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Washington, DC 20548

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Decision

Matter of: Sigmatech, Inc.

File: B-409837; B-409837.2; B-409837.3

Date: August 22, 2014

Ira E. Hoffman, Esq., Offit Kurman, P.A., for the protester.
Andrew J. Mohr, Esq., and John J. O'Brien, Esq., Cohen Mohr LLP, for Total Computer Solutions, Inc., the intervenor.
Michael J. Kraycinovich, Esq., and Michael J. Roberts, Esq., Department of the Army, for the agency.
Matthew T. Crosby, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that award was improper because agency allegedly failed to adhere to evaluation rating definitions in evaluation worksheets, and because awardee allegedly failed to provide information described in solicitation's quotation preparation instructions, is denied where record reflects that agency's evaluation was reasonable and consistent with solicitation's evaluation criteria.

DECISION

Sigmatech, Inc., of Huntsville, Alabama, protests the award of a task order to Total Computer Solutions, Inc. (TCSI), of Burke, Virginia, by the Department of the Army, Army Contracting Command, under task order request for quotations (TORFQ) No. 2013P-7 for programmatic support services. Sigmatech asserts that the agency's evaluation of quotations was unreasonable in various respects.

We deny the protest.

BACKGROUND

On March 17, 2014, the agency issued the solicitation as a total small business set-aside to vendors holding blanket purchase agreements (BPA) under the agency's Expedited Professional and Engineering Support Services (EXPRESS)

program.¹ TORFQ at 1. The solicitation contemplated the award of a “fixed rate level of effort” task order with a base period of six months and one three-year option period. TORFQ amend. 1 at 2-3. The solicitation identified Sigmatech as the incumbent contractor for the requirement. Id. at 3.

The solicitation incorporated a performance work statement (PWS). Section 2.0 of the PWS set forth performance requirements for eight different program management support tasks. One of those tasks--program management, plans, and integration, which was set forth in PWS section 2.4--included nine subtasks.

The solicitation provided that award would be made based on consideration of the following criteria, listed in descending order of importance: experience, functional approach, price, and socio-economic support. TORFQ Evaluation Criteria at 2. For each of the criteria, the solicitation included a description of how the agency would evaluate quotations. Id. at 1. Separate from these descriptions, the solicitation included a “quotation contents” section that provided quotation preparation instructions for each evaluation criteria. Id. at 3.

The agency received two quotations by the solicitation’s closing date: one from Sigmatech, and one from TCSI. Agency Report (AR), Tab S, Source Selection Decision (SSD), ¶ 1. A source selection evaluation board (SSEB) evaluated the quotations and documented the evaluation results on evaluator worksheets. The worksheets listed the available ratings for the non-price evaluation criteria as outstanding, very good, satisfactory, and marginal. E.g., AR, Tab R1, TCSI Experience Evaluation, at 7. The worksheets also included definitions for each of the ratings.² Id.

The SSEB assigned Sigmatech’s and TCSI’s quotations the highest-available rating--outstanding--under all three non-price evaluation criteria. These ratings, together with Sigmatech’s and TCSI’s evaluated prices, are shown in the table below.

¹ The agency established the EXPRESS BPAs, using Federal Acquisition Regulation subpart 8.4 procedures, with vendors holding General Services Administration Federal Supply Schedule contracts. Combined Contracting Officer’s Statement and Legal Memorandum (CCOSLM) at 2.

² Neither the ratings nor the rating definitions appeared in the solicitation.

	<u>Sigmattech</u>	<u>TCSI</u>
Experience	Outstanding	Outstanding
Functional Approach	Outstanding	Outstanding
Socio-Economic Support	Outstanding	Outstanding
Evaluated Price	\$28,616,386	\$20,186,633

AR, Tab S, SSD, ¶ 3.

The source selection authority (SSA) reviewed the evaluation documentation. See AR, Tab S, SSD, ¶ 4. The SSA then found as follows:

Both offerors received outstanding ratings for Functional Approach and Socio-Economic Support, and the underlying content of their quotations was deemed essentially equal for these two factors. Both offerors also received outstanding ratings for Experience, however, the underlying content of Sigmattech's quotation was deemed stronger for this most heavily weighted factor. It is noted that neither offeror had any weaknesses in their Experience evaluations and both were deemed to represent virtually no risk to the Government. TCSI's overall price is 29.45% or \$8,429,753 less than Sigmattech's.

Id. ¶ 10. The SSA also found that the "benefits of Sigmattech's stronger program specific Experience is more than offset by the benefits of TCSI's \$8,429,753 price differential." Id. Based on these findings, the SSA concluded that TCSI's quotation represented the best value to the government. Id.

After the agency made the award to TCSI, Sigmattech filed a protest with our Office.

DISCUSSION

Sigmattech challenges the agency's evaluation of both its and TCSI's quotations on numerous grounds. We have considered all of Sigmattech's allegations, and we conclude, based on the record, that none has merit. Below we discuss Sigmattech's principal arguments.

Sigmattech asserts that the SSEB improperly failed to adhere to the rating definitions in the evaluation worksheets. Comments at 6-9, 11-12; Supp. Comments at 4-7, 9. According to Sigmattech, if the SSEB had adhered to the definitions, TCSI's quotation would have received lower ratings under the experience and functional approach evaluation criteria. Comments at 6, 9, 12; Supp. Comments at 4, 6, 9. In this regard, Sigmattech notes that the worksheet definition for an outstanding rating under the experience criterion referred to a quotation that demonstrated "very extensive performance." Comments at 3 (quoting

AR, Tab R1, TCSI Experience Evaluation, at 7); Supp. Comments at 4 (same). Sigmatech argues that TCSI's quotation did not meet this standard because the SSEB evaluated TCSI's experience as "moderate" under PWS section 2.6 and as "extensive" (rather than "very extensive") under PWS section 2.7. Comments at 6-9; Supp. Comments at 4-7.

Alleged deficiencies in the application of an agency's evaluation plan alone do not provide a basis for questioning the validity of an evaluation; such plans are internal agency instruction and do not give outside parties any rights. Resource Mgmt. Int'l, Inc., B-278108, Dec. 22, 1997, 98-1 CPD ¶ 29 at 4; Management Plus, Inc., B-265852, Dec. 29, 1995, 95-2 CPD ¶ 290 at 2 n.2. Instead, we look to the solicitation for considering whether vendors were treated fairly in an evaluation. In this regard, when reviewing a protest challenging an agency's evaluation of quotations, we examine the record to determine whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. IBM Global Bus. Serv.--U.S. Fed., B-409029, B-409029.2, Jan 27, 2014, 2014 CPD ¶ 43 at 4; DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. A protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. IBM Global Bus. Serv.--U.S. Fed., supra; DEI Consulting, supra.

Here, the solicitation stated that under the experience criterion, the agency would evaluate quotations as follows:

The government will evaluate the depth and breadth of the offeror's experience in the requirements of the task order [PWS] and with the systems supported by the task order [PWS].

TORFQ Evaluation Criteria at 1.

In its evaluation of TCSI's quotation under the experience criterion, the SSEB noted that TCSI provided three experience examples. One example was evaluated as "cover[ing] all PWS requirements," while the other two were evaluated as "provid[ing] additional experience of PWS requirements." AR, Tab R1, TCSI Experience Evaluation, at 1. Regarding the depth of TCSI's experience with the PWS requirements, the SSEB found as follows:

Although the offeror demonstrated extensive experience for [PWS §] 2.7 and moderate experience for [PWS §] 2.6 above, the offeror demonstrated very extensive experience for the remaining portions of [PWS experience], which constituted the bulk of this portion of the experience evaluation.

AR, Tab R1, TCSI Experience Evaluation, at 3. The SSEB documented its reasoning for assigning the outstanding rating to TCSI's quotation under the experience criterion as follows:

We rated the offeror's [PWS] experience as "very extensive" and its [systems] experience as "extensive." In this instance, we assigned an overall factor rating of outstanding, which corresponds to overall very extensive experience under our experience rating definitions. We believe the very extensive [PWS experience] rating is so strong that when combined with the very solid [systems experience] rating, which is close to being deemed very extensive as opposed to extensive, correlated most appropriately with an overall outstanding rating.

Id. at 6.

On this record, and in the absence of any showing by Sigmatech that TCSI lacked substantive experience with the PWS requirements or systems, we see no basis to question the SSEB's judgment that TCSI's quotation warranted a rating of outstanding under the experience criterion. While it is true, as shown above, that the SSEB found TCSI's quotation demonstrated "moderate" and mere "extensive" experience with two PWS requirements, the SSEB determined that the "very extensive" experience demonstrated by TCSI for "the bulk" of the PWS requirements supported an outstanding rating. AR, Tab R1, TCSI Experience Evaluation, at 3, 6. Further, in making the source selection decision, the SSA expressly recognized that although Sigmatech's and TCSI's quotations both were rated outstanding under the experience criterion, Sigmatech's experience was evaluated as being stronger. AR, Tab S, SSD, ¶ 10. The SSA, nonetheless, concluded that Sigmatech's stronger experience did not justify the price premium associated with Sigmatech's quotation. Id. In sum, Sigmatech's allegation amounts to disagreement with the agency's judgment and provides no basis on which to sustain the protest.³

As a separate challenge against the agency's evaluation under the experience criterion, Sigmatech asserts that the SSEB unfairly evaluated Sigmatech's quotation on a subtask-by-subtask basis under PWS section 2.4, but considered the PWS section 2.4 subtasks in the aggregate when evaluating TCSI's quotation. Comments at 4-5; Supp. Comments at 4, 7-8. In this regard, Sigmatech points out that the SSEB assigned six strengths to Sigmatech's quotation for specific subtasks under PWS section 2.4, whereas TCSI's quotation was assigned a single strength

³ As mentioned above, Sigmatech also alleges that the SSEB did not adhere to the evaluation worksheet definitions for the functional approach criterion. Comments at 11-12; Supp. Comments at 9. Based on the record, we also find this allegation to have no merit.

that generally referenced PWS section 2.4. Comments at 4-5 (referencing AR, Tab Q1, Sigmatech Experience Evaluation, 5-6; AR Tab R1, TCSI Experience Evaluation, at 5); Supp. Comments at 4 (same). Sigmatech also asserts that its quotation should have received strengths for all nine of the PWS section 2.4 subtasks instead of only six. Comments at 9; Supp. Comments at 8.

Based on our review of the record, it is apparent that contrary to Sigmatech's assertion, the SSEB assigned a strength to TCSI's quotation for a particular PWS section 2.4 subtask rather than for PWS section 2.4 generally. To illustrate, PWS subsection 2.4.4 described the following requirement:

The contractor shall provide input, evaluations[,] recommendations and preparation in draft format for comprehensive plans/documents IAW [in accordance with] the DoD [Department of Defense] 5000 series and all acquisition streamlining reform initiatives.

PWS § 2.4.4. No other PWS section 2.4 subtasks expressly referenced the DoD 5000 series or acquisition streamlining reform initiatives. The strength assigned to TCSI's quotation that referenced PWS section 2.4 was as follows:

The offeror demonstrated very extensive experience in the preparation of documentation necessary to defend procurement decisions to higher authority levels IAW DoD 5000 series and acquisitions streamlining reform initiatives.

AR, Tab R1, TCSI Experience Evaluation, at 5.

Given the plain correlation between the content of PWS subsection 2.4.4 and the strength assigned to TCSI's quotation, and given that no other PWS section 2.4 subtasks address the DoD 5000 series or acquisition streamlining reform initiative, we conclude that the strength assigned to TCSI's quotation pertains to PWS section 2.4.4 specifically and not to PWS section 2.4 generally; i.e., the evaluation document erroneously annotates the strength as relating to PWS section 2.4 instead of PWS subsection 2.4.4. Thus, the record does not support Sigmatech's claim that the SSEB evaluated Sigmatech's quotation--but not TCSI's quotation--on a subtask-by-subtask basis under PWS section 2.4.⁴ Further, we see no basis in the record to conclude--and Sigmatech has offered no convincing arguments on this point--that the SSEB's determination that Sigmatech's quotation did not warrant

⁴ Even assuming for the sake of argument that the agency evaluated the quotations as Sigmatech alleges, we fail to see how this prejudiced Sigmatech since the evaluation resulted in six strengths being assigned to Sigmatech's quotation (for six different PWS section 2.4 subtasks) and only one to TCSI's quotation (for PWS section 2.4 overall, allegedly).

strengths under all nine PWS section 2.4 subtasks was somehow unreasonable. Sigmatech's challenge against the agency's evaluation of quotations under PWS section 2.4 is denied.

Next, Sigmatech challenges the agency's evaluation of TCSI's quotation under the functional approach criterion. Related to this challenge, Sigmatech points out that the "quotation contents" section of the solicitation instructed vendors to "[d]escribe the role and efforts to be performed by any proposed team members and/or subcontractors and the corresponding management approach." Comments at 11 (quoting TORFQ Evaluation Criteria at 3); Supp. Comments at 9 (same). Sigmatech claims that TCSI's quotation did not provide this information and, therefore, TCSI's rating under the functional approach criterion should have been lower. Comments at 11-12; Supp. Comments at 9.

We note first that information requirements provided in the instructions portion of a solicitation are not the same as evaluation criteria; rather than establishing minimum evaluation standards, solicitation instructions generally provide guidance to assist offerors or vendors in preparing and organizing proposals or quotations. See All Phase Envtl., Inc., B-292919.2 et al., Feb. 4, 2004, 2004 CPD ¶ 62 at 4; JW Assocs., Inc., B-275209.3, July 22, 1997, 97-2 CPD ¶ 27 at 3-4.

Here, the solicitation's evaluation description for the functional approach criterion states as follows:

The government will evaluate the offeror's understanding and knowledge of the requirements This will consider the adequacy and feasibility of the proposed labor categories/hours and the use of team members/subcontractors. The government will evaluate the offeror's proposed plan for managing the activities to be performed to include the ability to organize, direct and control the required effort in a manner that assures high quality and cost effective performance.

TORFQ Evaluation Criteria at 1. The quotation content instruction relied on by Sigmatech states as follows:

The offeror shall provide a complete, clear and accurate description of the approach to accomplish each of the requirements of the [PWS]. Describe the role and efforts to be performed by any proposed team members and/or subcontractors and the corresponding management approach.

Id. at 3. When we read this instruction together with the evaluation criteria description, we interpret the instruction as requiring vendors to provide information regarding team members in detail sufficient to permit the agency to evaluate what was discussed in the evaluation criteria description--namely, the vendor's "plan for

managing the activities to be performed.” TORFQ Evaluation Criteria at 1. Thus, we interpret the solicitation as providing vendors some latitude regarding the level of detail to be provided about the role of team members.

Under the functional approach criterion, the SSEB documented the following finding regarding TCSI’s team structure:

The offeror’s quotation . . . provided a clear understanding of the offeror’s proposed team structure. The prime is shown with three subcontractors. The teaming arrangement provides a single point of contact for day to day management. The offeror is clear in their intent to manage subcontractors and Task Members. The prime will organize tasks with subcontractor [task order] leads. The offeror’s approach represents a very high capability of performance with virtually no risk to the Government.

AR, Tab R2, TCSI Functional Approach Evaluation, at 5. We have reviewed the functional approach portion of TCSI’s quotation, and it provides information that is consistent with this finding. See AR, Tab N, TCSI Quotation, Functional Approach, at 1-4. Further, the SSEB’s finding reflects consideration of what the solicitation stated the agency would evaluate: the vendor’s “plan for managing the activities to be performed.” See TORFQ Evaluation Criteria at 1. For these reasons, we deny this ground of protest.

Sigmattech also argues that the agency’s evaluation of TCSI’s quotation under the functional approach criterion was flawed because TCSI’s “dramatically low price should have raised concerns about the validity of its proposed Functional Approach.” Protest at 11. Arguments that an agency did not appropriately analyze whether prices are too low such that there may be a risk of poor performance concern price realism. C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3; SDV Solutions, Inc., B-402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4. The solicitation here did not call for a price realism analysis. See TORFQ, Evaluation Criteria, at 1. Accordingly, this claim fails to state a valid basis of protest and is dismissed. See New Orleans Support Servs. LLC, B-404914, June 21, 2011, 2011 CPD ¶ 146 at 3; JSW Maint., Inc., B-400581.5, Sept. 8, 2009, 2009 CPD ¶ 182 at 6-7 n.3.

Finally, Sigmattech argues that the award was improper because the agency’s actual requirements allegedly are less than the requirements in the solicitation. 2d Supp. Protest at 4. Sigmattech first raised this ground of protest on August 15. Sigmattech acknowledges that the information underlying this ground of protest was known to the firm as of mid-May, but states that the firm did not “assemble” all of the information until August 11. Id. at 2. Our Bid Protest Regulations require that protests other than those based on alleged solicitation improprieties shall be filed not later than 10 days after the basis of protest was known or should have been

known. 4 C.F.R. § 21.2(a)(2) (2014). Here, Sigmatech was aware of the information underlying this ground of protest in mid-May but did not raise it until three months later. Accordingly, this ground of protest is untimely.⁵

The protest is denied.

Susan A. Poling
General Counsel

⁵ Sigmatech also argues that the agency's evaluation of quotations was unreasonable because Sigmatech's experience allegedly is more relevant than TCSI's experience and because TCSI allegedly did not provide adequate information about the experience of its team members. Protest at 10, 12; Comments at 7-8. The agency in its report and supplemental report responded to these arguments. CCOSLM at 5-7; Supp. CCOSLM at 3-4. In its comments and supplemental comments, Sigmatech did not address the agency's responses. Therefore, we consider Sigmatech to have abandoned these claims.