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Decision

Matter of: ABSG Consulting, Inc.

File: B-404863.7

Date: June 26, 2013

William J. Spriggs, Esq., Spriggs Law Group, for the protester.
William H. Butterfield, Esq., Department of Homeland Security, United States Coast Guard, for the agency.
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of agency's price realism analysis and best-value tradeoff determination is denied where protester fails to show that either were unreasonable.

DECISION

ABSG Consulting, Inc. (ABSG) of Arlington, Virginia protests the award of six indefinite-delivery/indefinite-quantity (ID/IQ) contracts¹ by the Department of Homeland Security (DHS), United States Coast Guard, pursuant to request for proposals (RFP) No. HSCG23-11-R-TABS00 for technical, acquisition, and business support services.² ABSG argues that the agency failed to perform an

¹ The Coast Guard awarded contracts to MacAulay-Brown, Inc., of Dayton, Ohio; Booz Allen Hamilton, of McLean, Virginia; Enterprise Information Services, Inc., of Vienna, Virginia; ALON, Inc., of Springfield, Virginia; Paradigm Technologies, Inc., of Arlington, Virginia; and Computer Science Corporation, of Washington, DC.

² The goal of this DHS acquisition is to establish multiple, department-wide, ID/IQ contracts, for a range of technical, acquisition, and business support services. These services were categorized into three domains: (1) program management, engineering and technology support services; (2) business management, financial management, and audit support services; and (3) contract management support services. RFP at 5. Each domain was then divided into tracks. *Id.* at 3. This protest pertains to the acquisition of domain 2 requirements, track 1, *i.e.*, an unrestricted competition.

adequate price evaluation and that the agency's best-value selection decision was unreasonable.

We deny the protest.

BACKGROUND

On December 3, 2010, the agency issued this RFP as an unrestricted commercial item acquisition. The RFP contemplated the award of up to seven ID/IQ fixed-price contracts for a broad range of business management, financial management, and audit support services for DHS on a worldwide basis. RFP at 3. The total performance period for each ID/IQ contract is 5 years. Id. at 77.

Pursuant to the RFP, awards were to be made on a best-value basis considering price and the following non-price evaluation factors, listed in descending order of importance: (1) experience and management approach; (2) past performance; and (3) socio-economic considerations. RFP at 79-80. The socio-economic considerations factor had three equally-weighted subfactors: (1) subcontracting plan (applicable only to large businesses); (2) DHS mentor-protégé program (applicable only to large businesses); and (3) small disadvantaged business utilization (applicable to all small and large businesses within the unrestricted track). Id. at 79-80. For purposes of award, the RFP stated that the non-price factors combined were more important than price but the degree of importance of price would become greater depending upon the equality of the evaluated proposals. Id. The RFP further stated that the agency intended to evaluate proposals and make awards without conducting discussions. Id. at 66.

The RFP's price proposal preparation instructions provided in relevant part as follows:

Due to the potential business volume associated with the . . . contract, DHS seeks prices substantially lower than prices on existing contract vehicles (for example GSA Federal Supply Schedules).

The offeror shall fill in its proposed labor rates and indirect rates applicable to materials, subcontracts for supplies and incidental services, and Other Direct Cost [on the price spreadsheet included in the RFP as attachment 3A] . . . The offeror shall propose fully burdened ceiling labor rates for ALL labor categories . . . The fully burdened labor rates include all direct labor and indirect costs applicable to that direct labor . . .

RFP at 75-76.

For the purpose of evaluating offerors' prices, the RFP included labor hour estimates for services to be performed at government sites and services to be performed at the contractors' sites. These estimates were to be applied to the offerors' proposed labor rates. RFP amend. 5, Attach. 3A--Price Spreadsheet. Additionally, the solicitation included estimated costs for materials, subcontracts for supplies and incidental services, and travel and other direct costs. These costs were to be applied to the offerors' proposed indirect rates. The solicitation also established that each proposal would be evaluated for accuracy, completeness, reasonableness, balance, and realism.³ RFP at 81-82.

The agency received 30 proposals in response to the RFP. Proposals were evaluated under the experience and management approach factor using adjectival ratings of exceptional, satisfactory, marginal, and unsatisfactory. This factor also included a risk assessment with ratings of low, moderate, or high risk. Agency Report (AR) exh. 35, Business Clearance Memorandum, at 6-9. For past performance, the evaluators assigned ratings of exceptional, very good, satisfactory, marginal, unsatisfactory, or neutral. In evaluating socio-economic considerations, the agency rated offerors as exceptional, satisfactory, marginal, or unsatisfactory. Id.

After evaluating proposals, the evaluators provided the source selection authority (SSA) with an evaluation report and award recommendations. In their report, the evaluators documented the consensus ratings with supporting narratives, identifying the underlying strengths, weaknesses, and risks in each proposal. Id. As relevant here, the consensus ratings and evaluated prices for the awardees' and the protester were as follows:

³ Federal Acquisition Regulation (FAR) § 15.404-1 identifies several analytical techniques, including: "price analysis," "cost analysis," and "cost realism analysis." The FAR does not use the term "price realism," although it does provide that cost realism analysis may be used to evaluate fixed-price proposals. Team BOS/ Naples--Gemmo S.p.A./DelJen, B-298865.3, Dec. 28, 2007, 2008 CPD ¶ 11 at 12. Generally, price reasonableness is an assessment of whether a price is unreasonably high; price realism is an assessment of whether the price is too low. See, e.g., Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3.

	Experience & Management/ Risk Rating	Past Performance	Socio-economic Considerations	TEP
MacAulay-Brown	Exceptional/Low	Exceptional	Exceptional	\$208,502,120.40
Booz Allen Hamilton	Exceptional/Low	Exceptional	Exceptional	\$270,742,437.30
Enterprise Information	Exceptional/Low	Exceptional	Exceptional	\$314,329,255.80
ALON, Inc.	Exceptional/Low	Exceptional	Exceptional	\$319,333,709.48
Paradigm Technologies	Exceptional/Low	Exceptional	Satisfactory	\$322,346,783.41
Computer Science Corp.	Exceptional/Low	Very Good	Satisfactory	\$322,193,715.60
ABSG	Exceptional/Low	Exceptional	Exceptional	\$365,870,790.00

AR exh. 35, Business Clearance Memorandum, at 51, 22.

In making their award recommendations to the SSA, the record reflects that the agency's evaluators undertook a comprehensive tradeoff analysis of all offerors with proposals rated satisfactory or higher under the non-price evaluation factors. This process resulted in recommendations for awards to MacAulay-Brown, Booz Allen, Enterprise Information, ALON, Paradigm Technologies, and Computer Science. Id. at 22-51.

The record reflects that the SSA participated in meetings with the evaluators, during which he reviewed the evaluation reports and discussed the ratings for the individual offerors. AR exh. 36, Source Selection Decision, at 1. Ultimately, the SSA concurred with the evaluators' findings and award recommendations as memorialized in the agency's Business Clearance Report. Id. at 4. After learning of the agency's award decisions and receiving a debriefing, ABSG filed this protest.

DISCUSSION

ABSG challenges the Coast Guard's evaluation of the awardees' prices and the agency's best-value selection decision. Regarding the price evaluation, ABSG first argues that MacAulay-Brown's low price should have been rejected by the agency as unrealistic. According to the protester, MacAulay-Brown's labor rates were allegedly based on those for Dayton, Ohio, where "the bulk of this awardee's work is performed" as opposed to the higher labor rates for performance in the Washington, DC area. For example, ABSG contends that the rate proposed by MacAulay-Brown for its program manager is "well below" the rate for the DC area and insists that there could be a "high turnover of personnel who are being paid significantly below market rates." Protester's Comments at 6. In the protester's view this reflected a lack of understanding of the solicitation requirements and posed a level of risk of unsuccessful performance that warranted rejection. Protester's Comments at 5-7.

Where, as here, a fixed-price contract, or a fixed-price portion of a contract is to be awarded, a contracting agency may provide in the solicitation for the use of a price realism analysis for the limited purpose of measuring an offeror's understanding of the requirements or to assess the risk inherent in an offeror's proposal. Puglia Eng'g of California, Inc., B-297413 et al., Jan. 20, 2006, 2006 CPD ¶ 33 at 6. The nature and extent of an agency's price realism analysis are ultimately matters within the agency's discretion. Navistar Def., LLC; BAE Sys., Tactical Vehicle Sys. LP, B-401865 et al., Dec. 14, 2009, 2009 CPD ¶ 258 at 7.

Here, the record shows that the Coast Guard compared each offeror's total evaluated price (TEP) with the TEPs of other offerors, and to a median TEP established by the agency.⁴ In so doing, the evaluators noted that the "median TEP provides a common standard for comparison in assisting with determining price reasonableness and realism." AR exh. 34, Price Evaluation Report, at 6. Additionally, for the purpose of assessing price realism, the agency compared each offeror's labor rates with median labor rates for five labor categories.⁵ The agency selected these labor categories because the offerors were required to submit signed resumes for these positions, which were evaluated as part of the agency's technical evaluation. RFP at 72-73. This allowed the agency to consider the offerors' rates in the context of their technical understanding of the labor requirements for those labor categories. Based on these comparisons, the agency concluded that MacAulay-Brown's proposed prices, although low, were nonetheless realistic. Id.

Turning to ABSG's specific arguments, we find the protester's comparison of MacAulay-Brown's program manager rate to the salary rates for the Washington DC area misplaced since the RFP did not require offerors to base their labor rates on performance in the DC area. Rather, the RFP established that the solicitation was to provide support services for DHS and its components throughout the United States, that the place of performance for the solicited services "shall be specified on each task order" and that the proposed labor rates would apply for performance

⁴ The median TEP was calculated by finding the median labor rate for each labor category and the median indirect rate for each indirect cost category and multiplying the median rates by the Government-estimated labor hours and indirect dollars, respectively. RFP at 82; AR exh. 34, Price Evaluation Report, at 5-6. The evaluators also noted that the "assumption drawn from this assessment was that if an offeror's TEP was high or low, the majority of the offeror's labor rates were similarly high or low." AR exh. 34, Price Evaluation Report, at 5-6.

⁵ The record reflects that in comparing the rates, the agency calculated an "extended" price for the labor categories of Task Leader, Senior Financial Analyst, Senior Auditor, Senior Cost Analyst, and Senior Operations Research Analyst, by multiplying rates for these categories by the RFP's estimated number of yearly hours for each category.

anywhere within the continental United States.⁶ RFP at 11. Moreover, to the extent ABSG ultimately disagrees with the agency's conclusion that MacAulay-Brown proposed prices were realistic, the protester has not otherwise shown that the price analysis techniques utilized by the agency to perform its price realism analysis were either unreasonable or otherwise improper.

The protester also argues that the agency's price evaluation was flawed because it failed to recognize that some of the awardees' proposed labor rates were unbalanced. In this regard, ABSG argues that "[s]ome of the offerors used reasonable/projected rates for key [labor categories] . . . while significantly understating rates for other [labor categories]." Protester's Comments at 7. In support of its unbalanced pricing argument, ABSG claims that one offeror proposed "reasonable" rates for labor categories with "low hour estimates" and "unreasonably low" rates for labor categories with "high hour estimates." Id.

There is no merit to this aspect of the protest. First, unbalanced pricing exists where the prices of one or more items are significantly overstated, despite an acceptable total evaluated price (typically achieved through under pricing one or more of the other line items). General Dynamics--Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 5. ABSG has not alleged that any of the awardees' labor rates were "significantly overstated." Rather, the protester merely asserts that the rates were either "understated" or "reasonable." Low prices are not improper and do not themselves establish (or create the risk inherent in) unbalanced pricing. Id.

Second, the record does not support ABSG's assertion that one awardee proposed unbalanced labor rates depending on whether the labor hour estimates for a particular labor category were high or low. The example cited by ABSG concerns labor rates for the program manager and project manager labor categories, both of which had the same number of estimated hours (19,200). To the extent the protester is actually arguing that the labor hour estimates for these categories were

⁶ As a related matter, the protester argues that two of the awardees, to include MacAulay-Brown, failed to propose "ceiling rates" as required by the solicitation. In this regard, the protester maintains that "ceiling rates are to be based upon the highest qualified employee within a given labor category or group, working the highest paid area within [the continental United States], on a highly complex requirement. . . ." Protester's Comments at 7. The protester's characterization of the "ceiling rate" requirement, however, appears to reflect nothing more than the protester's own business strategy in how it determined its own rates. The RFP said nothing about how offerors were to calculate their ceiling rates. Rather, the RFP merely indicated that offerors could propose lower rates when competing for individual task orders. Accordingly, this aspect of the protester's challenge of the agency's price evaluation is without a valid basis.

inaccurate--that the hours themselves were over or understated as compared to the hours the agency would actually order under the contract--ABSG did not challenge the solicitation's estimated hours.⁷ Where a solicitation for the award of an ID/IQ contract provides estimated quantities (in this case hours) for individual items to be used in calculating a total price, and the estimated quantities used go unchallenged, there is no basis for our office to find a risk that the agency will pay unreasonably high prices, a necessary aspect of an unbalanced pricing argument. See Cherokee Painting LLC, B-311020.3, Jan. 14, 2009, 2009 CPD ¶ 18 at 3.

Finally, ABSG argues that the source selection decision was inadequate because it failed to properly explain why MacAulay-Brown's proposal and the proposals submitted by Paradigm Technologies and Computer Science represent a better value to the agency than the proposal submitted by ABSG. According to the protester, the agency evaluators gave undue weight to price in determining that its highly rated proposal did not warrant the associated price premium. Protester's Comments at 2-4.

Generally, when a protester's challenge to a source selection decision is based solely on the number of evaluated strengths, weaknesses, or other discriminators that are identified by an agency during its evaluation, the challenge fails to state a valid protest basis, since a contracting agency's ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision-making. Highmark Medicare Serv., Inc., et al., B-401062.5 et al., Oct. 29, 2010, 2010 CPD ¶ 285 at 11. More specifically, the evaluation of proposals and consideration of their relative merit is properly based on a qualitative assessment of competing proposals characteristics, not a simple count of the relative strengths and weaknesses assigned during the evaluation process. ITT Corp., Sys. Div., B-310102.6 et al., Dec. 4, 2009, 2010 CPD ¶ 12 at 10; Kellogg Brown & Root Servs., B-298694.7, June 22, 2007, 2007 CPD ¶ 124 at 5.

We have reviewed the entire evaluation record, including the consensus evaluation worksheets, the comprehensive report prepared by the evaluators, and the documentation created by the SSA in performing his review of the record leading to the source selection decision. Given the record in this case, we find no basis to question the multiple agency judgments on which the SSA ultimately concluded that the evaluated strengths in ABSG's proposal did not justify paying a price premium of approximately \$43.5 million. AR exh. 35, Business Clearance Memorandum; exh. 34, Price Evaluation Report; exh. 36, Source Selection Decision.

⁷ Any such challenge of the agency's estimates is untimely since it was not raised until after the agency made its award decision. Our rules require that protests based on alleged solicitation improprieties apparent on the face of the solicitation be filed prior to the time set for receipt of initial proposals. 4 C.F.R. § 21.2(a)(1) (2013).

For example, ABSG disagrees with the agency's assessment that its socio-economic plan--which was rated exceptional under the socio-economic considerations factor--was not worth the associated price premium. According to the protester, given that its socio-economic plan not only covered all small business designations as identified in the RFP, its socio-economic plan also included participation by veteran-owned small business concerns which was not a solicitation requirement. Had the firm been selected for award, ABSG asserts that the agency would have derived a benefit in that the Coast Guard would have exceeded its small business subcontracting goals. Protester's Comments at 3-4. While the evaluators recognized ABSG's advantage under this evaluation factor, they nonetheless concluded that the protester's plan did "not provide the benefit to the Government that merits this price premium." AR exh. 35, Business Clearance Memorandum, at 44. ABSG's protest offers no meaningful basis, other than ABSG's own opinion, for us to conclude that the agency's evaluative judgment in this regard was unreasonable.

To the extent the protester alleges that the source selection decision "fall[s] short of the requirement to justify price/technical tradeoff decisions," we disagree. The decision reflects that the agency considered the relative merits and costs of the competing proposals and that the source selection was reasonably based. General Dynamics--Ordinance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8; ViroMed Labs., Inc., B-310747.4, Jan. 22, 2009, 2009 CPD ¶ 32 at 6. There is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific price value difference when selecting a lower or higher priced proposal for award. FAR § 15.308; Advanced Fed. Servs. Corp., B-298662, Nov. 15, 2006, 2006 CPD ¶ 174 at 5; Johnson Controls World Servs., Inc., B-289942, B-289942.2, May 24, 2002, 2002 CPD ¶ 88 at 6.

In sum, based on our review of the entire record, we see nothing unreasonable in the agency's price evaluation and the subsequent best-value determinations. ABSG's complaints constitute mere disagreement with the agency's evaluative judgment and, as such, do not provide a basis for sustaining the protest.

The protest is denied.

Susan A. Poling
General Counsel