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Decision

Matter of: Booz Allen Hamilton, Inc.; Leidos Inc.

File: B-410032.4; B-410032.5; B-410032.6

Date: March 16, 2015

Kara M. Sacilotto, Esq., Rand L. Allen, Esq., Tracye Winfrey Howard, Esq., and George E. Petel, Esq., Wiley Rein LLP, for Booz Allen Hamilton, Inc.; and James J. McCullough, Esq., Jerald S. Howe, Jr., Esq., Michael J. Anstett, Esq., Samuel W. Jack, Esq., and Aaron T. Tucker, Esq., Fried, Frank, Harris, Shriver & Jacobson LLP, for Leidos, Inc., the protesters.
Gerard F. Doyle, Esq., and Ron R. Hutchinson, Esq., Doyle & Bachman LLP, for L-3 National Security Solutions, Inc., the intervenor.
LTC Gregory J. Fike, Max D. Houtz, Esq., and Gregory A. Moritz, Esq., Defense Intelligence Agency, for the agency.
Eric M. Ransom, Esq., and Jennifer Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest alleging that the agency unreasonably and disparately evaluated the vendors' proposals and failed to follow the solicitation's tradeoff criteria is denied where the agency's evaluation and source selection was reasonable and consistent with the solicitation.

DECISION

Booz Allen Hamilton, Inc., of McLean, Virginia, and Leidos, Inc., of Reston, Virginia (the incumbent), protest the issuance of a task order to L-3 National Security Solutions, Inc., of Reston, Virginia, by the Defense Intelligence Agency (DIA), under task order request for proposals (TORP) No. HHM402-14-R-0038, for intelligence analysis and support.

We deny the protests.

BACKGROUND

DIA issued the TORP on February 28, 2014, under the agency's Solutions for Intelligence Analysis II indefinite-delivery/indefinite-quantity contract, as a

competitive task order acquisition pursuant to Federal Acquisition Regulation (FAR) § 16.505. The purpose of the TORP was to procure contractor personnel to provide support to the United States Central Command, Joint Intelligence Operations Center, at MacDill Air Force Base in Tampa, Florida, and at other locations.

The TORP provided for the issuance of a single task order on the basis of an integrated best value evaluation considering management/technical capability, small business participation, and cost/price. The TORP contemplated issuance of a task order to “the offeror who gives the greatest confidence that it will best meet, or exceed, the stated requirements;” the solicitation advised that “this may result in an award to the higher rated and/or higher priced offeror.” TORP, Amendment 04, at 4. However, the TORP also provided that “the Government will not make an award at a significantly higher overall cost to achieve slightly superior technical and management features.” Id.

The TORP established that the management/technical capability factor consisted of two subfactors: management approach/capability, and technical capability/risk. The agency was to assign each subfactor an adjectival rating on a scale of outstanding, good, acceptable, marginal, and unacceptable. The subfactor ratings were then to be rolled up into an overall management/technical capability factor rating, which was to be assigned on the same adjectival scale. The TORP advised that, between the two subfactors, management approach/capability was more important than technical capability/risk. Overall, the TORP advised that the management/technical capability factor was “SIGNIFICANTLY MORE IMPORTANT THAN cost/price in the award decision.”¹ Id. (Emphasis original).

The evaluation criteria for the management approach/capability subfactor included consideration of the offerors’ detailed approaches to the following:

- (a) Ability to recruit, provide and retain qualified personnel as detailed in the SOW.
- (b) Availability of proposed staffing mix and timeline to meet the minimum stated requirements of the SOW staffing levels from date of award in accordance with the fill rate requirements of the SOW.
- (c) Describe organization/management and proposed management structure and ability to respond to mission changes.
- (d) Transition risks and how they would be mitigated to include the potential for proposed individuals not being available and measures instituted to mitigate the risk. Provide detail on the Offeror’s recruitment and

¹ The small business participation factor was evaluated on an acceptable/unacceptable basis. Although small business participation was not assigned a relative weight in the trade-off analysis, the agency did note the offerors’ respective proposed small business participation rates.

retention strategy to meet the specific requirements of the SOW and to maintain full staffing levels for the duration of the task order performance.

- (e) Plan to obtain and provide the additional analytic support required to support the surge described in paragraph 1.3 of the SOW.

Id. at 6-7. The evaluation criteria for the technical capability/risk subfactor concerned “[a]n assessment of the Offeror’s ability to demonstrate their substantial depth and breadth of experience, knowledge and capability in performing work similar to that described in the SOW.” Id. at 7.

The agency received four responsive proposals by the TORP’s closing date. After evaluation of the proposals, the agency issued the task order to L-3. That task order was then protested at our Office. In response to the protests, the agency decided to take corrective action consisting of amending the TORP, reevaluating the proposals, and making a new best value decision. Accordingly, our Office dismissed the protests. Booz Allen Hamilton, Inc., B-410032, Aug. 4, 2014; Leidos, Inc., B-410032.2, B-410032.3, Aug. 4, 2014.

Subsequent to the dismissal of the protests, the agency’s source selection evaluation board (SSEB) reconvened and reevaluated the original proposals. The agency then decided to establish a competitive range of Booz Allen, L-3, and Leidos, and enter into discussions. Each offeror submitted two rounds of revised proposals, including a final proposal revision (FPR). The SSEB reviewed the FPRs and prepared a final technical evaluation report. The final SSEB ratings of the FPRs were as follows:

	Booz Allen	L-3	Leidos
Management/Technical Capability	Good	Outstanding	Acceptable
Management Cap.	Outstanding	Outstanding	Good
Technical/Risk	Good	Outstanding	Acceptable
Small Bus. Participation	Acceptable	Acceptable	Acceptable
Evaluated Price	\$177,403,247.16	\$193,128,769.81	\$162,933,333.44

SSEB Report, at 2.

The source selection authority (SSA), in the source selection decision (SSD), reviewed the SSEB report and agreed with its findings. In conducting the best value tradeoff analysis, the SSA compared L-3’s highest-rated proposal against each of the lower-priced, lower-rated proposals, and concluded that L-3’s proposal represented the best value, notwithstanding the significant price difference. Specifically, the SSA concluded in each case that the technical superiority of L-3’s proposal warranted payment of that proposal’s much higher price, where the TORP

provided that the management/technical capability factor was significantly more important than cost/price in the award decision.

The agency notified the offerors of the decision to issue the task order to L-3 on November 24. Both unsuccessful offerors requested debriefings. The agency provided a written debriefing to Booz Allen on December 3, and answers to additional questions on December 5. Leidos also received a written debriefing on December 3. These protests followed.

DISCUSSION

Booz Allen and Leidos each present multiple challenges to the agency's evaluation and award decision. Each protester alleges that the agency erred in its evaluation of the protester's own proposal, and engaged in disparate treatment favoring L-3. The protesters also each assert that the agency's best value decision was inconsistent with the TORP's evaluation criteria, and that the evaluation record is inadequately documented.

Booz Allen's Protest Allegations

Booz Allen first asserts that the agency unreasonably awarded multiple separate strengths to L-3's proposal for individual aspects of its transition, recruitment, and retention plans, while awarding Booz Allen only one strength covering transition, recruitment, and retention. Booz Allen argues that because its proposal contained what it contends were similar strategies to recruit and retain personnel, and substantiation of a similar historical retention rate, it was disparate and unreasonable for the agency to award additional strengths to L-3 without also awarding equivalent strengths to Booz Allen. Booz Allen also alleges that the agency's contemporaneous evaluation record fails to document a rationale for the disparate evaluation results, and that the agency improperly relies on post hoc rationalizations in defending its evaluation.

Specifically, Booz Allen objects to two "additional" strengths awarded to L-3, as follows:

The SSEB determined [that L-3's] [DELETED] staffing approach is a sound strategy. [DELETED]. Their successful [DELETED] staffing approach engenders the confidence of the SSEB and increases the likelihood of successful contract performance.
[. . .]

[L-3]'s employee development approach includes [DELETED]. [DELETED], this approach is viewed as advantageous to the government and will likely improve contract performance.

SSEB Report at 6.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6; Optimal Solutions & Techs., B-407467, B-407467.2, Jan. 4, 2013, 2013 CPD ¶ 20 at 6. In reviewing protests challenging an agency's evaluation of proposals, even in a task order competition, we do not reevaluate proposals, but rather we examine the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. Technology Concepts & Design, Inc., B-403949.2, B-403949.3, Mar. 25, 2011, 2011 CPD ¶ 78 at 8. A protester's mere disagreement with the agency's judgment is not sufficient to establish that an agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

On our review of the record here, we conclude that the agency's contemporaneous evaluation is adequately documented and provides no support for Booz Allen's allegation of an unreasonable and disparate evaluation. Rather, the agency's evaluation documents demonstrate that the additional strengths assigned to L-3 were based on specific aspects of L-3's proposal that the agency considered advantageous, and which were not matched by Booz Allen's proposal.

Concerning the strength assigned to L-3's proposal for its [DELETED] approach, the record confirms that Booz Allen's proposal also presented recruitment and retention strategies such as a [DELETED]. However, Booz Allen's proposal did not mirror all aspects of L-3's [DELETED] approach that were cited by the agency as establishing a strength. For example, while Booz Allen's recruitment approach touted [DELETED], L-3's recruitment approach [DELETED]. Booz Allen Technical Proposal at 19; L-3 Technical Proposal at 19. Additionally, although Booz Allen specifically argues that its proposal warranted the assignment of an equivalent strength on the basis of a similar historical retention rate, Booz Allen's retention rate on previous contracts ([DELETED] to [DELETED]%), while high, was not as high as that established by L-3. In sum, Booz Allen's argument that its transition, recruitment, and retention approaches were equivalent in all respects to L-3's proposal, and thus warranted equivalent strengths in this area, is not supported by the record.

Similarly, concerning the additional strength assigned to L-3 for its employee development approach, our review of the record reveals differences between the proposals that support the SSEB's evaluation. Specifically, while Booz Allen's proposal also included [DELETED], L-3's proposal is distinguished by [DELETED]. L-3 Technical Proposal at 18.

Given differences in the approaches set forth by the two offerors, we see nothing unreasonable in the SSEB's conclusion that L-3's proposal was stronger than Booz Allen's proposal in this area, and established multiple advantages concerning L-3's "[a]bility to recruit, provide and retain qualified personnel," which warranted the assignment of additional strengths. TORP, Amendment 04, at 4. Agency evaluators have considerable discretion in making subjective judgments about the technical merit of proposals. See CAS, Inc., B-260934.2, B-260934.3, Sept. 12, 1995, 95-2 CPD ¶ 239 at 4.

Booz Allen next alleges that its proposal's "good" rating for the management/technical capability factor was inconsistent with the evaluation scheme established in the TORP, which provided that the management approach/capability subfactor was more important than technical capability/risk. In this regard, Booz Allen argues that because its proposal was rated "outstanding" under the more-important management approach/capability subfactor, and "good" under the less-important technical capability/risk subfactor, the agency's roll-up of the subfactor ratings should have resulted in an overall factor rating of outstanding.

We disagree. Although the TORP provided that the ratings of the two subfactors would be rolled up into an overall management/technical capability factor rating, the rolling up process is not a mechanical exercise, and the adjectival scale set forth in the TORP still applied. In this case, the SSEB concluded that "[Booz Allen's] overall management/technical capability is GOOD when considering both subfactors, as it indicates a thorough approach and understanding and a low overall risk of unsuccessful performance." SSEB Report at 12. We see nothing in the SSEB's conclusion that is inconsistent with the TORP's evaluation scheme.

Finally, Booz Allen asserts that the SSA's tradeoff analysis was inconsistent with the TORP's statement that "the Government will not make an award at a significantly higher overall cost to achieve slightly superior technical and management features." TORP, Amendment 04, at 4. Booz Allen argues that L-3's proposal was only slightly superior to its own, and that the SSA failed to quantify the benefits supporting L-3's significantly higher price.

Booz Allen's assertion is belied by the SSD. In the SSD, the SSA concluded that L-3 was "clearly superior" under each of the technical/management capability subfactors. SSD at 7, 9. Overall, the SSA determined that:

Notwithstanding [the] significant price difference, I conclude that the benefits afforded by L-3 under factor 1 justify L-3's much higher price. In coming to this conclusion I note the solicitation expressly provided that factor 1 is significantly more important than cost/price. I recognize that the over \$15.7M price difference between the two offerors is substantial. Nonetheless, as I consider each of the L-3

strengths and the benefits they afford the Government as compared to the strengths for BAH, I conclude that L-3 is the better value.

SSD Addendum at 1. This record reflects that the SSA recognized that the price difference was significant, but viewed L-3's proposal as more than "slightly superior" to Booz Allen's proposal, and considered that the non-price evaluation criteria were significantly more important than price under the terms of the TORP. Booz Allen's allegation that L-3's proposal was only "slightly superior" therefore represents no more than disagreement with the SSA's judgment, which is not sufficient to demonstrate that the tradeoff was unreasonable. MCR Federal, LLC, B-401954.2, Aug. 17, 2010, 2010 CPD ¶ 196 at 11. Additionally, there is no requirement that the source selection official quantify the value to the agency of the technical superiority of an awardee's proposal. Structural Pres. Sys., Inc., B-285085, July 14, 2000, 2000 CPD ¶ 131 at 7; see also, General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44 at 11 (argument that a cost premium is simply too large is not sufficient to establish that the tradeoff was unreasonable).

Leidos' Protest Allegations

Leidos alleges that the agency failed to consider the prior experience set forth in its proposal, while over-crediting the prior experience stated in L-3's proposal. Leidos asserts that the evaluation does not discuss Leidos' excellent CPARS scores for its performance as the incumbent, while awarding strengths to L-3's experience on other contracts that are necessarily less similar to the requirement than the predecessor contract.

As set forth above, under the technical capability/risk subfactor, the agency was to conduct "[a]n assessment of the Offeror's ability to demonstrate their substantial depth and breadth of experience, knowledge and capability in performing work similar to that described in the SOW." TORP, Amendment 04, at 4. Leidos' proposal was evaluated as having no strengths or weaknesses under this subfactor, and was rated acceptable. L-3's proposal was evaluated as having six strengths and no weaknesses and was rated outstanding.

The agency explains the evaluation ratings on the basis that Leidos' proposal described its experience, knowledge, and capability, but failed to do so in a manner that warranted the assignment of strengths. With respect to Leidos' performance on the incumbent contract, the agency responds that the TORP cautioned vendors that "[o]fferors shall assume that the Government has no prior knowledge of their experience and will base its evaluation on the information presented in the offeror's proposal." TORP at 59. The agency contends that Leidos' proposal simply did not demonstrate that its substantial depth and breadth of experience, knowledge, and capability exceeded the "specified performance or capability requirements in a way

that will be advantageous to the government,” and thus warranted a strength. Id., Amendment 04, at 6.

On the basis of the record here, we see nothing unreasonable in the agency’s evaluation. Our review demonstrates that in response to the technical capability/risk subfactor, Leidos’ proposal [DELETED]. In contrast, L-3’s proposal identified specific experience under multiple prior contracts, and linked that experience to L-3 capabilities exceeding the agency’s requirements.

This difference in the offerors’ approaches to demonstrating their experience provides support for the agency’s evaluation. For example, where Leidos’ [DELETED], L-3 received a strength for demonstrating its experience [DELETED].” SSEB Report at 7. In sum, the record reflects that L-3 presented a proposal that more effectively addressed the agency’s evaluation criteria, supporting the assessment of various additional strengths in comparison to Leidos.

Finally, as Booz Allen argued unsuccessfully above, Leidos also argues that its proposal’s “good” rating under the more-important management capability subfactor should have rolled-up into a “good” rating for the management/technical capability factor overall, and that the agency failed to abide by the TORP’s provision that “the Government will not make an award at a significantly higher overall cost to achieve slightly superior technical and management features.” TORP, Amendment 04, at 4. As addressed in response to Booz Allen’s similar allegations, these arguments are unavailing.

First, as explained above, the rolling-up of technical subfactor ratings into an overall technical factor rating is not a mechanical exercise. The record reflects that the agency considered Leidos’ proposal “acceptable” for the overall management/technical capability factor in consideration of both subfactors. We see nothing in the overall management/technical capability factor rating that is inconsistent with the TORP’s evaluation scheme.

Second, Leidos’ claim that L-3’s proposal was only “slightly superior” to its own is even less credible than Booz Allen’s previously-discussed claim. The record demonstrates that the SSA considered L-3’s proposal “clearly superior” to Leidos’ proposal under each subfactor and “far superior” under the management/technical capability factor overall. SSD at 4, 6-7. In the tradeoff analysis, the SSA concluded that the advantages of L-3’s proposal warranted the payment of a significant price premium over Leidos’ proposal. Leidos’ allegation that L-3’s proposal was only “slightly superior” to its own therefore represents no more than disagreement with the SSA’s judgment, which is not sufficient to demonstrate that the tradeoff was unreasonable. MCR Federal, LLC, supra.

CONCLUSION

In sum, our review of the record in this case demonstrates that the agency's evaluation was sufficiently documented, reasonable, and consistent with the evaluation criteria set forth in the TORP. Similarly, the SSA's tradeoff determination was consistent with the weight of the evaluation factors as established by the TORP.²

The protest is denied.

Susan A. Poling
General Counsel

² Both protesters raise other allegations in addition to those discussed in this decision. While we have not discussed every allegation raised, instead focusing on what we see as the protesters' strongest arguments, we have considered all of the protesters' allegations, and we find, based on the record, that none provides a basis on which to sustain the protest.