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**Comptroller General
of the United States**

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

Decision

Matter of: Graybar

File: B-410886

Date: March 4, 2015

Ron Drescher for the protester.

Nicole M. Franchetti, Esq., Defense Logistics Agency, for the agency.

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DIGEST

Protest of exclusion of proposal from competitive range is denied where the record shows that agency reasonably evaluated protester's proposal and concluded that the proposal was not among the most highly rated.

DECISION

Graybar, of Lanham, Maryland, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. SPM8E3-14-R-0007, issued by the Defense Logistics Agency (DLA) Troop Support for maintenance, repair, and operations supply items and services. The protester asserts that DLA's evaluation of its proposal was unreasonable and inconsistent with the RFP.

We deny the protest.

BACKGROUND

The RFP, issued on March 26, 2014, contemplated the award of a five-year, fixed-price, indefinite-delivery/indefinite-quantity (ID/IQ) contract for plumbing supplies, electrical products, tools, construction supplies, and other commercial supplies associated with the maintenance, repair, and operations of facilities, as well as services incidental to the supply of these products. Under the RFP, these products and services will be supplied to DLA customers located in the North Central United States, under the Maintenance, Repair, and Operations Tailored Logistics Support Prime Vendor Program.

Award was to be made to the offeror whose proposal represented the best value to the government considering the following factors: past performance; technical merit, including subfactors (in descending order of importance) for product sourcing, distribution/delivery, and socioeconomic objectives; and price. Past performance was more important than technical merit, while the non-price factors combined were significantly more important than price. AR, Tab 1, RFP, at 68-72.

With respect to past performance, the solicitation provided for evaluation of both the relevancy of recent efforts and contractor performance. RFP at 69-70. The agency's consideration of the relevancy of past performance was to include the similarity, recency, length, volume, delivery points, and dollar value of prior contracts. RFP at 69. Contracts determined to be not relevant were not to be included in the past performance evaluation. RFP at 70. For relevant contracts, the agency's consideration of contractor performance was to include the degree to which the offeror met the terms of delivery, quality standards and socioeconomic goals, and was able to achieve customer satisfaction. *Id.* at 69-70. Regarding technical merit, the RFP required offerors to provide "written evidence" for all carriers, distribution centers, and consolidation points that the offerors planned to utilize in the performance of the contract or that were referenced in the proposal. RFP at 60-61. The solicitation provided that the agency would evaluate price based on an analysis of several pricing calculations including, as relevant here, offerors' proposed prices for price evaluation list items. *Id.* at 72. As set forth in the RFP, the price evaluation list contained a representative sample of the types of items that could be purchased under the contract. *Id.* at 65.

Graybar was one of several offerors to submit proposals. AR at 2; AR, Tab 8, Pre-Negotiation Memorandum, at 4. Non-price proposals were evaluated by a Source Selection Evaluation Board (SSEB), and summarized in the pre-negotiation memorandum. *See* AR, Tab 9, SSEB Report; AR, Tab 8, Pre-Negotiation Memorandum. Graybar's proposal was evaluated as follows:

Evaluation Factor	Rating
Past Performance	Satisfactory Confidence
Technical (roll-up rating)	Acceptable
Product Sourcing Subfactor	Acceptable
Distribution/Delivery Subfactor	Acceptable
Socio-Economic Objectives Subfactor	Outstanding

Pre-Negotiation Memorandum at 25-31; AR, Tab 12, Competitive Range Determination, at 7.

On November 7, the source selection authority (SSA) prepared a competitive range determination which did not include Graybar in the competitive range. Competitive Range Determination at 13. In his competitive range determination, the SSA noted

that Graybar's total evaluated price was the third-highest of all offerors. Further, all offerors selected for the competitive range had equal or better ratings than Graybar under the past performance factor, better ratings under the technical merit factor, and lower prices. Id. at 11, Table 6a. With regard to Graybar, the SSA concluded:

Although Graybar was rated Satisfactory Confidence for Factor I-Past Performance Confidence Assessment, Graybar's rating for Factor II-Technical Merit was not one of the most highly rated (Acceptable) and Graybar's pricing was determined to be outside of the competitive range. Therefore, Graybar has been excluded from the competitive range.

Id. at 13. When Graybar learned of its exclusion from the competitive range. AR, Tab 13, Letter from CO to Graybar, Nov. 12, 2014, it filed this protest with our Office.

DISCUSSION

The protester challenges the agency's evaluation of its proposal under the past performance, technical merit, and price evaluation factors. The evaluation of proposals is a matter within the discretion of the procuring agency; we will question the agency's evaluation only where the record shows that the evaluation does not have a reasonable basis or is inconsistent with the RFP. iGov et al., B-408128.24 et al., Oct. 31, 2014, 2014 CPD ¶ 329 at 8. A protester's disagreement with the agency's evaluation judgments, or with the agency's determination as to the relative merits of competing proposals, does not establish that the evaluation or the source selection decision was unreasonable. Smiths Detection, Inc.; Am. Sci. and Eng'g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 6-7. Further, contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5.

Here, we find that the agency's exclusion of Graybar from the competitive range was reasonable. We discuss Graybar's most significant arguments below.

Past Performance

Graybar contends that the agency's evaluation of its past performance was unreasonable. Specifically, the protester challenges the agency's assignment of deficiencies for failure to provide required information regarding Graybar's socioeconomic subcontracting goals and its actual performance in meeting its subcontracting plan goals on the contracts referenced in its past performance proposal.

An offeror bears the burden of submitting an adequately written proposal that contains all of the information required under a solicitation. Battelle Memorial Inst., B-299533, May 14, 2007, 2007 CPD ¶ 94 at 3. Where a proposal omits, inadequately addresses, or fails to clearly convey required information, the offeror runs the risk of an adverse agency evaluation. Great Lakes Towing Co. dba Great Lakes Shipyard, B-408210, June 26, 2013, 2013 CPD ¶ 151 at 7-8. Contracting agencies evaluating one section of a proposal are not required to go in search of additional information that an offeror has omitted or failed to adequately present. iGov et al., *supra*, at 25; Keystone Sealift Servs., Inc., B-401526.3, Apr. 13, 2010, 2010 CPD ¶ 95 at 4; Sam Facility Mgmt., Inc., B-292237, July 22, 2003, 2003 CPD ¶ 147 at 5.

The RFP required offerors to submit their proposals in three volumes: Volume I (Non-Price proposal); Volume II (Price proposal); and Volume III (Other). RFP at 56. Offerors were to include in the past performance portion of their non-price proposals a list of the offeror's three highest dollar value maintenance, repair, and operations contracts performed within the past three years, and a list of the offeror's three highest dollar value supply contracts performed within the past five years. RFP at 58. For each referenced contract, the RFP required offerors to provide specific information, including, as relevant here:

(q) Subcontracting goals for small business concerns, small disadvantaged business, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUZBZONE small business concerns, and woman-owned small business concerns . . .

[and]

(r) Actual Subcontracting Plan performance for small disadvantaged business, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUZBZONE small business concerns, and woman-owned small business concerns

AR, Tab 2, RFP Amend. No. 1, at 7, § B(4)(q); AR, Tab 5, RFP Amend. No. 4, at 2, § B(4)(r).

The past performance section of Graybar's Volume I non-price proposal identified three contracts as past performance references. AR, Tab 11, Graybar Proposal at 5-9. The agency assigned a "very relevant" relevancy rating and a "good" performance rating to each of the referenced contracts. Pre-Negotiation Memorandum, at 25. However, the past performance section of Graybar's proposal did not include the required information regarding socioeconomic subcontracting goals and actual performance in meeting its subcontracting plan goals on these referenced contracts. Graybar Proposal at 5-9. As a result of Graybar's failure to

provide the required information, the evaluators assigned Graybar's proposal two deficiencies. Pre-Negotiation Memorandum at 25.

Although the protester concedes that the information should have been included in the past performance section of its Volume I, non-price proposal, Graybar nevertheless challenges the agency's assignment of these two deficiencies. Comments at 3. In this regard, the protester asserts that information about Graybar's subcontracting goals and actual subcontracting plan performance on its referenced contracts was included in Volume III (Other) of its proposal. Graybar also contends that the relevant information was elsewhere available in contractor performance assessment reports (CPAR). Protest at 2; Comments at 3.

We find no merit in these arguments. The RFP's instructions to offerors clearly warned that: "Proposals that do not provide the required information in the prescribed format may be excluded from further consideration." RFP at 56. The RFP's instructions with regard to the non-price proposal (Volume I) further stated:

TO ENSURE THAT YOUR NON-PRICE PROPOSAL IS PROPERLY EVALUATED, PLEASE ARRANGE YOUR RESPONSES IN THE ORDER SHOWN ON THE FOLLOWING PAGES. EACH OF YOUR INDIVIDUAL REPOSSES SHOULD CITE THE APPLICABLE NON-PRICE FACTOR AND PARAGRAPH TO WHICH YOU ARE RESPONDING.

Id. at 58 (emphasis in original). Furthermore, we note that, even apart from the express solicitation directions here, evaluators of one section of a proposal are not required to go in search of information that an offeror has failed to adequately present. iGov et al., supra.

In any case, the protester's argument that the agency could have obtained the required information from elsewhere in its proposal, specifically in Volume III (Other), is incorrect. In this regard, the solicitation required the submission of socioeconomic subcontracting goals and actual performance in meeting its subcontracting plan goals on the top three maintenance, repair and operations (MRO) contracts performed within the past 5 years. In response, Graybar cited three multi-year DLA Troop Support MRO contracts (Southwest Region, Northeast Region, and South Central Region), all of which were performed from 2004 to 2013. RFP at 68; Graybar Proposal at 5-9; SSEB at 56-64. As noted by the agency, however, Graybar's Volume III only included subcontracting data for the DLA Troop Support contracts for the period April 1, 2013 to March 31, 2014, and not for the required most recent five years of performance. Graybar Proposal, Volume III. (Graybar also included 2012-2014 data for a General Services Administration contract not cited in Graybar's past performance volume. Id.)

As for the CPAR reports, we note that the evaluators reviewed Graybar's CPAR reports for each of the three referenced contracts and found a consistent failure to meet certain small business and socioeconomic contracting goals. SSEB Report at 57-62. For example, with regard to Graybar's first referenced contract (Southwest Region), CPAR reports for the prior three years all reflected a failure to meet the goals for utilizing small disadvantaged businesses and service-disabled veteran-owned small businesses. Id. at 56-57. The two most recent CPAR reports for this contract also showed a failure to meet historically underutilized business zone (HUBZone) goals. Id. at 57. Similarly, with regard to Graybar's second referenced contract (Northeast Region), CPAR reports for the prior three years reflected a failure to meet the goals for utilizing women-owned small businesses, small disadvantaged businesses, and service-disabled veteran-owned small businesses for at least two of the three years. Id. at 59-60. Finally, with regard to Graybar's third referenced contract (South Central Region), CPAR reports for the prior three years reflected a failure to meet the goals for women-owned small businesses and small disadvantaged businesses in all three years. Id. at 61-62. Graybar has pointed to nothing in this CPAR data regarding socioeconomic subcontracting which warranted a higher past performance rating than satisfactory confidence.

Technical Merit

Graybar also challenges the agency's evaluation of its proposal under the technical merit factor, arguing that the agency improperly assigned weaknesses under the product sourcing subfactor and the distribution/delivery subfactor. We find the evaluation in these areas to be reasonable.

With respect to weaknesses assessed under the product sourcing subfactor, the RFP required that proposals "provide a clear understanding" as to how offerors would meet the purchasing system requirements and maintain the 98% quantity fill rate requirement set forth in the statement of work. RFP at 31-32 (quantity fill rate), 44 (purchasing system), 59. With regard to the purchasing system, offerors were to describe their purchasing system and address seven specific required elements for that system. Id. at 44, 60. These elements included, as relevant here: (1) internal audits, training, policies and procedures to "ensure the integrity of the purchasing system," and (2) a requirement that price analysis be performed with every purchasing action. Id. at 60. Proposals were to detail the purchasing system "from the Prime level through the Purchase Order Level with the subcontractor(s)/supplier." Id. at 44, 59.

The agency assigned a weakness for Graybar's failure to provide sufficient detail regarding the price analysis methodology, the firm's plan to monitor fill rate metrics, and management oversight. Pre-Negotiation Memorandum, at 27. Graybar argues that it adequately addressed the solicitation's requirements under this subfactor.

The record supports the agency's findings that Graybar's proposal provided minimal detail regarding the methods and procedures used for some of the purchasing system elements. Pre-Negotiation Memorandum at 26-27. For example, with regard to internal controls, Graybar's proposal mentions "a number of audit processes," "several reporting tools," and a training program, but does not provide detail or explanation as to how these processes and tools would be employed to "ensure the integrity of the purchasing system." Graybar Proposal at 10-11; Pre-Negotiation Memorandum at 26; see RFP at 60. Similarly, while Graybar's proposal generally indicated that it would perform a price analysis, it did not furnish detail--such as specific analytical tools and methodologies it would employ--regarding how it would perform the price analysis. Graybar Proposal at 13; Pre-Negotiation Memorandum at 26-27.

With respect to the two weaknesses assessed under the distribution/delivery subfactor, the first weakness was for failure to provide written evidence of an existing relationship with carriers, distribution centers or consolidation point suppliers or subcontractors. The second weakness was for lack of specificity regarding transportation and delivery. Pre-Negotiation Memorandum at 8-29.

The RFP required that offerors provide a "clear understanding" as to how they would meet the delivery requirements set forth in the statement of work. RFP at 60. Proposals were to address routine delivery, emergency delivery, bills of material, and how the offeror would maintain a 95% on-time delivery requirement. Id. In addition, the RFP set forth the following requirement for written evidence of any supplier or subcontractor relationships used for transportation, distribution or consolidation:

For all carriers, distribution centers and consolidation points that are planned to be utilized in the performance of any resultant contract and are listed as part of the response to this factor, provide written evidence. Clearly indicate the type of transportation, distribution or consolidation services being provided. Written evidence consists of a letter or e-mail from the supplier/subcontractor, that states intent to provide services to the offeror in the event of contract award or shows an existing agreement whereby the supplier/subcontractor is already supplying the services. Failure to provide written evidence may adversely affect your rating.

RFP at 60.

The agency assigned a weakness because Graybar's proposal did not include any written evidence of subcontractor or supplier relationships for distribution or delivery services. Pre-Negotiation Memorandum at 28. Graybar contends that the weakness was unreasonable because it does not have arrangements with outside

distribution centers and consolidation points, but rather operates its own fleet of delivery vehicles.

As noted by the evaluators, Graybar's proposal stated the following with regard to deliveries:

Stock material deliveries will be by Graybar fleet or UPS or other local providers. For non-stock shipments, our transportation managers will coordinate with our suppliers to define optimized load plans and select the best carrier and the best transportation mode.

Graybar's Proposal at 15. As the above passage demonstrates, Graybar's proposal stated that the firm would partner with UPS or other local providers for deliveries of stock materials, and would partner with "our suppliers . . . to select the best carrier" for non-stock shipments. Since the RFP required that offerors provide written evidence of relationships with these suppliers or subcontractors and Graybar's proposal failed to do so, Graybar Proposal at 14-15, 19-20, the agency's assignment of a weakness here was reasonable.

Next, Graybar challenges the agency's assignment of a weakness for lack of specificity regarding distribution and deliveries. As relevant here, the RFP required that offerors include "a discussion of how you will meet the expected delivery" timeframes (3-10 days for routine commercial off-the-shelf items and 24-72 hours for emergency commercial off-the-shelf items). RFP at 60. The RFP also required offerors to "describe" their approaches to meeting and monitoring a requirement for 95% on-time delivery. Id. The agency found that Graybar's proposal

lacked specificity in the areas of transportation including the various modes and next day methods; the processes, system, or methodologies to be utilized to consolidate material as necessary; and its plan to meet and monitor the on-time delivery rate.

Pre-Negotiation Memorandum at 29.

The record supports the agency evaluation of Graybar's proposal as lacking in detail in this area. For example, with regard to the requirement to discuss how it would meet the required delivery time for emergency deliveries, Graybar's proposal stated that its: "Team will communicate our procedures for expediting rush orders and handling all after-hours, scheduled shutdown periods, and weekend requirements." Graybar's Proposal at 15. However, aside from the promise to communicate, at some time in the future, the procedures for rush orders, the proposal did not discuss the processes, procedures, or methodologies Graybar would employ to meet the solicitation emergency delivery requirements. Similarly, with regard to the RFP's requirement to describe the approach to meeting and monitoring the 95% on-time delivery requirement, Graybar's proposal contained a

discussion of how it would monitor the metric through daily reports. Graybar Proposal at 15. The proposal, however, did not contain any discussion of the processes that would be employed or the approaches to be used to meet the 95% on-time delivery requirement. Id. at 15-16; Pre-Negotiation Memorandum at 29; AR at 31. Based on this record, we find nothing unreasonable about the agency's assignment of weaknesses under the distribution/delivery subfactor.

Price Evaluation

Finally, Graybar challenges the agency's price evaluation, arguing that price evaluation list (PEL) items do not reflect a large enough sample of the goods under the contract to validate the pricing as representative of all of the purchases under the contract. The RFP, however, described the PEL as a representative sample of the items to be purchased, see RFP at 43, 65, and clearly provided that the prices provided on the PEL would serve in part as the basis for the price evaluation. Id. at 72. To the extent that the protester seeks to challenge the solicitation's price evaluation scheme in this regard, its protest is untimely; our Bid Protest Regulations require challenges to alleged apparent solicitation improprieties to be filed prior to bid opening. 4 C.F.R. § 21.2(a)(1) (2014).

The protest is denied.

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