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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Smith-Richardson, Inc.

File: B-410736

Date: February 3, 2015

Jody J. Smith, Smith-Richardson, Inc., for the protester.
Eric J. Marcotte, Esq., Kelly E. Buroker, Esq., and Kyle E. Gilbertson, Esq., Vedder Price P.C., for Computer Sciences Corporation, the intervenor.
Capt. Vera A. Strebel, Department of the Army, for the agency.
Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated protester's proposal as unacceptable is denied where contemporaneous record shows that agency's evaluation was reasonable and consistent with evaluation criteria in solicitation.

DECISION

Smith-Richardson, Inc., of Carrollton, Virginia, a small business, protests the award of a contract to Computer Sciences Corporation (CSC), of Falls Church, Virginia, by the Department of Defense (DOD), Missile Defense Agency (MDA), under request for proposals (RFP) No. HQ0147-13-R-005, for learning asset development, sustainment, and support for the Defense Acquisition University. Smith-Richardson argues that the agency unreasonably evaluated the firm's proposal as unacceptable.

We deny the protest.

BACKGROUND

The MDA issued the RFP on May 9, 2014, seeking proposals for services to provide a variety of acquisition-related learning assets--such as distance learning courses, classroom courses, and gaming and simulation applications--to be distributed principally by the Defense Acquisition University. Agency Report (AR), Tab 3.3, Performance Work Statement (PWS), at 2. The services were described in an accompanying PWS, and the contractor's performance was to be assessed under

an accompanying quality assurance surveillance plan (QASP). AR, Tabs 3.3 (PWS) & 3.4 (QASP).

The MDA was to award a single 5-year indefinite-delivery, indefinite-quantity contract to the offeror whose proposal provided the best value. RFP ¶¶ M-2.0. The determination of best value was to be based on four evaluation factors, listed in descending order of importance: technical, past performance, management, and cost/price. RFP ¶¶ M-3.0. The technical factor had three subfactors, listed in descending order of importance: technical expertise; learning asset development and sustainment; and project planning and technical approach. Id. The management factor had three subfactors, also in descending order of importance: teaming and staffing; management approach; and small business participation and commitment. Id.

The technical and management evaluations were to identify strengths, uncertainties, weaknesses, significant weaknesses, and deficiencies, which would be reflected in adjectival ratings for both quality and risk.¹ Id. The RFP also cautioned that a deficiency² in a proposal could render it ineligible for award. Id. The qualitative ratings, set forth in a chart, were outstanding, good, acceptable, marginal, and unacceptable. Id. An unacceptable rating was to be used where the proposal “does not meet requirements and contains one or more deficiencies and is unawardable.” Id. Risk was to be rated as low, moderate, or high.³ Id.

For the remaining factors, past performance was to be rated adjectivally to describe a level of confidence of successful performance. Id. The cost/price factor was to be evaluated using the offeror’s approach to an initial task order, and was also to be evaluated for realism and reasonableness. Id.

Seven offerors submitted timely proposals. After conducting a technical evaluation, the agency determined that five of the proposals, including Smith-Richardson’s, were technically unacceptable. AR, Tab 8, Source Selection Decision, at 3-4. The evaluation of Smith-Richardson’s proposal under the technical factor identified one significant weakness and two deficiencies under the technical expertise subfactor; one strength, four weaknesses, and one significant weakness under the learning

¹ While the technical and management subfactors were to be rated, there were to be no overall ratings of the technical and management factors. Id.

² A deficiency was defined as a failure to meet a requirement or a combination of significant weaknesses that increases the risk of unsuccessful performance to an unacceptable level. Id.

³ High risk was defined as an approach that was likely to cause significant disruption of schedule, increased cost, or degradation of performance, which was unlikely to be overcome, even through additional government monitoring and contractor focus. Id.

asset development and sustainment subfactor; and two deficiencies under the project planning and technical approach subfactor. AR, Tab 11, Debriefing, at 16-27. Under the past performance factor, the agency found that Smith-Richardson had three recent “somewhat relevant” references, each of which showed exceptional performance by the firm. *Id.* at 29. Under the management factor, the firm’s proposal was assessed two significant weaknesses and a deficiency⁴ under the teaming and staffing subfactor; a weakness and two deficiencies under the management approach subfactor; and a strength and three deficiencies under the small business participation and commitment subfactor. *Id.* at 30-41.

The ratings of Smith-Richardson’s and CSC’s proposals were as follows:

	Smith-Richardson		CSC	
	Quality	Risk	Quality	Risk
Technical				
Technical Expertise	Unacceptable	High	Acceptable	Low
Learning Asset	Acceptable	Moderate	Outstanding	Low
Project Planning	Unacceptable	High	Good	Low
Past Performance	Limited Confidence		Substantial Confidence	
Management				
Teaming/Staffing	Unacceptable	High	Good	Low
Management Approach	Unacceptable	High	Acceptable	Low
Small Business	Outstanding	High	Acceptable	Low
Task Order 1 Probable Cost	Unable to calculate		\$225,000	
Total Probable Cost	\$68.4 million		\$51.8 million	

AR, Tab 7, Evaluation Results Report, at 12.

The source selection authority (SSA) reviewed the evaluation results, and excluded the proposals of the unacceptable offerors from consideration for award. In doing so, the SSA noted particularly seven of the weaknesses and deficiencies in Smith-Richardson’s proposal, and the fact that the deficiencies in its project planning and technical approach subfactor prevented the agency from determining the most probable cost of Smith-Richardson’s approach to task order 1. AR, Tab 8, Source Selection Decision, at 3.

ANALYSIS

Smith-Richardson challenges nearly all of the weaknesses, significant weaknesses, and deficiencies that the evaluators assessed to its proposal under the technical and management factors. We discuss a selection of Smith-Richardson’s challenges

⁴ As discussed below, the MDA acknowledges that it failed to review a portion of the firm’s proposal relevant to this deficiency, and withdraws its criticism. AR at 28.

below. Since the record supports the reasonableness of those aspects of the evaluation, we conclude that the MDA properly rejected the firm's proposal.

Technical Factor Evaluation

The RFP directed offerors to identify the firm's technical expertise to provide the required services. The offerors' responses were to be evaluated based on whether they set forth a clear explanation of the firm's capability, and an "approach, including a risk evaluation." AR, Tab 3.14, RFP Section L Addendum, at 10. That explanation was to take the form of the offeror's:

written narrative demonstrating knowledge, comprehension, and experience with Department of Defense (DoD) acquisition including the impact that current and emerging statutes, regulations, policies, and guidance have on DoD acquisition functional and topical areas.

Id. at 10.

Smith-Richardson's proposal discussed its experience with the development of acquisition-related training products, and its monitoring of changes to the Federal Acquisition Regulation and DOD FAR Supplement (DFARS), to assess "how those changes impact acquisition policy and workflows." AR, Tab 4, Smith-Richardson Proposal, at vol. I, Tab 1, p.2.⁵ The proposal also stated that "the FAR and DFARS are rarely changed, [but] the guidance on implementing these regulations change[s] frequently as novel acquisition situations arise, and contracting opportunities allow for different interpretations of the law." Id. at 2.

The agency's evaluators assigned two deficiencies to Smith-Richardson's proposal under the technical expertise subfactor. The first of these was because the firm failed to address adequately how it would assess the impact on DOD acquisition of current and emerging changes in statutes, regulations, policies, and guidance. AR, Tab 7, Evaluation Results Report, at 170. The evaluators expressed their view that this aspect of the proposal represented a material failure, and presented both a high risk of unacceptable performance, and the likelihood of high government costs to develop learning assets. Id.

Smith-Richardson counters that its proposal referred to its work for the General Services Administration (GSA) under a different contract⁶ as "provid[ing] a use case,

⁵ Smith-Richardson's proposal was divided into separate sections that were identified by tab numbers. The pages of each tab were numbered independently.

⁶ Smith-Richardson states that describing the GSA contract "[wa]s not relevant to answering the RFP requirement." Protester's Comments at 1.

rather than a statement of capability,” and a chart asserting that six requirements of the GSA contract were “similar to” the MDA’s requirements, and thus showed a “1 to 1 relationship to the Learning Assets sought by [the Defense Acquisition University].” Protester’s Comments at 1-2. Smith-Richardson also argues that the evaluators failed to consider the capabilities of one subject matter expert (SME), whom Smith-Richardson describes as having “key strengths” in many of the areas relevant to the RFP requirements.⁷ Id. at 2.

In reviewing a protest challenging an agency’s evaluation, our Office will not reevaluate proposals, nor will we substitute our judgment for that of the agency; the evaluation of proposals is a matter within the agency’s discretion. Halfaker & Assocs., LLC, B-407919, B-407919.2, Apr. 10, 2013, 2013 CPD ¶ 98 at 6. The relevant question for our Office, in reviewing this subjective judgment, is whether the evaluation was reasonable and consistent with the solicitation. ASRC Research & Tech. Solutions, LLC, B-406164, B-406164.3, Feb. 14, 2012, 2012 CPD ¶ 72 at 8.

The contemporaneous record supports the MDA’s evaluation of the firm’s proposal as materially inadequate for failing to address the RFP’s express requirement to provide a written narrative demonstrating knowledge, comprehension, and experience with DOD acquisition generally, and changes to laws, regulations, and policies specifically. Thus the record supports the assessment of a deficiency, and the agency’s judgment that the proposal was unacceptable under the technical expertise subfactor. Smith-Richardson’s protest does not demonstrate that its proposal provided such a narrative, but appears to argue only that the agency should have inferred its capability from the fact that it holds a GSA contract that is allegedly similar, and that it has access to SMEs familiar with acquisition. Those arguments do not demonstrate that the agency’s judgment was unreasonable.

Management Factor Evaluation

Under the management approach subfactor of the management factor, the RFP directed offerors to provide a written narrative showing the firm’s methodology and capability to manage the contract and perform task orders. Offerors were instructed to address three areas, one of which was to provide a written narrative that demonstrated an integrated risk management system and approach to handling program risks and their root causes. AR, Tab 3.14, RFP Section L Addendum, at 12. Offerors were also instructed to include an approach “to reduce time to

⁷ Smith-Richardson also quotes numerous places in its proposal that mention the use of SMEs to deliver services, and argues that this was a “critical component” of its approach. Id. at 2-3. Our review of the record shows that the quoted sentences do not support a material challenge to the reasonableness of the deficiency assessed for failing to address the effect of changes in statutes, regulations, policies, and guidance on acquisition functional and topical areas.

market delivery of learning assets while meeting task order and contract requirements.” Id.

The MDA assessed two deficiencies for Smith-Richardson’s proposal under this subfactor. One of these was because the proposal did not provide the firm’s approach to reducing time-to-market delivery of learning assets while meeting contract and task order requirements. AR, Tab 7, Evaluation Results Report, at 189.

Smith-Richardson argues that the evaluation reflects the application of unstated evaluation criteria because the RFP allegedly did not require offerors to propose accelerated delivery of learning assets. Protest at 8. In response to the MDA’s rebuttal, which identified the requirement in the RFP, Smith-Richardson provided only a single sentence, stating that the firm’s proposal defined both a performance monitoring process and incentives, which “by definition, ensure performance and time to market deliver[y] of learning assets.” Protester’s Comments at 10.

It is an offeror’s responsibility to submit a proposal that responds to, and demonstrates a clear understanding of, the solicitation requirements; where a proposal fails to do so, the offeror runs the risk that the procuring agency will evaluate its proposal unfavorably. See, e.g., United Contracting, LLC, B-408279, June 25, 2013, 2013 CPD ¶ 150 at 4. A protester’s disagreement with the agency’s evaluation conclusions does not provide a basis for our Office to object to the evaluation. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 6.

Smith-Richardson’s terse statement does not show that its proposal provided a clear description of its approach to reducing time to market delivery of learning assets as the RFP required. The record supports the MDA’s conclusion that the protester failed to respond to this clearly-stated requirement. Based on the record, the assessment of a deficiency under the management approach subfactor was reasonable, and Smith-Richardson’s proposal was properly rated unacceptable under that subfactor, as the RFP specified.

As noted above, the MDA did acknowledge an error in assessing a deficiency to Smith-Richardson’s proposal under the teaming and staffing subfactor of the management factor. Nevertheless, our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency’s actions; that is, unless the protester demonstrates that, but for the agency’s actions, it would have had a substantial chance of receiving the award. Armed Forces Hospitality, LLC, B-298978.2, B-298978.3, Oct. 1, 2009, 2009 CPD ¶ 192 at 9-10; McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3. Here, Smith-Richardson was not prejudiced by the agency’s miscalculation because, as discussed above, its proposal was reasonably evaluated as having deficiencies under the technical expertise and management approach subfactors, and therefore, was properly rated unacceptable.

CONCLUSION

Even though the MDA concedes one miscalculation of Smith-Richardson's proposal under one subfactor, the record amply supports the MDA's conclusion that the firm's proposal failed to provide an acceptable approach to meeting the contract requirements required by the RFP. In particular, Smith-Richardson's proposal was reasonably found to have deficiencies under both technical and management subfactors; that is, elements where the firm's proposal failed to meet a requirement, or had combinations of significant weaknesses, that increased the risk of unsuccessful performance to an unacceptable level. In light of these deficiencies, we find no basis to question the agency's overall determination that Smith-Richardson's quotation was unacceptable, and thus ineligible for award pursuant to the solicitation's terms. Accordingly, we need not address the protester's other challenges to the evaluation. See, e.g., Future Techs. Consulting Group, Inc., B-409867, Aug. 13, 2014, 2014 CPD ¶ 240 at 5 (where evaluation of protester's proposal as unacceptable is supported by the reasonableness of selected deficiencies, GAO will not review protester's remaining challenges to its evaluation).

The protest is denied.

Susan A. Poling
General Counsel