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## Decision

**Matter of:** PricewaterhouseCoopers LLP

**File:** B-406708

**Date:** August 3, 2012

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Philip J. Davis, Esq., Tracye Winfrey-Howard, Esq., and William M. Novak, Esq., Wiley Rein LLP, for the protester.

David S. Cohen, Esq., John J. O'Brien, Esq., and Gabriel E. Kennon, Esq., Cohen Mohr LLP, for Deloitte & Touche LLP, the intervenor.

Mark A. Allen, Esq., Eric Crane, Esq., Beth Sturgess, Esq., and Barbara Walthers, Esq., Department of Homeland Security, for the agency.

Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest of agency's evaluation of protester's key personnel is denied where the record shows that the agency reasonably found that some of the protester's key personnel failed to satisfy minimum requirements identified in the solicitation.

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### DECISION

PricewaterhouseCoopers LLP (PWC) of McLean, Virginia, protests the issuance of a task order to Deloitte & Touche LLP (D&T), of McLean, Virginia, under request for quotations (RFQ) No. HSSCCG-12-Q-00276 issued by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), for financial management support services.

We deny the protest.

### BACKGROUND

The RFQ was issued under Federal Supply Schedule procedures to eight vendors, including PWC and D&T, holding contracts under the General Services Administration's financial and business solutions schedule No. 520-13. Contracting Officer's (CO) Statement at 1. Vendors were informed that the agency's Office of the Chief Financial Officer required a contractor to assist with the assessment of internal controls over financial reporting in accordance with, among other things,

Office of Management and Budget (OMB) Circular A-123. The RFQ provided that the agency would issue a time-and-materials, fixed-price task order for a base year and two option years. RFQ, Statement of Work (SOW), at 3.

The RFQ provided that the task order would be issued on a best value basis considering the following factors: technical capability, past performance, and price. RFQ at 29. The technical capability factor was more important than the past performance factor, and the two factors combined were significantly more important than price. Id. at 34. The following three subfactors, in descending order of importance, were identified under the technical capability factor: technical approach, key personnel, and corporate experience. Id. at 33. Vendors were advised that the government was more concerned with obtaining superior technical capability than the lowest overall price, but that the agency would not issue an order to a vendor who presented a significantly higher overall price to achieve only slightly superior technical capabilities. See id. at 29.

With regard to the key personnel factor, vendors were instructed to provide resumes for key personnel identified in the solicitation. See id. at 31. Among the key personnel identified in the SOW was a director for financial management/assessment of internal control tasks in accordance with OMB Circular A-123. The director was required to “possess demonstrated subject matter work expertise of 8 or more years in internal control matters[.]” including with specified federal fiscal laws and regulations, such as the Federal Financial Management Improvement Act and OMB Circular A-123. SOW at 12. The RFQ also identified as key the position of financial analyst for cost estimating and revenue forecasting. The financial analyst was required to have 6 years of relevant experience, preferably federal government experience, that included the following functional areas: budgetary cost estimating and analysis; revenue forecasting and analysis; and developing and analyzing complex budgetary and financial models. Id. at 13. Vendors were advised that the agency would evaluate key personnel on the basis of their resumes and the extent to which their identified certifications, qualifications, experience, and skills satisfy the SOW’s requirements. See RFQ at 33.

With regard to price, the RFQ identified three contract line items (CLIN): financial management support services/assessment of internal controls (CLIN 0001); revenue forecasting (CLIN 0002); and cost estimating (CLIN 0003). See id. at 31-32. Vendors were required to submit fixed hourly rates and identify labor categories and hours under CLIN 0001 (time-and-materials), and fixed prices for CLINs 0002 and 0003. Id. at 31. The RFQ stated that the agency would evaluate prices by adding vendors’ prices for all CLINs for the base and option years. Id. at 34.

ICE received quotations from three vendors, including PWC and D&T, which were evaluated by the agency’s technical evaluation committee (TEC) as follows:<sup>1</sup>

	PWC	D&T	Offeror C
<b>Technical Capability</b>	Unacceptable	Good	Unacceptable
<i>Technical Approach</i>	Good	Good	Acceptable
<i>Key Personnel</i>	Unacceptable	Good	Unacceptable
<i>Corporate Experience</i>	Good	Good	Acceptable
<b>Past Performance</b>	Low Risk/ Outstanding	Low Risk/ Outstanding	Low Risk/ Outstanding
<b>Evaluated Price</b>	\$2,944,279	\$3,283,401	\$2,932,427

Agency Report (AR), Selection Decision, at 2; CO’s Statement at 1.

PWC’s “unacceptable” rating under the key personnel subfactor (as well as the overall technical capability factor) reflected the TEC’s judgment that two of the vendor’s key personnel failed to satisfy the experience requirements of the SOW. See AR, Tab 5, Technical Evaluation Report, at 10. Although the TEC identified a couple of strengths with respect to PWC’s key personnel, the TEC found the vendor’s director only had 85 months of relevant experience, where the SOW required a minimum of 8 years (or 96 months).<sup>2</sup> Id. at 8-9. The TEC also found

<sup>1</sup> Under the agency’s evaluation plan and adjectival rating scheme (which was not included in the RFQ or provided to vendors), quotations were rated as outstanding, good, acceptable, or unacceptable. See id. at 3-4. As relevant here, a rating of unacceptable reflects a quotation that contains deficiencies and/or gross omissions; fails to understand much of the scope of the work necessary to perform the required tasks; contains deficiencies or significant weaknesses that would affect the ability to meet requirements; and would require a major revision or redirection of the quotation. See id. A rating of good reflects a quotation that fully meets all solicitation requirements; significantly exceeds many of the requirements; and the agency anticipates a high level of quality, efficiency, or productivity in the areas in which the quotation exceeds requirements. See id.

<sup>2</sup> The TEC calculated the years of experience by adding the total number of months of relevant experience based on the dates provided on key personnel resumes. See AR, Tab 5, Technical Evaluation Report, at 10. Although the CO stated that the TEC did not count work experience on different projects that took place in the same time-frame, see CO’s Statement at 5, the agency stated in its report that the TEC had incorrectly double-counted the director’s experience for work performed at

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that PWC's financial analyst had only 65 months of experience, where the SOW required a minimum of 6 years (or 72 months) of experience, and that the majority of that experience related to business process engineering rather than budgetary cost estimating and analysis, revenue forecasting, and developing and analyzing complex budgetary and financial models, as required by the SOW. Id. at 10.

The CO and contract specialist evaluated vendors' submitted prices. See AR, Tab 7, Business Evaluation, at 1. They compared vendors' overall prices for each CLIN to the independent government estimate and to each other. They also considered vendors' labor categories, hours, and rates under the time-and-materials CLIN (0001), and the discounts offered from the vendors' FSS rates. AR, Award Decision, at 3.

The CO, who was the source selection authority (SSA) for this procurement, considered the findings, conclusions, and ratings of the TEC, as well as the past performance and price evaluation for each of the three vendors who submitted quotations, and compared the value of each quotation to the requirements of the SOW. Id. at 3. She found that PWC was ineligible for award because it did not meet the key personnel experience requirements. Id. at 4-5. The CO found D&T's price to be fair and reasonable and concluded that D&T's quotation provided the best value to the government. See id.; AR, Tab 7, Business Evaluation, at 20. The task order was issued to D&T, and this protest followed.

## DISCUSSION

PWC protests the agency's evaluation of PWC's key personnel. The protester concedes that PWC's director and financial analyst fell short of the minimum amount of experience required by the solicitation, but complains that USCIS evaluated PWC's key personnel resumes narrowly by mechanically focusing on the amount of experience and project dates, rather than focusing on the resumes as whole. Protest at 1-2; Protester's Comments at 3, 15; but see infra n.6. According to the protester, by providing that the agency would evaluate "the extent to which" key personnel satisfy the SOW, the RFQ required that the agency perform a "measured . . . sliding scale" evaluation of key personnel along a "continuum of satisfaction" of the SOW, rather than treating the key personnel experience requirement as a "pass/fail" test to automatically find that PWC's quotation was ineligible for award for lacking certain experience.<sup>3</sup> See Supp. Protest at 3-5;

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different agencies during the same 11-month period and that the director's resume actually demonstrated only 74 months of relevant experience. AR at 3.

<sup>3</sup> The protester argues in this regard that PWC should have received a rating of good or acceptable under the rating scheme because the agency identified a

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Protester's Comments at 13-15. The protester also challenges the agency's calculation of months of experience, arguing that the agency inconsistently counted some, but not all, overlapping projects in the director's resume. Protester's Comments at 3-4. PWC argues that the agency's source selection decision was unreasonable because of this allegedly flawed key personnel evaluation and unacceptable rating.

USCIS responds that PWC failed to meet the RFQ's experience requirements and argues that the protester has not shown that the agency's key personnel evaluation was unreasonable in that regard. See AR at 10. The agency disputes that it failed to consider resumes in their entirety and contends that it was nevertheless difficult to assess the experience of PWC's key personnel because their resumes were formatted in such a way that the agency could not ascertain whether the experience and job duties met the RFQ's requirements.<sup>4</sup> See id. at 6. In this respect, the agency points out that the director's resume gives no indication of how much time he spent on any one overlapping project.<sup>5</sup> Id. at 4.

Where a protester challenges an agency's evaluation resulting in the rejection of its quote as technically unacceptable, our review is limited to considering whether the evaluation and determination were reasonable and in accordance with the terms of the RFQ and applicable regulations and statutes. See Outdoor Venture Corp., B-288894.2, Dec. 19, 2001, 2002 CPD ¶ 13 at 3. A protester's mere disagreement with the evaluation does not show that it lacked a reasonable basis. 1-A Constr. & Fire, LLP, B-404128, Jan. 7, 2011, 2011 CPD ¶ 15 at 3. It is the vendor's responsibility to submit the information requested by the agency for evaluation purposes, and a vendor that does not do so runs the risk that its quotation will be

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number of other strengths and benefits that would exceed the key personnel requirements. See Protester's Comments at 11.

<sup>4</sup> The CO notes that the director's and financial analyst's resumes, for some past positions, only list employers, position titles, and dates of employment, but do not provide any description of the director's or financial analyst's roles, responsibilities, or accomplishments. CO's Statement at 4, 7.

<sup>5</sup> The agency also points out that, even though the agency determined that PWC's quotation was technically unacceptable, the SSA nevertheless performed a qualitative analysis of all sections of the vendors' quotations in determining that D&T provided the best value. Id. at 8. In this regard, the agency asserts that PWC has not shown how it was competitively prejudiced by the agency's evaluation because, even if PWC's and D&T's quotations received the same technical ratings, the SSA reasonably determined that it was in the agency's best interest to pay approximately ten percent more to receive a higher level of effort in the time and materials CLINs. Id. at 10. PWC did not specifically challenge the SSA's determination in this regard.

rejected as unacceptable. eTouch Fed. Sys., LLC, B-404894.3, Aug. 15, 2011, 2011 CPD ¶ 160 at 4; 3K Office Furniture Distribution GmbH, B-292911, Dec. 18, 2003, 2003 CPD ¶ 231 at 4. This principle is no less applicable where a solicitation requires the submission of resumes that demonstrate ability or experience of key personnel. See The Kenjya Group, Inc.; Academy Solutions Group, LLC, B-406314, B-406314.2, Apr. 11, 2012, 2012 CPD ¶ 141 at 4.

We do not agree with the protester that the RFQ allowed vendors to submit resumes for key personnel that did not satisfy the solicitation's minimum experience requirements. Clearly stated technical requirements are considered material to the needs of the government, and a quote that fails to conform to material solicitation requirements is technically unacceptable and cannot form the basis for award. Carahsoft Tech. Corp., B-401169, B-401169.2, June 29, 2009, 2009 CPD ¶ 134 at 5. It is well established that a technically unacceptable proposal cannot be considered for award. Analytic Servs., Inc., B-405737, Dec. 28, 2011, 2012 CPD ¶ 16 at 13. Here, the RFQ informed offerors that key personnel were required to possess a minimum number of years of expertise or experience in certain areas. In this respect, as discussed above, the protester concedes that PWC's director and financial analyst fell short of the minimum amount of experience required by the solicitation.<sup>6</sup> See Protester's Comments at 15.

In sum, PWC has not shown that the agency unreasonably determined that the firm's quotation was technically unacceptable. Accordingly, we have no basis to question the rejection of the protester's quotation or the selection of D&T's quotation as the only technically acceptable quotation at a fair and reasonable price.

The protest is denied.

Lynn H. Gibson  
General Counsel

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<sup>6</sup> Elsewhere in its comments, PWC argued that the resume for its director demonstrated sufficient experience to satisfy the RFQ requirements. See Protester's Comments at 4. The record does not support PWC's arguments, however, as the director's resume does not show sufficient relevant experience to satisfy the RFQ's minimum requirements. In any event, the protester does not assert that its financial analyst met the minimum RFQ requirements, and therefore the protester's quotation would otherwise be unacceptable.