



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: Business Integra, Inc.

File: B-407273.22

Date: February 27, 2014

Joseph G. Billings, Esq. and Katherine B. Hill, Esq., Miles & Stockbridge P.C., for the protester.

Charles K. Bucknor Jr., Esq., Department of Homeland Security, for the agency.
Noah B. Bleicher, Esq. and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably found protester's proposal ineligible for award where protester failed to propose prices for every labor category as required by the solicitation.

DECISION

Business Integra, Inc., of Greenbelt, Maryland, protests the Department of Homeland Security's (DHS) decision not to award the firm a contract under the functional category 1, 8(a) small business track, of request for proposals (RFP) No. HSHQDC-11-R-10001, which DHS issued for information technology (IT) services. Business Integra challenges DHS's determination that its proposal was noncompliant due to the firm's failure to propose labor rates for all labor categories.

We deny the protest.

BACKGROUND

The solicitation, issued on November 1, 2010, is for the second generation of DHS's enterprise acquisition gateway for leading edge solutions II (EAGLE II) program.¹

¹ The RFP was amended 17 times during this procurement. Citations to the solicitation in this decision refer to the conformed version of the solicitation that was issued as part of amendment 5, unless otherwise indicated. See RFP, amend. 5, at 1-112.

The RFP anticipated the award of multiple indefinite-delivery/indefinite-quantity contracts, under which DHS would issue fixed-price, cost-reimbursement, time-and-materials, or labor-hour task orders for department-wide IT services.² RFP at 2, 90. The RFP provided that contracts would be awarded for a 5-year base period and a single 2-year option period. Id. at 2. The RFP advised offerors that awards would be made on a best-value basis considering price and the following non-price factors: corporate experience, past performance, program management, and staffing. Id. at 109. Pursuant to the RFP, a “manageable number” of awards would be made to offerors whose proposals were deemed most advantageous to the government. Id. at 108-109.

As relevant here, the RFP advised that DHS would evaluate price proposals for accuracy, completeness, reasonableness, and realism. Id. at 111. In this regard, the RFP instructed offerors to submit a pricing template in which the offeror was to detail its fully-burdened ceiling labor rates for each of the RFP’s 36 labor categories, as well as rates for materials, subcontracts, travel, and other direct costs for all contract periods.³ Id. at 103-104; see RFP, amend. 3, attach. L-1, Pricing Template, at 1-10. The RFP stipulated that offerors “shall propose fully burdened ceiling labor rates for **ALL** labor categories inclusive of all contract periods. . . .” RFP at 103 (emphasis in original). In this respect, the RFP expressly advised:

“Failure to offer ceiling rates for all labor categories and all contract periods will result in offer ineligibility. This means that the omission of a rate for just a single category will result in a material non-conformity in the proposed functional category.”

² The RFP identified an unrestricted and a small business set-aside track for proposal evaluation and award purposes. RFP at 108. Within each track, offerors competed for awards in one of three functional categories (FC): service delivery (FC1); IT program support services (FC2); and independent test, validation, verification and evaluation (FC3). Id. at 11-12, 109. For FC1, the small business track was further divided into four categories for evaluation and award: 8(a), Historically Underutilized Business Zone (HUBZone), service-disabled veteran-owned small business (SDVOSB), and all small business. Id. at 109. This protest concerns the agency’s evaluation of Business Integra’s proposal under the FC1, 8(a) small business track.

³ Within each of the RFP’s 36 different labor categories, offerors proposed rates for three different levels of experience and two different levels of security clearances. RFP, amend. 3, attach. L-3, Labor Categories and Qualifications, at 1; RFP, amend. 3, attach. L-1, Pricing Template, at 1-10. Additionally, the RFP required firms to propose one set of rates for performance at the government’s site and another set of rates for performance at the contractor’s site. RFP, amend. 3, attach. L-1, Pricing Template, at 1-10.

Id. at 112; see also id. at 105 (“Failure to offer ceiling rates for all labor categories and all contract periods . . . will result in Offeror ineligibility for award.”).

Prior to the solicitation’s closing date, 160 offerors—including Business Integra—submitted proposals under the 8(a) track for FC1. Agency Report (AR), Tab 5, Source Selection Evaluation Board (SSEB) Report, at 9. As relevant here, a business management and price evaluation panel (BMPEP) evaluated price proposals and documented their findings in a report that was provided to the SSEB and the source selection authority. With regard to Business Integra’s price proposal, the BMPEP found that the firm “left three labor rates blank” under one of the labor categories. AR, Tab 4, Business Management and Price Evaluation Report (BMPER), app. 1, Accuracy and Completeness Checks, at 52. In this respect, the record shows that for the “Level I Applications Systems Analyst - Secret or below” in the government site, Business Integra left the labor rate blank for year 5 and proposed “\$0.00” for each of the two option years.⁴ AR, Tab 7, Business Integra Proposal, attach. L-1, Pricing Template, at 1.

The BMPEP concluded that the omissions in Business Integra’s pricing template resulted in a “material non-conformity” with the RFP requirements. AR, Tab 4, Business Management and Price Evaluation Report (BMPER), app. 1, Accuracy and Completeness Checks, at 52. Consequently, Business Integra’s proposal was found to be ineligible for award. AR, Tab 5, SSEB Report, at 15. Following an agency debriefing, Business Integra filed this protest.

DISCUSSION

In its protest, Business Integra argues that DHS unreasonably found the firm’s proposal ineligible for award. Protest 8. The protester contends that the proposal’s lack of pricing reflects the firm’s “willingness to perform the particular service at no cost to DHS” or should have been waived as a “minor informality.” Id. at 9, 10.

We find no merit to Business Integra’s protest. It is a fundamental principal of government contracting that, in a negotiated procurement such as this, a proposal that fails to conform to the material terms and conditions of the solicitation is considered unacceptable and may not form the basis for award. Manthos Eng’g, LLC, B-401751, Oct. 16, 2009, 2009 CPD ¶ 216 at 2; Plasma-Therm, Inc., B-280664.2, Dec. 28, 1998, 98-2 CPD ¶ 160 at 3. Moreover, an offeror bears the burden of submitting an adequately written proposal that contains all of the information required under a solicitation, Sam Facility Mgmt., Inc., B-292237,

⁴ For each year of performance, the pricing template contained a cell for offerors to include a labor rate for each labor category and a corresponding cell for offerors to include a total value (computed by multiplying the labor rate by the proposed hours) for the particular category. RFP, amend. 3, attach. L-1, Pricing Template, at 1-10.

July 22, 2003, 2003 CPD ¶ 147 at 5, and an agency may reject a proposal that omits required pricing. Joint Venture Penaullie Italia S.p.A.; Cofathec S.p.A.; SEB.CO S.a.s.; CO.PEL.S.a.s., B-298865, B-298865.2, Jan. 3, 2007, 2007 CPD ¶ 7 at 6.

The solicitation here clearly instructed offerors to propose labor rates for “**ALL** labor categories” and warned that failure to omit even a single rate would result in a “material non-conformity” and “offer ineligibility.”⁵ RFP at 103, 105, 112 (emphasis in original). Additionally, as discussed above, there is no dispute that Business Integra failed to propose a labor rate for year 5 of the level I applications systems analyst labor category. See AR, Tab 7, Business Integra Proposal, attach. L-1, Pricing Template, at 1; Protest at 10. Since offerors were required to provide rates for all labor categories, and because the protester failed to comply with the solicitation’s unequivocal directive to do so, its proposal did not conform to the material terms of the RFP, and therefore could not be accepted for award. See Raytheon Technical Servs. Co. LLC, B-404655.4 et al., Oct. 11, 2011, 2011 CPD ¶ 236 at 9 (finding that proposal that omitted 20 labor rates failed to conform to the solicitation’s material terms and conditions and could not form the basis for award); Manthos Eng’g, LLC, supra (finding that omission of required option year prices rendered proposal unacceptable). Although the protester contends that the labor rate omission was immaterial, this argument is unpersuasive given the clear language of the solicitation warning that such omission would be considered material and render the proposal ineligible for award.

We are also not persuaded by Business Integra’s assertion that its proposal “clearly indicated that the blank labor category was intended to be \$0.00.” See Comments at 13. Although the proposal identified “\$0.00” as the “total value” for year 5 and subsequent option years for the position at issue, the actual labor rate for that position was left blank. Because the total value was calculated using a formula that was based on the blank entry for the labor rate, the total value could have been the result of a mathematical error, especially where, as here, years 1 through 4 were assigned labor rates well in excess of zero dollars. In the absence of any expression by the protester in its proposal that it intended to submit a \$0.00 labor rate, and where the solicitation cautioned offerors to identify each labor rate or risk

⁵ Indeed, in response to a question posed by an offeror prior to the submission of proposals, DHS confirmed that any offeror that did “not bid all labor categories [would] not be in compliance with the RFP.” RFP, amend. 3, Answers to Vendor Questions, at 5.

being found ineligible, we cannot find that the agency's rejection of Business Integra's proposal to be unreasonable.

The protest is denied.

Susan A. Poling
General Counsel