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Decision

Matter of: All Points International Distributors, Inc.

File: B-405954

Date: December 16, 2011

Pamela J. Mazza, Esq., Isaias “Cy” Alba, IV, Esq., and Peter B. Ford, Esq., Piliero Mazza PLLC, for the protester.

Sarah L. Carroll, Esq., General Services Administration, for the agency.

Linda C. Glass, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency’s evaluation of protester’s past performance was reasonable, where the agency consistent with the solicitation considered vendors’ past performance information in the Past Performance Information Retrieval System (PPIRS).

DECISION

All Points International Distributors, Inc. (API) of Hillsdale, New Jersey, protests the issuance of a delivery order to HDT Expeditionary Systems, Inc. (HDT) of Fairfield, Virginia, under request for quotations (RFQ) No. 602625, issued by the General Services Administration (GSA) for soft shelters and related equipment for the United States Sustainment Command, 580th Signal Company in Bagram, Afghanistan. API objects to the agency’s evaluation of API’s past performance and issuance of a delivery order to HDT, which submitted the higher priced quotation.

We deny the protest.

BACKGROUND

The RFQ, issued on the GSA e-Buy website, sought quotations under the Federal Supply Schedule (FSS) for 26 soft shelters on a brand name or equal basis. An HDT soft shelter system was identified as the brand name, and salient characteristics were specified. Vendors were informed that a fixed-price delivery order would be issued to the vendor whose quotation represented the best value to the government, on the basis of the following evaluation factors: technical, past performance and price. RFQ at 6-7. The technical and past performance factors were of equal importance and, when combined, were significantly more important

than price. Id. The RFQ provided for delivery of the shelters to New Cumberland, Pennsylvania, 60 days after receipt of the order. Id. at 5.

With respect to the past performance factor, the RFQ provided that the agency would assign a confidence rating in evaluating a vendor's relevant past performance. Id. at 6. In this regard, the RFQ informed vendors that the agency would evaluate past performance based on information contained in the Past Performance Information Retrieval System (PPIRS) and the Federal Awardee Performance and Integrity Information System (FAPIIS). Id. The RFQ further stated that GSA may use any credible information available, including GSA's own experience with the vendor, in evaluating past performance. Id.

GSA received quotations from three vendors, including API's \$312,000 quotation and HDT's \$615,160 quotation. API quoted an equal shelter, which was found to satisfy all salient characteristics, and HDT quoted the brand name shelter. Agency Report (AR), Tab 16, Best Value Determination, at 5-6. GSA found that both API's and HDT's quotations satisfied the agency's delivery schedule, and both quotations were assessed as excellent under the technical factor. Id. With respect to the past performance factor, GSA found that HDT's past performance was good, but that API's past performance was unsatisfactory. Id. at 8.

With respect to API's past performance, GSA found only one report in the PPIRS, concerning a June 2010 FSS order by the United States Marines Corps for aircraft shelters for delivery to Kandahar Airfield Afghanistan. See AR, Tab 5, Performance Assessment Report for API. API's past performance of this order was assessed as satisfactory under quality of product/service; unsatisfactory under schedule; marginal under cost control; and unsatisfactory under business relations. Id. at 2-3. With respect to its unsatisfactory schedule rating for this factor, the Corps reported that the delivery schedule had been accelerated for additional compensation, but that API failed to deliver by the accelerated delivery date, the original delivery date, or a later modified delivery date. The Corps stated that "[g]iven what I know today about the contractor's ability to execute what he promised in his proposal, I DEFINITELY WOULD NOT award to him today given that I had a choice." Id. at 4 (emphasis in original).

With respect to HDT's past performance, GSA reviewed five reports (four interim and one final) in the PPIRS.¹ AR, Tab 16, Best Value Determination, at 8. HDT's past performance was rated very good for the four of the reports (including for

¹ A sixth report was overlooked by the agency in its evaluation, but that report assessed HDT's past performance as outstanding for quality of product/service, schedule, cost control, and business relations. Contracting Officer's Statement at 6; AR, Tab 12, Contractor Performance Assessment Report for HDT.

schedule) and rated satisfactory on one report with respect to schedule. AR, Tabs 7-11, Contractor Performance Assessment Reports for HDT.

The source selection authority (SSA) reviewed the evaluation results and concluded issuance of a delivery order to HDT reflected the best value to the agency, despite API's significantly lower price. AR, Tab 16, Best Value Determination, at 9. In this regard, the SSA noted API's unsatisfactory past performance history with respect to the firm's failure to meet a required schedule for delivery to Afghanistan. Id. A delivery order was issued to HDT on September 30, and this protest followed.

DISCUSSION

API protests the agency's evaluation of its past performance as unacceptable contending that its performance on previously completed projects has been exceptional. Protest at 7. The protester contends that GSA's best value determination was flawed because the agency improperly reviewed only a single example of API's past performance despite the fact that GSA knew API had performed many similar contracts in the past. Comments at 1. API argues that "GSA failed to follow the terms of the solicitation by refusing to go beyond PPIRS and FAPIIS when making its past performance assessment and best value trade off." Comments at 2.

The evaluation of past performance is a matter of agency discretion, and we will review the evaluation only to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable statutes and regulations. Guam Shipyard, B-311321, B-311321.2, June 9, 2008, 2008 CPD ¶ 124 at 3. The evaluation by its very nature is subjective; an offeror's disagreement with the agency's evaluation judgments does not demonstrate that those judgments are unreasonable. SDV Telecomms., B-279919, July 29, 1998, 98-2 CPD ¶ 34 at 2.

We find the agency's consideration of API's past performance was reasonable. As stated above, the contracting officer, consistent with the terms of the RFQ, considered available PPIRS data for both vendors. The information in PPIRS for API indicated that API's past performance had been poor. That report also indicated that API was given the opportunity to respond to this assessment but did not do so. AR, Tab 5, Performance Assessment Report for API, at 5. Moreover, the protester does not argue that the information in the PPIRS is inaccurate nor does the protester attempt to explain its prior performance. Although API generally suggests that it has other examples of positive past performance that were ignored by the agency, it has not identified those examples nor asserted that this information was included in the PPIRS or FAPIIS. In short, the protester has provided no basis to question the reasonableness of the agency's findings that its unfavorable recent performance of similar work suggests that similar incidences of delinquent delivery could be

anticipated under this contract, which may increase the ultimate cost of performance for the agency.

The protest is denied.

Lynn H. Gibson
General Counsel