



G A O

Accountability * Integrity * Reliability

Comptroller General
of the United States

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: Honeywell Technology Solutions, Inc.

File: B-407159.4

Date: May 2, 2013

Scott M. McCaleb, Esq., John W. Burd, Esq., and Collin D. Swan, Esq., Wiley Rein LLP, for the protester.

John E. Jensen, Esq., Daniel S. Herzfeld, Esq., Clare M. Cavaliero, Esq., and Evan David Wesser, Esq., Pillsbury Winthrop Shaw Pittman LLP, for SENTEL Corporation; and Janice Davis, Esq., Davis & Steele, and Richard O. Duvall, Esq., and Oliya S. Zamaray, Esq., Holland & Knight LLP, for Strategic Resources, Inc., intervenors.

Debra J. Talley, Esq., and Leslie A. Nepper, Esq., Department of the Army, for the agency.

Paul E. Jordan, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency did not abuse its discretion in establishing minimum criteria for determining relevance of past performance efforts where those criteria represent efforts similar, although not the same, in scope, magnitude, and complexity as those in solicitation requirements.

DECISION

Honeywell Technology Solutions, Inc. (HTSI), of Columbia, Maryland, protests the Department of the Army, Army Materiel Command's, amendment of request for proposals (RFP) No. W52P1J-12-R-0004, for integrated logistics support services (ILSS-2). HTSI asserts that the amendment of the past performance evaluation scheme is improper.

We deny the protest.

The RFP contemplates the award of three contracts, one for each region, to provide logistics support, property accountability services, and maintenance in the following regions: the 401st Army Field Support Brigade (AFSB) (Afghanistan), 404th AFSB (Pacific), and 406th AFSB (Continental United States, East). Proposals were to be

evaluated on a “best value” basis considering the following evaluation factors: technical, past performance, cost/price, and (for the 406th only) small business participation.

As originally issued, the RFP provided that the government would evaluate past performance “to determine how relevant a recent effort accomplished by the Offeror is to the ILSS-2 mission utilizing the relevancy ratings provided on [RFP] page 99.” RFP at 97. The government was then to perform a performance confidence assessment on those efforts deemed relevant, but would not consider further those efforts deemed not relevant. Id. “Relevant” contracts were defined as those which “involved similar scope and magnitude of effort and complexities this [RFP] requires,” and “not relevant” contracts were defined as those which “involved little or none of the scope and magnitude of effort and complexities this [RFP] requires.” RFP at 99. The adjectival ratings for relevant contracts included substantial, satisfactory, limited, no, and unknown, confidence. Id.

HTSI and SENTEL Corporation were among five offerors submitting proposals for the 401st Region; HTSI and Strategic Resources, Inc. (SRI) were among six offerors submitting proposals for the 406th Region. All three of these offerors’ proposals were evaluated as acceptable under the technical factor. Under the past performance factor, SENTEL’s and SRI’s proposals were evaluated as substantial confidence, while HTSI’s proposal was evaluated as [deleted]. Although HTSI’s [deleted] proposed by SENTEL and SRI, the source selection authority determined that their higher past performance ratings made them the best value for award of contracts for their respective regions. After a debriefing, HTSI filed a protest with our Office.

HTSI, as the incumbent contractor in both the 401st and 406th Regions, challenged the past performance evaluations of its own and the awardees’ proposals, including its view that the awardee’s past performance was not comparable in scope, magnitude, and complexity to the RFP. After review of the agency report (AR) and comments on the AR, our Office requested a supplemental AR and comments from all parties. Based upon a review of these submissions, the GAO attorney handling the protest conducted a telephone conference with the parties discussing various issues requiring additional responses and/or a hearing. In response, the agency took corrective action and our Office then dismissed the protest as academic (B-407159.2, Dec. 14, 2012).

As part of its corrective action, the agency provided the offerors with a spreadsheet detailing the relevance considerations (subelements) that it intended to apply in determining whether a particular past performance effort was similar in scope, magnitude, and complexity to the RFP. Subsequently, the agency amended the RFP to include the spreadsheet information as part of the past performance, relevance evaluation criteria. This protest followed.

HTSI challenges the minimum requirements for determining relevance, asserting that none of them represent the actual or comparable levels of size, magnitude of effort, or complexity as those in the incumbent contracts performed by HTSI or the levels indicated in the ILSS-2 solicitation. HTSI asserts that the minimum requirements for determining relevance of past performance efforts instead should be increased to further limit the past performance efforts considered in the performance confidence assessment.

For example, with regard to the 401st Region, the amended RFP requires that for a contract to be relevant, it must be one for providing property accountability services (scope) and involve a certain minimum level of complexity (either 500 transactions a week, or support at three or more locations). In addition, it must involve a minimum magnitude. In this regard, the amended RFP requires a minimum magnitude of either a \$20 million contract for 1 year, 200 hand receipts for 1 year, or 100 employees. HTSI notes that these numbers should be higher because SENTEL's awarded contract for ILSS-2 was \$50 million, HTSI's incumbent contract averaged [deleted] hand receipts per year, and HTSI employs [deleted] personnel. Protest at 8.

Similarly, with regard to complexity for the 406th region, the amended RFP requires a minimum of support for 25 unit identification codes (UIC) (customers), support at two or more locations, or support of three or more different types of equipment (e.g., wheeled, tracked, aviation, small arms, etc.). Under the scope requirement for the 406th Region, the contract also must be for property accountability services and field level maintenance. HTSI notes that under its incumbent 406th Region contract it supported upwards of [deleted] UICs in January 2011; it currently supports [deleted] sites; and it supports as many as [deleted] different types of equipment. Id. at 10.

HTSI further notes that the ILSS-2 requirements are significantly higher than the amended RFP's minimums for establishing that a past contract is relevant. For example, for the 401st Region, the RFP's notional figures call for 1,300 hand receipts, and for the 406th Region the ILSS-2 contractor will be required to maintain property accountability for nearly 15 brigade-sized elements. Id. at 8, 10.

As an initial matter, we note that SRI asserts that HTSI's protest of the minimum relevance levels set by the agency essentially are arguments that the solicitation should be more restrictive of competition. In this regard, the role of our Office 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 more restrictive specifications. Virginia Elec. & Power Co; Baltimore Gas & Elec. Co., B-285209, B-285209.2, Aug. 2, 2000, 2000 CPD ¶ 134 at 7-8. Whether or not this rule applies here, it is plain that HTSI's protest is without merit.

An agency is required to consider, determine, and document the similarity and relevance of an offeror's past performance information as part of its past

performance evaluation. The Emergence Group, B-404844.5, B-404844.6, Sept. 26, 2011, 2012 CPD ¶ 132 at 6; see Federal Acquisition Regulation §15.305(a)(2). As a general matter, since an agency is responsible for defining its needs and the best method for accommodating them, the evaluation of an offeror's past performance, including the agency's determination of the relevance and scope of an offeror's performance history to be considered, is a matter within the discretion of the contracting agency. MFM Lamey Group, LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10; Yang Enters., Inc., Santa Barbara Applied Research, Inc., B-294605.4 et al., April 1, 2005, 2005 CPD ¶ 65 at 5.

On this record, there is nothing to indicate that the agency abused its discretion. In this regard, the agency explains that its technical experts used their knowledge of the agency's requirements to establish minimums by region for each of the relevance criteria of scope, magnitude of effort, and complexity. AR at 4. Specifically, it calculated the requirements necessary to provide service to a deploying Army brigade (the typical size of deploying units), considering the needs for accountability and maintenance, as well as the need to support multiple locations. Id.; Contracting Officer's Statement at 2. Based on these calculations, the agency arrived at the minimum relevant experience requirements for the agency to be confident that an offeror meeting them would be capable of meeting the ILSS-2 requirements.

For example, based on the agency's experience, with regard to the magnitude of effort for the 401st Region (Afghanistan), the \$20 million per year minimum represents the average 1-year cost of service contracts in Southwest Asia (Iraq, Kuwait, and Afghanistan); the 200 hand receipts represent the minimum required for two to three brigades worth of equipment; and 100 employees is the average of five to seven property book teams. AR, Tab 112-1 (Rationales).

Likewise, with regard to the complexity of the 406th Region's work, the number of UICs is based on a typical infantry brigade combat team (the most commonly deployed element); the minimum number of sites was based on the agency's confidence that the ability to handle two or more locations indicated the capability to support multiple locations; and the minimum of experience with three types of equipment indicated an offeror's versatility and capability to handle the multiple types of ILSS-2 equipment. Id. Further, while the magnitude and complexity of HTSI's incumbent contracts for the 401st and 406th Regions are greater than those in the amended RFP's criteria, the agency explains that its requirements will continue to decrease throughout the life of the ILSS-2 contract, especially given the current federal budget constraints. Contracting Officer's Statement at 4.

Under these circumstances, HTSI's protest furnishes no basis for finding that the agency acted unreasonably in exercising its discretion in setting minimums for determining the relevance of past performance. As we have previously stated, there simply is no requirement that an agency's determination of relevance be

based on the same levels for scope, magnitude, and complexity as those under the incumbent contracts or the work anticipated by the solicitation. See e.g., AMI-ACEPEX, Joint Venture, B-401560, Sept. 30, 2009, 2009 CPD ¶ 197 at 4 (nothing inherently unreasonable in agency's determination that contract valued at approximately half the size of first option year was relevant); KIC Dev., LLC, B-309869, Sept. 26, 2007, 2007 CPD ¶ 184 at 3 (agency reasonably found offeror's past performance relevant where smaller prior contracts, though not equivalent in magnitude and scope, were sufficiently similar to current requirements).

HTSI also challenges the agency's failure to evaluate the relative relevance of an offeror's past performance effort. In this regard, the original RFP stated that the government would "determine how relevant a [past performance effort] is to the ILSS-2 mission utilizing the relevancy ratings provided on [RFP] page 99." The amended RFP deleted this language and instead provides for the government to "utilize the relevancy ratings provided on [RFP] page 99 to evaluate Offerors' past performance [efforts]." RFP at 99. While we could analyze the changes in this provision from the original to the amended version, there is simply no per se requirement that an agency weight differently the experience ratings given each offeror based on an assessment of the relative relevance of the offeror's prior contracts. University Research Co., LLC, B-294358.6, B-294358.7, Apr. 20, 2005, 2005 CPD ¶ 83 at 16. Thus, even if the original version of the solicitation anticipated an assessment of relative relevance--and we are not convinced that it did--the change made to the solicitation is unobjectionable.

The protest is denied.

Susan A. Poling
General Counsel