



Decision

Matter of: URS Group, Inc.

File: B-402820

Date: July 30, 2010

Daniel F. Edwards, Esq., Thompson Hine LLP, for the protester.
Jeffrey M. Herrema, Esq., Environmental Protection Agency, for the agency.
Linda C. Glass, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest of the agency's rejection of the protester's proposal as technically unacceptable is denied, where the protester failed to establish that it possessed a top secret facility security clearance on the due date for receipt of proposals as required by the solicitation.

DECISION

URS Group, Inc., of Washington, D.C., protests the rejection of its proposal submitted under request for proposals No. (RFP) No. PR-CI-09-10342, issued by the Environmental Protection Agency (EPA) for technical support services to assist EPA in its water-security related activities. The protester argues that the EPA improperly rejected its proposal for failing to demonstrate that it had a top secret clearance as required by the solicitation.

We deny the protest.

BACKGROUND

The RFP, issued on February 22, 2010, contemplated the award of a cost-plus-fixed-fee contract to the firm whose proposal represented the best value to the government, price and other factors considered. RFP §§ L-4, M-1. The RFP advised offerors that the agency intended to evaluate offers and award a contract without discussions. RFP § L-1 (incorporating by reference Federal Acquisition Regulation (FAR) § 52.212-1). As relevant here, the RFP contained the following security clearance requirement:

(a) The Contractor must possess a facility clearance prior to the due date for receipt of proposals.

(b) The Contractor must possess prior to the due date for receipt of proposals clearance for personnel equal to the highest classification stated on the Contract Security Classification Specification (DD254), consistent with Section 3.1.7 of the Performance Work Statement, and maintain it throughout the life of the contract.

RFP § L.27. Offerors were required to comply with the DD254 and the National Security Information Handbook, both of which were attached to the RFP.

The DD254 required both a top secret facility clearance and a top secret safeguarding clearance.¹ RFP attach. 5. The RFP further required each offeror to submit a “complete demonstration” of its security clearance relative to the DD254 requirements. RFP attach. 9, at 9-7. The RFP stated that the agency would confirm that the offeror had a facility clearance in place by the due date for receipt of proposals, which would result in a pass or fail designation. The RFP specifically stated that “no offeror will be considered for award who fails this component.” Id.

URS submitted a timely proposal in response to the RFP. URS identified itself on the Standard Form (SF) 33 included in its proposal as URS Group, Inc., 2020 K Street NW, Suite 300, Washington, DC 20006, with a commercial and government entity (CAGE) code of 1N5H4 and a data universal numbering system (DUNS) number of 791684780. Agency Report (AR), Tab D.1, URS’s Proposal, at 1. In its technical proposal, to demonstrate its capability to provide for the control and storage of sensitive and classified data relative to the DD254 requirements, URS stated that under “CAGE code 1RD04” (which was a different CAGE code than was identified in the SF 33), the “URS office is listed in the DSS [Defense Security Service] Industrial Security Facilities Database (ISFD) with a Top Secret Facility Security Clearance with Top Secret safeguarding authorized.” Id. at 162. The facility identified in the technical proposal also had a different DUNS number, 868474099, than the facility identified in the SF 33. Id. In addition, URS’s technical proposal included “Security Standard Practice Procedures,” which identified EG&G Services as playing a role in helping URS in safeguarding sensitive and classified data. AR, Tab D.2, URS’s Proposal, at 1-2-2, 4-2-5, 5-2-1, 5-3-4, 9-2-1, 9-3-110-7-3, 11-1-1, 11-2-1. URS, however, provided no information about its relationship with EG&G, nor did URS provide any information on whether EG&G met any of the RFP’s security clearance requirements.

¹ A facility clearance generally consists of two components: the ability to provide personnel with appropriate security clearances and the capability of storing sensitive and/or classified data, referred to as safeguarding capability. Agency Legal Opinion, at 1 n.1. At issue in this protest is URS’s lack of a safeguarding clearance.

In investigating URS's security clearance, the contracting officer was advised by the EPA security officer that URS had two CAGE codes associated with the K Street address. Under CAGE code 1RD04, identified in URS's technical proposal to demonstrate compliance with the security requirements, the contracting officer was advised that URS could provide both a top secret facility clearance and top secret safeguarding clearance. AR, Tab G, Contracting Officer's Emails, at 2. However, under CAGE Code 1N5H4, identifying the offeror in the SF 33, the contracting officer learned that URS could provide employees with top secret clearances, but that URS could only safeguard material at this facility up to the secret clearance level. Id. The contracting officer also learned that the URS facility identified in the SF 33 as CAGE code 1N5H4 lost its top secret safeguarding clearance because URS was not using the alarm, which was required to store top secret material. AR, Tab F, Contracting Officer's Emails, at 1.

By letter dated April 30, 2010, the contracting officer notified URS that its proposal was deemed technically unacceptable because the proposal failed to conform to a material requirement of the RFP. Specifically, URS was advised that:

The DD Form 254 clearly requires TOP SECRET facility clearance and TOP SECRET safeguarding. Your proposal, which was submitted against CAGE Code 1N5H4, does not have TOP SECRET safeguarding clearance, and there is no indication that it has an approved agreement with URS Group, Inc (DC DoD/DOE)(CAGE Code 1RD04) to use the latter entity's TOP SECRET safeguarding clearance. In addition, the Defense Security Service has confirmed that URS lost its TOP SECRET safeguarding clearance under CAGE Code 1N5H4.

AR, Tab H, Letter from EPA to URS (Apr. 30, 2010), at 1.

After several failed attempts to convince the contracting officer that the two URS entities with the different CAGE codes were in fact the same entity and that its proposal met the security requirements of the RFP, URS, on May 5, 2010, filed this protest with our Office.

DISCUSSION

URS argues that it fully complied with all RFP requirements and maintains that it did demonstrate that it possessed a facility with a top secret safeguarding clearance prior to the due date for receipt of proposals, namely its facility with CAGE code 1RD04.

In reviewing protests of alleged improper evaluations, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws. L-3 Commc'ns Westwood Corp., B-295126, Jan. 19, 2005, 2005 CPD ¶ 30 at 5. It is an offeror's

responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. CACI Techs., Inc., B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5. In this regard, an offeror must affirmatively demonstrate the merits of its proposal and risks the rejection of its proposal if it fails to do so. HDL Research Lab, Inc., B-294959, Dec. 21, 2004, 2005 CPD ¶ 8 at 5.

URS argues that the EPA misunderstood URS's corporate structure, and that URS fully complied with the requirements of the RFP because the proposal identified the specific CAGE code of the facility that maintains a top secret safeguarding clearance. URS explains that URS Group, Inc., is composed of multiple facilities existing as a single entity, referred to as a "Multiple Facility Organization." According to the protester, the facilities that comprise URS Group, Inc., have different CAGE codes; the facility with CAGE code 1N5H4 (which was listed in the SF 33 as the offeror) is the headquarters and does not have a top secret safeguarding clearance, but the facility with CAGE code 1RD04 (which was listed in the technical proposal) is a subordinate facility of the headquarters and does have a top secret safeguarding clearance. Protest at 4. URS maintains that the headquarters facility can use the security clearance of its subordinate facility without the two facilities entering into a written agreement because the two facilities are the same legal entity operating out of the same physical location. URS asserts that its identification of different CAGE codes in the SF 33 and its technical proposal is irrelevant. Id. at 4-6.

We do not agree that the identification of different CAGE codes is irrelevant, or that two entities with different CAGE codes are the same for purposes of this procurement. CAGE codes are assigned by the Defense Logistics Agency and are assigned to discrete business entities for purposes of executing payments under government contracts and to track the ownership of technical data. National Found. Co., B-253369, Sept. 1, 1993, 93-2 CPD ¶ 143 at 2 n.1. Similarly, the DUNS numbering system is established by Dunn & Bradstreet Information Services, and discrete 9-digit numbers are assigned for purposes of establishing the precise identification of an offeror or contractor. See FAR §§ 4.605(b); 4.607. On an SF 33, the CAGE code and DUNS number are used to identify the entity that is the offeror for a given procurement. On the SF 33 here, those numbers for the offering entity are different than the numbers in the proposal for the entity with the top secret safeguarding clearance.

As stated above, the RFP required offerors to have the appropriate security clearance by the due date for receipt of proposals. RFP § L.27. The RFP stated that the agency would confirm that the offeror had the appropriate clearance in place by the due date, and that offerors without the proper clearance would not be considered for award. RFP attach. 9, at 9-7. After determining that the URS entity that submitted the proposal in response to the RFP, listed on the SF 33 with CAGE

code 1N5H4, did not have the appropriate clearance, the agency rejected URS's proposal.² Based on our review of the record, we find this action unobjectionable.

In further support of its argument that the agency improperly rejected its proposal, URS asserts that its technical proposal committed the resources of the subordinate facility with CAGE code 1RD04, which possesses a top secret safeguarding clearance, to perform the contract. Comments at 3. However, the record shows that URS failed to submit a complete demonstration of its security clearance relative to the DD254, as required by the RFP. Not only do the SF 33 and technical proposal identify two different entities with different CAGE codes and DUNS numbers, but also URS never explained in its proposal the relationship between the two entities. Moreover, URS, in its proposal, identified another entity that would be aiding the firm in its performance of the safeguarding requirements; and it never identified its relationship with this firm, provided the CAGE code or DUNS number for this firm, or provided any evidence of this firm's ability to handle and possess top secret information.

In summary, the protester failed in its responsibility to clearly demonstrate compliance with the RFP security requirements. The record supports the reasonableness of the agency's decision to find the proposal unacceptable for failure to demonstrate that it satisfied the RFP security requirements.³

The protest is denied.

Lynn H. Gibson
Acting General Counsel

² As noted above, the offering entity with CAGE code 1N5H4 lost its top secret clearance prior to the due date for receipt of proposals.

³ To the extent the protester asserts that the agency should have clarified URS's top secret clearance status through clarifications or discussions, the RFP stated that discussions would not be conducted and clarifications were not appropriate to cure the material proposal deficiency at issue here. See FAR § 15.306(a)(2); eMind, B-289902, May 8, 2002, 2002 CPD ¶ 82 at 5.