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**Comptroller General
of the United States**

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

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. The entire decision has now been approved for public release.

Decision

Matter of: Dougherty & Associates, Inc.

File: B-413155.8

Date: September 1, 2016

Antonio R. Franco, Esq., Kathryn V. Flood, Esq., Julia Di Vito, Esq., and Jacqueline K. Unger, Esq., Piliro Mazza PLLC, for the protester. Christopher Murphy, Esq., and Kristen M. Nowadly, Esq., General Services Administration, for the agency. Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation required that offerors demonstrate prior experience through submission of a single contract/task order/purchase order, or a collection of related task orders/purchase orders, the agency reasonably rejected protester's proposal for failing to comply with those requirements.

DECISION

Dougherty & Associates, Inc. (DAI), of Alexandria, Virginia, protests its elimination from consideration under request for proposals (RFP) No. GS02Q15CRR0001 (frequently referred to as the Human Capital and Training Solutions (HCaTS) solicitation) issued by the General Services Administration (GSA) to provide training and development services across the federal government. DAI asserts that the elimination of its proposal was unreasonable and inconsistent with the terms of the solicitation.

We deny the protest.

BACKGROUND

On August 17, 2015, the agency published the solicitation at issue, seeking proposals for "customized training and development services, customized human capital strategy services, and customized organizational performance improvement services." Agency Report (AR), Tab 1, RFP, at 21. The solicitation contemplated multiple awards of indefinite-delivery, indefinite-quantity (IDIQ) contracts under

which task orders will subsequently be issued. The solicitation covered eight North American Industry Classification System (NAICS) codes, and was divided into two separate “Pools” based on different small business size standards.¹ RFP at 98-99. Offerors were permitted to compete in either or both of the pools, and the agency established a target of 40 awards for each pool. Id. at 98, 152.

The solicitation provided for award on a best-value basis² and established various minimum requirements, including specific requirements for past experience. In this regard, the solicitation stated:

For an Offeror to be eligible for consideration under a given Pool, the Offeror shall have performed six Relevant Experience Projects [REP], with four of those Relevant Experience Projects under a NAICS Code that corresponds directly to a NAICS Code in the Pool being applied for Each Relevant Experience Project shall meet the minimum requirements as prescribed in Section L.5.2.2.^{3]}

Id. at 127.

The solicitation further provided that an offeror’s experience must be substantiated by “evidence within a verifiable contractual document,” adding that an offeror “shall only receive credit . . . if the Government can validate the information,” and warned that failure to meet the experience requirements “may result in the proposal being rejected.” Id. at 128, 131-32, 152. In this regard, the solicitation permitted offerors to meet the experience requirements by submitting, for each relevant experience project: a single contract; a single task or purchase order; or a “collection of task orders” that had been placed under a “master contract vehicle.” Id. at 127. In order for a collection of task orders to be used, the RFP required that they be related in certain ways. Specifically, the RFP provided that a collection of task orders must have been awarded by the same customer; that successor task orders had to be “logical follow-on[s]” to predecessor task orders;⁴ and that successor task orders

¹ The size standard was \$11 million for Pool 1 and \$15 million for Pool 2. RFP at 98-99.

² The solicitation stated that awards would be made based on the proposals that were “Highest Technically Rated with Fair and Reasonable Prices (HTRFRP).” Id. at 151.

³ Among other things, RFP section L.5.2.2 established certain requirements regarding scope, size, and period of performance. Id. at 131-34.

⁴ The RFP elaborated that “[a] logical follow-on task order is defined as a task order for the same or similar services provided under the predecessor task order.” Id. at 128.

must have been awarded within 30 days after the end date of predecessor task orders. Id. at 128. Finally, the solicitation directed offerors to substantiate their experience with either a single contract/task order/purchase order or a collection of task orders, “but not both,”⁵ expressly adding: “If the Offeror submits the single contract and the task order(s)/purchase order(s) awarded against it, the single contract and the task order(s)/purchase order(s) shall not be considered.” Id.

On or before the December 3, 2015 closing date, the agency received 115 proposals, including proposals submitted by DAI for both pools. Contracting Officer’s Statement at 2. In supporting one of the required experience projects (referred to as “REP 5”), DAI’s proposals referenced a subcontract between DAI and a prime contractor⁶ under an Office of Personnel Management (OPM) contract. Protest at 9, 11. With its proposals, DAI also submitted three purchase orders that had been issued under the subcontract. Id. at 9.

On February 24, 2016, the agency sought clarifications from DAI regarding REP 5, stating:

This REP contains 3 separate purchase orders (S000003452/S000006420/DH01000117) and was not identified as a “collection of task orders[”]/no J12 provided.[⁷] It’s unclear how these 3 orders are linked. Please state where in [the] files submitted the above is addressed.

AR, Tab 6, Clarification Request, at 1.

On February 24, DAI responded, stating:

We did not submit this relevant experience project as a collection of task orders. Purchase Orders submitted were used by the Prime . . . throughout the contract/subcontract period to revise and update DAI’s statement/scope of work, establish and adjust periods of performance for specific tasks, and provide and adjust funding as appropriate. The purchase orders were submitted, as required by the RFP proposal submission instructions, as

⁵ Specifically, the solicitation stated: “If a single contract has a task order(s)/purchase order(s) awarded against it, the Offeror shall submit either the single contract or the task order(s)/purchase order(s) as the Relevant Experience Project, but not both.” Id. at 128.

⁶ The solicitation permitted reliance on first-tier subcontracts under federal government contracts to meet the experience requirements. Id. at 137.

⁷ RFP attachments J.12 provided templates for offeror submissions regarding required experience.

contractual documents to substantiate . . . DAI's scope of work, KSA [key service areas] relevancy, period of performance and project value.

Protest at 6.

On May 16, the agency notified DAI that its proposal had been eliminated from further consideration, stating:

The award document for Relevant Experience Project (REP) 5 contains three separate purchase orders and was not identified as a "collection of task order[s]." Clarification was done and the vendor response did not state which the correct purchase order is for this REP, but it stated that the REP was not a "collection of task orders." . . . [P]roposed REP 5 does not meet the definition of an REP. . . .⁸

AR, Tab 7, Notification of Unsuccessful Proposal, at 1.

This protest followed.

DISCUSSION

DAI protests that the agency "improperly eliminated DAI from competition for award based on an unreasonable reading of DAI's proposal," further complaining that the agency "ignor[ed] the clear language of DAI's proposal," and maintains that the agency unreasonably concluded that DAI's proposals failed to meet the experience requirements. Protest at 1. We disagree.

In reviewing protests challenging an agency's evaluation, our Office does not reevaluate proposals; rather, we review the record to determine whether the evaluation was reasonable, consistent with the terms of the solicitation, and compliant with procurement statutes and regulations. See, e.g., Alutiiq Tech. Servs. LLC, B-411464, B-411464.2, Aug. 4, 2015, 2015 CPD ¶ 268 at 4; Silverback7, Inc., B-408053.2, B-408053.3, Aug. 26, 2013, 2013 CPD ¶ 216 at 3. An offeror's disagreement with an agency's evaluation, without more, does not establish that the evaluation was unreasonable. Id. Offerors are responsible for submitting well-written proposals with adequately detailed information that allows for

⁸ In addition to the agency's conclusion that DAI's proposal failed to comply with the solicitation requirements regarding REP 5, the agency concluded that DAI's proposal failed to meet other solicitation requirements. AR, Tab 7, Notification of Unsuccessful Proposal, at 2. As discussed below, we conclude that the agency reasonably rejected DAI's proposal with regard to the REP 5 requirements; accordingly, we do not discuss any other evaluated deficiency.

meaningful review by the procuring agency. See Hallmark Capital Grp., LLC, B-408661.3 et al., Mar. 31, 2014, 2014 CPD ¶ 115 at 9.

Here, as discussed above, the solicitation provided that, to qualify for each pool, offerors must have performed six relevant experience projects that met certain criteria regarding size, scope, and period of performance; that for each project, an offeror must submit either a single contract/task order/purchase order, or a collection of task orders--but not both; and provided that a collection of task orders must be related in certain specified ways. RFP at 127-28.

Here, notwithstanding these solicitation provisions, DAI submitted its OPM subcontract--along with purchase orders issued under that subcontract. Further, DAI acknowledges that the subcontract, itself, does not substantiate the various experience requirements, explaining that the purchase orders were submitted "to substantiate . . . DAI's scope of work, KSA [key service areas] relevancy, period of performance and project value." Protest at 6. Finally, DAI declined to comply with the solicitation requirements regarding a collection of task orders/purchase orders--despite the agency's notification that it was unclear that the purchase orders DAI submitted were sufficiently related. On this record, we find no basis to question the agency's rejection of DAI's proposals.

The protest is denied.

Susan A. Poling
General Counsel