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Decision

Matter of: Harmonia Holdings Group, LLC

File: B-413464; B-413464.2

Date: November 4, 2016

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DIGEST

Protest challenging agency's best-value award decision is sustained where the record does not show that the source selection authority performed a price/technical best-value tradeoff before concluding that the higher-rated, higher-priced quotation offered the best value to the government.

DECISION

Harmonia Holdings Group, LLC, of Blacksburg, Virginia, protests the award of a contract to Optimal Solutions and Technologies, Inc. (OST), of Washington, DC, under request for quotations (RFQ) No. DTFT6016Q00004, issued by the Department of Transportation, Federal Transit Administration (FTA), for information technology (IT) services.¹ Harmonia challenges the FTA's evaluation of quotations and argues that the agency failed to conduct a proper best-value tradeoff.

We sustain the protest.

¹ Harmonia is a small, woman-owned, disadvantaged business.

BACKGROUND

On March 8, 2016, the FTA issued the RFQ via the General Services Administration (GSA) e-buy system, under the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4, to current holders of the GSA schedule 70 General Purpose Commercial Information Technology, Equipment, Software and Services contract. The RFQ sought support for web-based application development, maintenance of legacy applications, website design, IT infrastructure management, IT security management, and helpdesk support services for the FTA's headquarters and regional personnel. RFQ at 3.

The RFQ contemplated the award of a contract containing both fixed-price and labor hour contract line items (CLINS), with a one-year base period of performance and four one-year option periods.² Id. at 5. The RFQ advised offerors that the procurement would be conducted using the best-value tradeoff evaluation method, with award to the vendor whose quotation was most advantageous to the government. Id. at 57. The evaluation would be based on consideration of three weighted technical factors (technical capabilities, qualifications of proposed personnel, and proven corporate experience), past performance, and price.³ Id. at 57-62. The RFQ provided that price and past performance would not be adjectively rated, and that price would become more dominant as the technical quotations reached technical equality.⁴ Id. at 57.

The RFQ contained a table listing 147 criteria to be evaluated under the three technical factors, and established that vendors would receive a rating for each factor ranging from outstanding (90-100 points) to unacceptable (less than 50 points). Id. at 59, 60, and 64. Regarding price, the RFQ established that the agency would evaluate whether: (1) the proposed pricing was realistic for the requirement; (2) the pricing reflected a clear understanding of the contract requirements; and (3) the pricing included all requested services. Id. at 60. Additionally, the RFQ advised vendors that the agency might find a quotation

² Although the pleadings contain references to the issuance of a task order, the solicitation indicated that the agency intended to award a contract under the awardee's FSS contract. For the sake of consistency, and because the distinction between a contract and a task order has no bearing on our analysis in this protest, we refer to the award of a contract in this decision.

³ The RFQ provided that the technical capabilities factor would be worth a maximum of 32.7 points; the qualifications of proposed personnel factor would be worth a maximum of 24.8 points; and the proven corporate experience factor would be worth a maximum of 42.5 points. RFQ at 57-58.

⁴ Regarding past performance, the agency reserved the right to take negative past performance information into account during its selection decision. RFQ at 57.

unacceptable if the proposed prices were found to be unbalanced (i.e. despite an acceptable total evaluated price, one or more contract line items was significantly overstated or understated). Id.

The FTA received five quotations, including quotations submitted by Harmonia and OST. Contracting Officer's (CO) Statement at 2. Quotations were evaluated and the results were as follows:

Vendor	Technical Score	Proposed Price
OST	91.79	\$14,873,242.72
Harmonia	85.83	\$11,402,436.81
Vendor A	81.43	\$12,771,254.78
Vendor B	31.72	\$6,448,063.20
Vendor C	31.08	\$13,606,854.32

Agency Report (AR), Tab 8.h, Procurement Summary, at 2.

On July 12, Harmonia was notified that it was not selected for award. The agency made award to OST on July 14, 2016. Harmonia was provided with debriefings on July 22 and July 26. This protest followed on July 27.

DISCUSSION

Harmonia challenges the FTA's evaluation of quotations and the best-value award decision.⁵ As set forth below, we sustain the protest because the record does not show that the agency conducted a best-value tradeoff between OST's quotation (which had the highest technical rating and the highest price) and Harmonia's quotation (which had a lower technical rating and a lower price).

In reviewing protests of an agency's evaluation and source selection decision in procurements conducted under FSS procedures (i.e., FAR subpart 8.4), we do not conduct a new evaluation or substitute our judgment for that of the agency. Research Analysis & Maintenance, Inc., B-409024, Jan. 23, 2014, 2014 CPD ¶ 39 at 5. Rather, we examine the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Id.; US Information Techs. Corp., B-404357, B-404357.2, Feb. 2, 2011, 2011 CPD ¶ 74 at 8-9.

⁵ Although we do not address every argument raised by the protester, we have reviewed them all and conclude that, with the exception of the issues discussed in this decision, none provide a basis to sustain the protest.

Failure to Perform Tradeoff

Here, the RFQ provided for award to be made on a best-value basis. Where an acquisition conducted pursuant to FAR subpart 8.4 provides for award on a “best-value” basis, it is the function of the source selection authority to perform a price/technical tradeoff to determine whether a quotation’s technical superiority is worth its higher price. Millenium Corp., Inc., B-412866, B-412866.2, June 14, 2016, 2016 CPD ¶ 168 at 7. For FAR subpart 8.4 acquisitions that require a statement of work, such as this one, FAR § 8.405-2(f) specifically requires documentation of the rationale for any tradeoffs made in the selection. This rationale, or source selection decision documentation, must include sufficient detail to show that it is reasonable. Millenium Corp., Inc., supra.

In this case, the record does not reflect that the agency performed a price/technical tradeoff. The FTA’s procurement summary documents the selection of OST, but contains no price/technical tradeoff analysis comparing OST’s quotation to the protester’s quotation.⁶ AR, Tab 8.h, Procurement Summary. The only discussion of price in the summary is an analysis of the reasonableness of OST’s price when compared to the independent government cost estimate. Id. at 3. The record also contains a technical recommendation memorandum, in which the agency provides a comparison of OST’s and Harmonia’s quotations considering technical merit, but does not include a comparison of the vendors’ proposed prices. AR, Tab 8.b, Technical Recommendation Memorandum. In this regard, the review panel indicated that it recommended award to OST because “OST is more technically qualified and has insignificant ‘weaknesses,’ and Harmonia has weaknesses, which could yield unfavorable results impacting the overall [w]eb [a]pplications contract.” Id. at 1.

The agency made several arguments in an attempt to justify its failure to document a tradeoff decision, but we find none of them persuasive. First, the agency argues that a tradeoff was not necessary because this procurement was conducted under FAR subpart 8.4 instead of under negotiated procurement procedures in FAR part 15. As noted above, for procurements conducted pursuant to FAR subpart 8.4 that require a statement of work, such as this one, the agency’s evaluation and tradeoff judgments must be documented in sufficient detail to show that they are reasonable. The mere fact that this procurement is being conducted pursuant to FAR subpart 8.4 does not excuse the agency from documenting a tradeoff.

Next, the agency argues that its findings regarding the realism of Harmonia’s proposed price justified its failure to conduct a tradeoff. In this regard, the agency has provided two different theories as to why it was not required to conduct a

⁶ In this regard, we note that the procurement summary is devoid of any comparison between OST and any other vendor.

tradeoff between Harmonia and OST. First, according to the agency, the evaluators rejected Harmonia's quotation after finding that its price for CLIN [DELETED] was unrealistically low. As noted above, the RFQ established that the agency would evaluate whether (1) the proposed pricing was realistic for the requirement; (2) the pricing reflected a clear understanding of the contract requirements; and (3) the pricing included all requested services. RFQ at 60. Additionally, the RFQ advised vendors that the agency might find a quotation unacceptable if the proposed prices were found to be unbalanced (i.e. despite an acceptable total evaluated price, one or more contract line items was significantly overstated or understated). Id.

Regarding Harmonia's proposed price, while Harmonia based its price on the use of [DELETED] full time equivalents (FTEs), [DELETED], evaluators had concerns about Harmonia's allocation of FTEs across CLINS.⁷ AR, Tab 6.b. Harmonia's Cost Proposal; Tab 8.b., Technical Recommendation Memorandum, at 2. Specifically, the agency concluded that "Harmonia did not adequately price CLIN [DELETED] and was wholly inaccurate on the level of effort for this [DELETED] CLIN."⁸ AR, Tab 8.b., Technical Recommendation Memorandum, at 2.

While the record documents some concerns with Harmonia's pricing for CLIN [DELETED], the record contains nothing indicating that, as the agency now argues, Harmonia's quotation was rejected on that basis. Further, because the solicitation is permissive rather than prescriptive, in that it provides that an agency "might" find

⁷ With respect to price, while the solicitation advised vendors that the current level of effort was 18 FTEs, the solicitation did not inform vendors as to the allocation of FTEs across CLINs and directed vendors to propose the FTEs and labor mix they deemed appropriate. AR, Tab 3.c, Questions and Answers, at 1. The agency received questions regarding the allocation of the FTEs across the CLINs, and provided vendors with some information, although not a specific breakdown. Id. at 2, 3.

⁸ While the record contains very little information regarding the price evaluators' consensus, the record includes the individual evaluators' worksheets, which shed some light on the concerns expressed in the technical recommendation memorandum. AR, Tab 8.g., Price Evaluation, at 7-12. The worksheets indicate that two of the three price evaluators found that Harmonia's price posed a medium risk to the agency. In this regard, one evaluator explained that there was a risk associated with the possibility of [DELETED], and noted that Harmonia allocated the largest amounts to [DELETED], which the evaluator described as "relatively minor." Id. According to a second evaluator, Harmonia's quotation posed a medium risk because Harmonia over allocated FTEs to [DELETED]. Id. at 10. Both evaluators questioned Harmonia's understanding of the requirements based on their findings. A third evaluator did not express similar concerns and did not find that Harmonia's quotation posed a risk to the agency. Id. at 11-12.

unacceptable a quotation in which one or more contract line items was found to be significantly overstated or understated, we will not infer that the agency deemed Harmonia's quotation unacceptable absent an express determination in the contemporaneous record.

The agency also contends that, if Harmonia's price for CLIN [DELETED] was adjusted to a realistic level, Harmonia's price would have been \$[DELETED] higher than OST's price.⁹ AR at 13. According to the agency, Harmonia would then have a higher price and lower technical score such that no tradeoff would be necessary. Id. This argument, however, relies upon an improper use of a price realism analysis in the context of a fixed-price procurement.¹⁰

Where an RFQ contemplates the award of a fixed-price contract, or a fixed-price portion of a contract, an agency may, as here, provide in the solicitation for the use of a price realism analysis for the limited purpose of measuring an offeror's understanding of the requirements or to assess the risk inherent in an offeror's quotation. Ball Aerospace & Techs. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. Although the FAR does not use the term "price realism," it states that cost realism analysis may be used to evaluate fixed-price proposals for purposes of assessing proposal risk, but not for the purpose of adjusting an offeror's evaluated price. Id.; FAR § 15.404-1(d)(3). Because the record contains little discussion about price, it is unclear whether the agency actually relied upon an adjusted evaluated price for Harmonia when making its selection decision. To the extent the agency did rely on adjusted price, however, such reliance would have been an improper use of a price realism analysis in the context of competition for a fixed-price task order.

In sum, the record here does not indicate that the agency eliminated Harmonia's quotation from consideration prior to its source selection decision. As such, the agency was required to compare Harmonia's technical ratings and price with OST's technical ratings and price when selecting the quotation deemed most advantageous to the agency. Here, while the record contains a comparison of the vendors' technical ratings, the record contains no documentation reflecting a meaningful comparative analysis of quotations on the basis of price. Accordingly,

⁹ In this regard, the agency notes that the other vendors priced this CLIN approximately \$[DELETED] higher than the price quoted by Harmonia. CO's Statement, at 6.

¹⁰ This argument also fails to consider that, if a price realism adjustment had been appropriate in this situation, Harmonia's price would have likely increased under CLIN [DELETED] while decreasing under other CLINs, due to a re-allocation of the overall number of FTEs. Thus, the adjusted price increase suggested by the agency is likely overstated.

we sustain Harmonia's complaint that the agency failed to conduct a price/technical tradeoff.

Technical Evaluation

Harmonia also raises numerous challenges to the agency's evaluation of quotations under the technical capabilities and proven corporate experience technical factors. In this regard, Harmonia challenges weaknesses assigned to its quotation and strengths assigned to OST's quotation. Harmonia also contends that the agency treated vendors unequally in some cases. Based on our review of the record, it appears that, in almost every instance, the agency's findings were reasonable. We have identified at least one instance, however, in which we are unable to conclude that the technical evaluation was reasonable, or that the vendors were treated equally.

As noted above, in reviewing protests of an agency's evaluation and source selection decision in procurements conducted under FSS procedures, we do not conduct a new evaluation or substitute our judgment for that of the agency. Research Analysis & Maintenance, Inc., supra. Rather, we examine the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Id.; US Information Techs. Corp., supra. For procurements conducted pursuant to FAR subpart 8.4 that require a statement of work, such as this one, FAR § 8.405-2(f) designates minimum documentation requirements. Additionally, in a FAR subpart 8.4 procurement, an agency's evaluation judgments must be documented in sufficient detail to show that they are reasonable. Amyx, Inc., B-410623, B-410623.2, Jan. 16, 2015, 2015 CPD ¶ 45 at 6. Here, the agency has failed to meet that standard.

Specifically, the protester argues that OST should not have received credit for meeting the requirements of evaluation criterion 126. Supp. Comments at 16-17. The RFQ contained 147 technical criteria, each with an accompanying assessment criterion which the agency terms a "proficiency qualifier." In several cases, the same technical criterion was to be addressed in different ways using multiple proficiency qualifiers. For example, evaluation criteria 124 and 126 were identical: "Demonstrated expertise in creating and maintaining custom software applications." RFQ at 91-92. The proficiency qualifiers, however, were different in that the proficiency qualifier for criterion 124 required vendors to demonstrate leading application development using .NET technologies for 10 or more distinct custom applications, while the proficiency qualifier for criterion 126 required vendors to demonstrate supporting application development using .NET technologies for 10 or more distinct custom applications. Id. The agency concluded that OST met the criteria for both 124 and 126, although the record does not support the conclusion that OST's quotation met the requirements under criterion 126.

During the evaluation, one of three evaluators assigned a weakness to OST with the explanation “shown for leading but not supporting apps,” while the other two evaluators simply noted that OST met the criterion 126 requirement in a column labeled “strengths.” AR, Tabs 8.d.1, 8.d.2, and 8.d.3, OST Technical Evaluator Worksheets. The technical consensus document for OST indicates that OST received credit for meeting the requirement, although the only explanation provided in support of the agency’s conclusion were the words “Maintaining FAA.” AR, Tab 8.e., Technical Evaluation Consensus for OST, at 13. Additionally, the overall technical consensus memorandum makes no mention of the agency’s findings for OST with regard to criterion 126. AR, Tab 8.a., Technical Evaluation Consensus Memorandum, at 2.

In addition to the problems with the agency’s documentation, the contracting officer states that OST met the requirements of criterion 126, pertaining to supporting application development, because OST “listed their leading the development of 18 distinct custom .NET applications,” which was “nearly twice the number of applications needed to achieve the highest evaluation rating (10), and demonstrates OST’s extensive experience in this area.” CO’s Statement at 4. According to the CO, “[s]ince ‘leading’ the complete lifecycle development of custom applications is a much higher level of expertise than ‘supporting,’ FTA assessed the additional 8 custom .NET applications in their evaluation of [criterion 126, pertaining to supporting application development].” Id.

Notwithstanding the fact that eight applications falls short of the ten applications required to satisfy the proficiency qualifier for criterion 126, the CO’s willingness to equate leading and supporting application development is inconsistent with the guidance the agency provided in the RFQ. In providing written answers to questions raised by the vendors, the agency addressed the difference between leading an effort and supporting it:

Q. What is meant by “leading” and “supporting”, and how does the Government intend for contractors to respond to “leading” and “supporting” Proficiency Qualifiers for the same Evaluation Criteria Description (e.g., IDs 11 and 12, 13 and 14, 15 and 16, etc.)?

A. This depends on the specific factor, but leading would generally allude to either a prime or a management role for a given evaluation factor. For example, if a vendor coordinated/managed an entire COOP exercise as a service for a vendor, then they could qualify as leading the event. If a vendor separately provided expertise in one or more elements of a COOP exercise, then that experience would map to a supporting role. If a vendor has multiple experiences for supporting COOP exercises, then provide evidence of each to satisfy the separate leading or supporting roles. The same exercise for the same client would not satisfy both leading and supporting factors. The

exercises should be distinct to show breadth of experience. One could replace the COOP example with a development project (PM or prime for leading versus providing one developer as a sub for supporting).

AR, Tab 3.c., Final RFQ Questions and Answers, at 6.¹¹

The agency's response indicated that leading an effort would "generally allude to either a prime or a management role for a given evaluation factor." Id. The response further indicated that if a vendor "separately provided expertise in one or more elements," the experience would be considered supporting. Id. The agency also noted that "[t]he same exercise for the same client would not satisfy both leading and supporting factors." Id.

Ultimately, it appears that the agency gave credit to OST for criterion 126 based on 8 examples in which OST led application development, despite the fact that the requirement was for vendors to demonstrate supporting application development for 10 or more distinct custom applications. This appears to be unreasonable and inconsistent with the solicitation. What is unclear is the extent to which correction of this issue will have any meaningful impact on the overall evaluation conclusions, given the agency's assignment of 0.805 points to this criterion. AR, Tab 8.e., Technical Evaluation Consensus for OST, at 13.

RECOMMENDATION

We recommend that the FTA perform and document a price/technical tradeoff analysis.¹² If the FTA determines that OST's quotation is not the most advantageous to the government, we recommend that the agency terminate the contract awarded to OST and make award to the vendor found to be the most advantageous. We also recommend that the FTA reimburse the protester for its cost of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time spent and cost incurred, must be submitted to the agency within 60 days after receiving this decision.

The protest is sustained.

Susan A. Poling
General Counsel

¹¹ These questions and answers were appended to the RFQ on April 4, via amendment 2.

¹² The agency may also want to revisit some of its evaluation conclusions, such as the one discussed herein.