooms with carpet); and additional relevant details (e.g., the number of toilets). Offerors are required to propose a sufficient number of trained custodial workers and laborers to promptly perform the required work. PWS § 2.5.1.1. Further, offerors are instructed to include a detailed narrative of the offeror's management approach which discusses adequate manning, including the number of employees by type, number of hours and schedules worked for each type, sufficient oversight, and an effective custodian work schedule and cleaning schedule to ensure uninterrupted service. RFP at 5. Thus, while a proposal will be rated unacceptable if it does not include at least two custodians at each school per shift, the solicitation requires that to be deemed acceptable, a proposal must include a sufficient, detailed plan, including sufficient personnel, to perform all of the requirements of the PWS in a timely manner.

Olympus next protests that the agency should have issued the solicitation with award based on a best value basis, rather than on the basis of the lowest-priced, technically acceptable proposal. Protest at 10-12. Agency acquisition officials, however, have broad discretion in the selection of the evaluation criteria that will be used in an acquisition, and we will not object to a particular method as long as the method used reasonably relates to the agency's needs in choosing a contractor that will best serve the government's interests. Crewzers Fire Crew Transport, Inc., B-402530, B-402530.2, May 17, 2010, 2010 CPD ¶ 117 at 3; PDL Toll, B-402970, Aug. 11, 2010, 2010 CPD ¶ 191 at 2.

The record here reflects that the agency reasonably determined that it could meet its needs using a lowest-priced, technically acceptable (LPTA) approach to the

source selection. In this regard, the agency reports that the services being procured are commercial in nature. Contracting Officer Statement at 2. Further, the solicitation includes a detailed performance work statement which the agency believes lowers the risk of unsuccessful contract performance. Id. Specifically, the PWS details the performance requirements, supported by a frequency chart, workload data, and historical information for special events. Id. at 3. Further, according to the agency, there is no perceived benefit in paying a higher price to perform work where the performance standards are so clearly defined in the PWS. Id. While the protester disagrees with the agency's conclusion that an LPTA approach to source selection would best meet the government's needs, that disagreement does not demonstrate that the conclusion is unreasonable.

Finally, Olympus argues that the solicitation does not provide sufficient information regarding additional tasks that the contractor will be required to perform to assist with a planned move from the old high school to a new high school yet to be built. Supplemental Protest at 2-3. In this regard, the solicitation as issued indicated that "Fort Campbell expects to open and close schools over the contract performance period," and that "[t]hese school openings and closings will be considered within the scope of this contract." PWS § 1.2. The solicitation further provided with respect to the openings and closings of schools that "[b]i-lateral modifications will be used to incorporate these changes into this contract based on the price list at attachment 4." PWS § 1.2.

The agency's approach is unobjectionable. There is no current requirement for a contractor to assist in a move from the old high school to a new high school that will be built. Further, if and when the requirement arises, the solicitation provides for a bilateral modification to the contract based on a price list included in the solicitation. In these circumstances, we find no basis for concluding that the agency's failure to include information regarding the specific tasks that the contractor will be required to perform when the new high school is completed imposed an unacceptable risk. See Abba Int'l, Inc. et al., B-311225.4, Feb. 2, 2009, 2009 CPD ¶ 28 at 7 (there is no requirement that a competition be based on specifications drafted in such detail as to eliminate all risk or remove every uncertainty from the mind of every prospective offeror).

The protest is denied in part and dismissed in part.

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General Counsel