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Decision

Matter of: Avid Technology Professionals, LLC

File: B-413390.5

Date: December 2, 2016

H. Todd Whay, Esq., The Whay Law Firm, for the protester.
James B. Wyatt, Esq., and William R. Buonaccorsi, Esq., National Security Agency, for the agency.
Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of the protester's proposal as technically unacceptable is denied where the agency reasonably concluded that the protester's proposal failed to comply with a material solicitation requirement.

DECISION

Avid Technology Professionals, LLC, a small business located in Columbia, Maryland, protests the exclusion of its proposal from the competition under request for proposals (RFP) No. H98230-14-R-0069, which was issued by the Maryland Procurement Office, National Security Agency (NSA), Central Security Service, for business, engineering, information technology, operations, and training support services. Avid argues that NSA improperly found its proposal technically unacceptable and ineligible for award.

We deny the protest.

BACKGROUND

On July 21, 2014, NSA issued the solicitation, referred to as "NSETS III," which was set aside for small business concerns, and anticipated the award of approximately fifteen indefinite-delivery, indefinite-quantity (IDIQ) contracts for a period of five years. RFP at 9. The estimated contract ceiling for NSETS III is \$800 million. Contracting Officer (CO) Statement at 1. Over the life of the contract, the agency anticipates competing more than seventy task orders. Id. at 2.

The RFP provided for award on a best-value basis, considering the following evaluation factors: management/risk, technical/risk, scenario based example/risk, and price. RFP, Proposal Evaluation Criteria (PEC), at 1. As relevant here, the scenario based example factor included the evaluation of two subfactors: probability of success and innovation. Id. at 7. To be considered for award, the solicitation provided that a proposal “must not be unacceptable[.]” Id. at 1. The solicitation defined unacceptable as: “Proposal does not meet requirements and contains one or more deficiencies. Proposal is unawardable.” Id. at 3.

With regard to the scenario based example factor, the RFP included a scenario based example, as an appendix to the solicitation, which was representative of the type of work that would be expected under a NSETS III task order. RFP, app. C, Scenario Based Example; CO Statement at 2. The solicitation provided that the agency would evaluate “the [o]fferor’s response” to the scenario based example “to determine the [o]fferor’s ability to apply [its] management and technical capabilities.” RFP, PEC, at 7; CO Statement at 2. The proposal preparation instructions (PPI) explained that, in responding to the scenario based example, the offeror “shall demonstrate application of management and technical capabilities,” and required that the offeror “clearly state any assumptions made in response” to the scenario based example. RFP, PPI, at 11.

As relevant here, under the innovation subfactor, the solicitation specified that the offeror demonstrate its ability to apply its management and technical capabilities by “describ[ing] unique, flexible, and cost saving strategies that account for [the] assumptions, risks, and mitigation strategies” proposed by the offeror for the scenario based example. Id. at 12; CO Statement at 2. The RFP’s corresponding evaluation criteria provided that, for the innovation subfactor, the agency would evaluate the extent to which the offeror “describe[d] unique, flexible, and cost saving strategies” to “account for [the] assumptions, risks, and mitigation strategies” proposed for the scenario based example. RFP, PEC, at 7-8.

The closing date for receipt of proposals was October 2, 2014. Agency Report (AR) at 2. Avid timely submitted a proposal by that date. Id.

In evaluating Avid’s proposal, the source selection evaluation board (SSEB) assigned a deficiency to Avid’s proposal under the innovation subfactor because “[Avid’s] proposal failed to adequately describe unique, flexible or cost saving strategies as required by [the RFP].” AR, Tab 8, SSEB Report, at 6. The SSEB concluded that “[t]he omission [in Avid’s proposal] of a direct tie-in to unique, flexible, and cost saving strategies” that account for “assumptions, risks, and mitigation strategies as they relate” to the scenario based example “represents a material flaw in the proposal that increases the risk of unsuccessful contract performance to an unacceptable level.” Id. Ultimately, because the agency found that “[Avid’s] proposal does not meet the requirements” of the RFP, it assessed an unacceptable rating to Avid’s proposal under this subfactor. Id. at 5. Based on the

unacceptable subfactor rating, the agency also assessed an unacceptable rating to Avid's proposal for the scenario based example factor overall. Id. at 1. The agency concluded that because Avid's proposal "does not meet the requirement," it "is unawardable." Id.

On August 18, 2016, Avid received a written, pre-award debriefing. CO Statement at 5. This protest followed.

DISCUSSION

Avid argues that NSA unreasonably found its proposal unacceptable based on a deficiency assigned for failing to adequately describe unique, flexible or cost saving strategies. The protester also asserts that the agency improperly failed to follow the terms of the solicitation in concluding that Avid's proposal was unacceptable overall and ineligible for award. For the reasons discussed below, we find that the agency reasonably evaluated Avid's proposal in accordance with the RFP.¹

The evaluation of proposals is a matter within the discretion of the procuring agency. Hardiman Remediation Servs., Inc., B-402838, Aug. 16, 2010, 2010 CPD ¶ 195 at 3. In reviewing protests challenging an agency's evaluation of proposals, our Office does not independently evaluate proposals; rather, we review the agency's evaluation to ensure that it is reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. SOS Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2. An offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6.

Avid challenges the agency's evaluation, arguing that its proposal adequately described unique, flexible, and cost saving strategies that accounted for its proposed "assumptions, risks, and mitigation strategies" as they related to the scenario based example. The protester asserts that this information was sufficient, without further elaboration, to meet the solicitation's requirement.

As noted above, under the innovation subfactor, the solicitation required offerors to "describe unique, flexible, and cost saving strategies that account for assumptions, risks, and mitigation strategies" as related to the scenario based example. RFP, PPI; at 12; CO Statement at 2. The solicitation also used nearly verbatim language

¹ The protester raised other collateral arguments that are not discussed in this decision. We have reviewed all of the protester's allegations and conclude that they are without merit.

to advise offerors that the agency would evaluate the extent to which an offeror provided the requisite description. RFP, PEC, at 7-8.²

In responding to this subfactor, Avid's proposal addressed the requirements for the innovation subfactor in two tables. The first table, entitled "[Avid] Assumptions," included a bulleted list consisting of 25 assumptions for the scenario based example.³ AR, Tab 18, Avid Proposal, at 12-14. The second table in Avid's proposal, entitled "Risk Mitigation Strategies (Staffing and Performance)," similarly included a bulleted list. Id. at 13. This list consisted of 12 proposed risk mitigation strategies. Examples of the strategies listed include the following: [DELETED]. Id. at 13.

In evaluating Avid's proposal, the SSEB assessed a deficiency under the innovation subfactor based on its conclusion that, although the offeror provided a table of assumptions and a table of risk mitigation strategies for staffing and performance, both tables "contained [bulleted lists] with no explanation on how [the assumptions and risk mitigation strategies] were unique, flexible or cost saving." AR, Tab 8, SSEB Report, at 6. The evaluators explained that the assumptions and risk mitigation strategies listed in the two tables in Avid's proposal "were not further elaborated [on] or referenced elsewhere in the proposal," and therefore that "[i]t is not clear where [the] risks are accounted for within the narrative." Id. The evaluators noted that, although Avid's response to the scenario "discusse[d] leveraging [DELETED]," these "risks are not tied back to [Avid's] assumptions or mitigation strategies in a way that explains uniqueness, flexibility, or cost savings." Id. Specifically, the evaluators explained that "leveraging existing [DELETED] is not unique, as this is a best practice." Id. The evaluators also expressed concern regarding Avid's proposed strategy to use "[DELETED]," which the evaluators explained "would introduce more risk into the scenario," which the evaluators found, "should have been addressed" by Avid's proposal. Id. As noted above, the SSEB concluded that the "omission of a direct tie-in to unique, flexible, and cost saving strategies" represented a material flaw in Avid's proposal that increased "the risk of unsuccessful contract performance to an unacceptable level." Id. Thus, the SSEB assessed an unacceptable rating to Avid's proposal for this subfactor. Id. at 5.

The protester acknowledges that the RFP provision at issue required offerors to "describe unique, flexible and cost saving strategies," and that these "responsive strategies were required to address the assumptions, risks, and mitigation strategies" proposed in an offeror's proposal. Comments at 1-2. The protester

² The RFP provided: "To what extent does the Offeror describe unique, flexible, and cost saving strategies that account for assumptions, risks, and mitigation strategies as they relate to the Scenario Based Example?" RFP, PEC, at 7-8.

³ A few examples of the assumptions listed in Avid's proposal included the following: [DELETED]. AR, Tab 18, Avid Proposal, at 12-13.

argues, however, that the RFP did not require an offeror to categorize its proposed assumptions, risks, and mitigation strategies as being either unique, flexible, or cost saving, or require any minimum number of proposed assumptions, risks, or mitigation strategies. In this regard, Avid argues that the responsive information in its proposal was sufficient to meet the solicitation's requirement.

Based on this record, we find nothing unreasonable about the agency's evaluation. As referenced previously, offerors are responsible for submitting a well-written proposal with adequately detailed information that allows for a meaningful review by the procuring agency. Recon Optical, Inc., *supra*. Here, we think the agency reasonably found that Avid's proposal failed to adequately describe unique, flexible or cost saving strategies as required by the RFP.

As discussed above, the record reflects that the evaluators found that Avid's proposal "contained [bulleted lists] with no explanation on how [the assumptions and risk mitigation strategies] were unique, flexible or cost saving." AR, Tab 8, SSEB Report, at 6. In addition, as the agency explains in response to the protest, the pertinent section of Avid's proposal did not mention the terms "unique," "flexible," or "cost savings," nor did it provide any additional information or explanation regarding the assumptions and risk mitigation strategies that were listed in Avid's proposal. AR at 3; Tab 18, Avid Proposal, at 12-14. Although the protester argues that the solicitation did not require Avid to identify each of its proposed strategies as being unique, flexible, or cost saving, or to propose any minimum number of strategies, the RFP clearly required, as the protester acknowledges, that an offeror "describe [its] unique, flexible and cost saving strategies." RFP, PEC, at 7. The evaluators concluded that the information in the two bulleted lists of assumptions and risk mitigation strategies in Avid's proposal failed to adequately provide this description, as required by the solicitation. To the extent Avid contends that its proposal submission was sufficient, or should have been interpreted differently, a protester's disagreement with the agency's evaluation, without more, is insufficient to establish that the agency's evaluation was unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7. Accordingly, based on this record, we find nothing unreasonable regarding the agency's determination that Avid's proposal failed to adequately comply with RFP's requirement. As such, we find no basis to sustain the protest.

Avid also argues that the agency's evaluation was inconsistent with the solicitation's evaluation scheme. Specifically, Avid contends that an unacceptable rating in a single subfactor did not provide the basis to render its entire proposal unacceptable. As discussed below, however, we find no merit to this argument.

As referenced above, the RFP provided that if an offeror's proposal contained one or more deficiencies, the proposal itself would be unacceptable and ineligible for award. RFP, PEC, at 3. As also discussed above, we conclude that the agency's assessment of the deficiency under the innovation subfactor was reasonable. In

this regard, the agency found that Avid's failure to adequately describe unique, flexible, and cost saving strategies that account for "assumptions, risks, and mitigation strategies as they relate" to the scenario based example "represents a material flaw in the proposal that increases the risk of unsuccessful contract performance to an unacceptable level." AR, Tab 8, SSEB Report, at 5-6. Based on the unacceptable subfactor rating, the agency also assessed an unacceptable rating to Avid's proposal for the scenario based example factor overall. Id. at 1. The agency concluded that because Avid's proposal "does not meet the requirement," it "is unawardable." Id. Based on our review of the record, we find that the agency's evaluation was consistent with the terms of the RFP.

The protest is denied.

Susan A. Poling
General Counsel