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Decision

Matter of: Contract Services, Inc.

File: B-407894; B-407894.2

Date: April 3, 2013

Darcy V. Hennessy, Esq., Hennessy, Boe & Gondring, P.A., for the protester.
CPT Tyler Davidson, Department of the Army, for the agency.
Gary R. Allen, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging an agency's technical and past performance evaluations is denied where the evaluations are reasonable, supported by the record, and are consistent with the solicitation's stated criteria.
2. Protest that the awardee's price is too low under a solicitation that did not provide for a price realism evaluation does not provide a valid basis to question an agency determination that the awardee's price was reasonable.
3. Protest that the agency did not make a proper best value determination is denied where the source selection authority understood and evaluated the differences between the technical proposals, and concluded that protester's strengths did not outweigh its higher price.

DECISION

Contract Services, Inc. (CSI), of Junction City, Kansas, protests the award of a contract to ALOG Corporation, of Huntsville, Alabama, under request for proposals (RFP) No. W9124J-11-R-0002, issued by the Department of the Army for administrative and facilities support services at Fort Riley, Kansas. CSI challenges the Army's technical and price evaluations.

We deny the protest.

BACKGROUND

The RFP, issued as a service-disabled veteran-owned small business set-aside, provided for the award of a fixed-price requirements contract for a base year and 2 option years.¹ Offerors were informed that award would be made on a best value basis, considering the following evaluation factors in descending order of importance: mission capability, past performance, and price. RFP at 86-87.² The mission capability factor included two subfactors: management approach and technical approach, which were stated to be of equal weight. Id. at 87.

The RFP also identified a number of elements that would be considered in evaluating the management approach and technical approach subfactors. For example, the RFP identified the offeror's approaches to organizational structure, staffing, key personnel, and quality control as elements for evaluation under the management approach subfactor. See id. at 88-89.

Instructions were provided for the preparation of proposals under each factor and subfactor. As relevant here, offerors were informed that their responses to the mission capability factor were limited to 70 pages and that the agency would not consider pages exceeding that limitation. Id. at 80.

A performance work statement (PWS) described the required services. Among other things, the PWS required the submission of a number of plans with the offeror's proposal. See, e.g., PWS § C.1.1.2 (management plan).³ The management plan, for example, was to demonstrate the offeror's "understanding of the overarching functions, and standards that create a necessary foundation for the management of the logistics support function." Id. In this regard, the offerors were required to discuss, among other things, their organizational structure, operations, resources, and personnel. Id., §§ 1.1.2.1-1.1.2.5.

In response to industry questions concerning the relationship of the mission capability factor and the PWS plans, the Army stated that they were different submissions. Unlike responses to the mission capability factor, the plans had no page limitations. AR, Tab 21, Questions/Answers Nos. 4, 7, 14, 17, 20, and 22.

¹ The RFP also included non-fee bearing cost reimbursement contract line items (CLINs) for operating supplies, repair parts, travel, and overtime for base and option years. A not-to-exceed cost was identified for these CLINs. See, e.g., RFP at 5-7.

² The RFP was amended 5 times. Our citations are to the conformed RFP.

³ The PWS also required offerors were to submit plans for quality control (C.1.5); physical security (C.1.7); and safety (C.1.14).

In response to a question concerning the submission of the various plans, the agency also informed offerors that:

The offeror is being evaluated on their concept/approach to these areas as it is laid out in the Evaluation Criteria. The offeror is NOT being evaluated on the plans themselves. Submission of Management, Quality Control, Safety, and Physical Security Plans is a requirement of the PWS. The plans are considered to be 'living documents' which will evolve over time. It is not intended that they be perfect at the time of proposal submission. An amendment issued to clarify this will be released shortly.

Id., Question/Answer No. 110.⁴

Proposals were received from a number of firms, including CSI and ALOG. Following the evaluation of proposals, the Army initially awarded this contract to Advanced Technology Logistics, Inc. CSI protested to our Office. In response, the agency stated that it would reopen the competition, conduct discussions, obtain and evaluate revised proposals, and make a new selection decision. We dismissed the protest as academic. See Contract Servs., Inc., B-405595, Sept. 20, 2011. The agency conducted discussions and received revised proposals. Contracting Officer's Statement at 4.

The agency's source selection evaluation board (SSEB) evaluated the revised proposals, and assigned adjectival ratings, supported by narrative discussions identifying strengths and weaknesses.⁵ See AR, Tab 6, SSEB Report. The evaluation results were provided to the agency's source selection authority (SSA), who agreed with the SSEB's findings. With respect to CSI's and ALOG's proposals, the SSA compared the two firms' evaluated strengths under the mission capability subfactors. See AR, 7, Source Selection Decision, at 9-10 (CSI), 12-13 (ALOG).

⁴ There is no evidence in the record that such an amendment was ever issued.

⁵ The adjectival ratings for the mission capability factor were excellent, good, acceptable, marginal, or unacceptable. RFP at 91-94. As relevant here, a good rating reflected a proposal that met and sometimes exceeded requirements, with both strengths and some significant strengths, but no deficiencies or significant weaknesses. An acceptable rating reflected a proposal that met the PWS requirements, with some strengths, and no deficiencies or significant weaknesses. Id. at 92.

The SSA also considered both firms' excellent past performance ratings. Id. at 14-15. CSI's and ALOG's proposals were evaluated as follows:

		CSI	ALOG
Mission Capability		Acceptable	Acceptable
	Management Approach	5 strengths 0 weaknesses	2 strengths 0 weaknesses
	Technical Approach	0 strengths 0 weaknesses	1 strength 0 weaknesses
Past Performance		Excellent	Excellent
Price		\$18,214,198	\$15,432,182

Id. at 9-10, 12-13.⁶

The SSA recognized that CSI's proposal was evaluated as having three more strengths than ALOG's proposal under the mission approach subfactor, but concluded that these three strengths did not outweigh ALOG's \$3 million price advantage.⁷ Id. at 18, 20.

Award was made to ALOG, and this protest followed.

DISCUSSION

CSI raises numerous arguments challenging the agency's evaluation of its and ALOG's proposals. We have considered all of CSI's arguments, although we only address the most significant. We find that none of CSI's arguments provide a basis to sustain the protest.

Mission Capability Evaluation

CSI challenges the agency's evaluation of its and ALOG's proposals as acceptable under the mission capability factor. See, e.g., Protest at 9-16; Comments and Supp. Protest at 15-16. With respect to its own proposal, CSI contends that its proposal should have been rated as good, rather than acceptable, under the mission capability factor. In this regard, CSI identifies nine aspects of its proposal that the protester argues significantly exceeded the RFP's requirements. Protest at 11. For example, CSI states that the PWS requires contractors to "participate periodically in development and implementation of Lean Six Sigma

⁶ The independent government estimate (IGE) for this work was \$21,267,900.10. AR, Tab 13, IGE, at 2.

⁷ The three additional strengths credited to CSI were for [deleted]. Id. at 17.

projects.” See PWS § C.1.23. CSI’s proposal stated that it is already Lean Six Sigma-certified, which CSI contends is a significant advantage. Protest at 11-12.

The Army responds that it found five of CSI’s identified features to be strengths, but that the other aspects of its proposal merely met the solicitation requirements. With respect to CSI’s Lean Six Sigma certification, both the SSEB and SSA considered it a strength, but not a significant strength. See AR, Tab 6, SSEB Report, at 25; Tab 7, Source Selection Decision, at 10. The agency did not find any of CSI’s strengths to be significant, a requirement for a good rating. See Contracting Officer’s Statement at 14-19, citing RFP at 92.

In reviewing an agency’s evaluation of proposals and source selection decision, it is not our role to reevaluate submissions; rather, we examine the supporting record to determine whether the decision was reasonable, consistent with the stated evaluation criteria, and adequately documented. Troholz Techs., Inc., B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3; Johnson Controls World Servs., Inc., B-289942, B-289942.2, May 24, 2002, 2002 CPD ¶ 88 at 6. A protester’s disagreement with the agency’s evaluation judgments, or with the agency’s determination as to the relative merits of competing proposals, does not establish that the evaluation or the source selection decision was unreasonable. Smiths Detection, Inc.; Am. Sci. and Eng’g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 6-7; ITW Military GSE, B-403866.3, Dec. 7, 2010, 2010 CPD ¶ 282 at 5.

The record shows that the agency considered all of CSI’s strengths, and provided an analysis of each in both the SSEB report and the source selection decision. See, e.g., AR, Tab 6, SSEB Report at 23-25; Tab 7, Source Selection Decision, at 9-10. Our review indicates that the Army’s consideration of these strengths was consistent with the RFP’s evaluation criteria and adequately documented. Although CSI believes that its strengths warranted a higher rating, we have consistently found that ratings, whether numerical, color, or adjectival, are merely guides to assist agencies in evaluating proposals. See Pemco Aeroplex, Inc., B-310372, Dec. 27, 2007, 2008 CPD ¶ 2 at 6. Here, the SSA considered all of CSI’s evaluated strengths in assessing the technical merit of CSI’s proposal and whether there were meaningful differences between its and ALOG’s proposals. Although CSI disagrees with the agency’s judgment in this regard, its disagreement does not demonstrate that the agency’s decision was unreasonable. See Smiths Detection, Inc.; Am. Sci. and Eng’g, Inc., supra.

With respect to ALOG’s proposal, CSI contends that the awardee’s acceptable rating under the mission capability factor was too high, arguing that ALOG failed to adequately address a number of requirements within the RFP’s 70-page limit for

mission capability proposals.⁸ Comments & Supp. Protest at 12-15. For example, CSI argues that ALOG did not comply with the requirement for a narrative discussing an offeror's approach to providing "lines of communication" or "recurring reporting procedures." Id. at 12-13. CSI complains that ALOG only included this information in its 250 pages of submitted plans, which the agency improperly considered. Id. at 1-4.

The Army responds that, although it considered information in ALOG's plans, ALOG provided enough information in its 70-page mission capability proposal to show that its proposal was acceptable under this factor. See 2nd Supp. Legal Memorandum at 3. In this regard, the Army cites to the specific sections of ALOG's proposal where the awardee addressed these requirements. Id. at 4-5. The Army also argues that the RFP, as amended, allowed the agency to consider the offerors' plans, in addition to their mission capability proposals, in assessing the firms' management and technical approaches under the mission capability factor. See Supp. Legal Memorandum at 4-5. Here, the agency's evaluators considered the plans submitted by each firm in evaluating its technical and management approaches.⁹ See, e.g., AR, Tab 35 (Individual Evaluator Worksheets for CSI); Tab 36 (Individual Evaluation Worksheets for ALOG).

While we do not agree with the agency that the RFP advised offerors that the plans submitted with their proposals would be evaluated, both CSI and ALOG submitted detailed plans, in excess of 200 pages in length, that similarly addressed each firm's technical and management approaches. The agency considered both CSI's and ALOG's plans, and appears to have treated the offerors equally. Although CSI objects to the agency's consideration of the plans in its evaluations, it has not identified any competitive prejudice that it suffered because of such consideration. Rather, CSI generally contends that it could have improved its competitive position in some unspecified way had it known that the agency would evaluate the plans under the mission capability factor.¹⁰ See Supp. Comments at 5. This, however, does not demonstrate how CSI was competitively disadvantaged. As noted above, CSI also has not identified any requirement that was not acceptably addressed in ALOG's mission capability proposal. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award,

⁸ In its initial protest, the protester argued that it appeared that ALOG had proposed inadequate staffing levels, but did not respond to the agency report addressing the protester's arguments. See generally Comments & Supp. Protest. We consider this issue to have been abandoned.

⁹ CSI's plans totaled 299 pages. See AR, Tabs 31-34, CSI Plans.

¹⁰ Our review of CSI's plans indicates that the protester, like the awardee, described its technical and management approaches.

there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the agency's evaluation of proposals are found. See, e.g., Special Servs., B-402613.2, B-402613.3, July 21, 2010, 2010 CPD ¶ 169 at 4.

Past Performance Evaluation

CSI also challenges ALOG's excellent rating under the past performance factor, arguing that ALOG has performed few contracts as a prime contractor and does not have relevant experience with contracts of similar size and scope to these requirements. Protest at 17-19. Further, CSI objects to the agency's crediting ALOG for its work on a prior, different contract at Fort Riley. CSI contends that this contract was not relevant, because it provided for the performance of functions other than those sought here. Supp. Comments, at 6-8. Additionally, CSI argues that the Army could not have reasonably considered the prior contract, because only a small portion of it--approximately 45 days--was performed within 5 years of the issuance of the RFP.¹¹ Id. at 9.

The Army responds that ALOG provided recent and relevant past performance information demonstrating its work experience, and that the agency received two past performance questionnaires containing mostly excellent ratings for ALOG's performance. Legal Memorandum at 17, citing AR, Tab 9, Past Performance Evaluation, at 12. The agency also points out that the RFP allowed the agency to consider an offeror's experience as either a prime contractor or subcontractor, noting that offerors were instructed to "provide documentation outlining the offeror's past performance with contracts, as a prime or major subcontractor, which is the same or similar in nature, size, and complexity to the services being procured under this solicitation." Legal Memorandum at 15, citing RFP at 85.

With respect to ALOG's prior performance as a subcontractor at Fort Riley, the Army states that CSI is mistaken as to both the relevance and recency of this contract. The Army notes that the questionnaire it received for this contract showed that ALOG performed numerous functions similar to those required in this procurement. 3rd Supp. Legal Memorandum at 5-6; AR, Tab 24, ALOG Past Performance Questionnaire-Fort Riley, at 3. For example, part of the RFP requirement involves work related to handling hazardous materials and bulk fuel management. Under the prior contract, ALOG's work included fueling and defueling both aircraft and vehicles, uploading and downloading railcars, as well as accounting for bulk fuel use. 3rd Supp. Legal Memorandum at 5-6, citing AR, Tab 22, Fort Riley Contract, at 150. The Army further notes that ALOG's

¹¹ The RFP stated that "[a]n assessment of the past performance information will be made to determine if it is recent. To be recent, the effort must be ongoing or must have been performed during the past five years from the date of issuance of the solicitation." RFP at 93 (emphasis in original).

subcontract performance for this contract occurred within the past 3 years. Id. at 3-6.

The evaluation of past performance, including assessments of relevance and significance of an offeror's performance history, is a matter of agency discretion, and we will not substitute our judgment for reasonably based past performance ratings. MFM Lamey Group, LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10. An offeror's disagreement with an agency's past performance evaluation judgments does not demonstrate that those judgments are unreasonable. Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7.

Here, the record shows that the agency reasonably evaluated ALOG's past performance. Although CSI believes that the agency should not have credited ALOG for its subcontract performance of a prior contract at Fort Riley, the record supports the agency's judgment that this work was both relevant and recent. While the protester disagrees with the excellent rating assigned to ALOG's past performance, it has not shown the agency acted unreasonably.

Price Evaluation

CSI also contends that the agency's evaluation of ALOG's price was unreasonable because its price is too low. Protest at 22; Comments & Supp. Protest at 15. For example, CSI focuses on ALOG's overall proposed price of \$15,432,182, which is 28% lower than the IGE (\$21,267,900). Comments and Supp. Protest at 15.

CSI's objection does not provide a valid basis to question the agency's price reasonableness evaluation. Although CSI acknowledges that a price realism analysis was not required, its arguments reflect a lack of understanding as to the distinction between price reasonableness and realism. Here, the RFP states that the agency will only evaluate prices for reasonableness and balance. RFP at 94. The purpose of such a price reasonableness review is to determine whether the prices offered are too high, as opposed to too low. Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3; WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD 68 at 4 n.2. Arguments that an agency did not perform an appropriate analysis to determine whether prices are too low, such that there may be a risk of poor performance, concern price realism. C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3; SDV Solutions, Inc., B-402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4. We dismiss CSI's challenge to the price evaluation.

Best Value Determination

CSI also disagrees with the SSA's best value determination, which found that CSI's greater number of evaluated strengths were outweighed by ALOG's \$3 million price advantage. Protest at 22-23; Comments and Supp. Protest at 16-17.

Source selection officials have broad discretion to determine the manner and extent to which they will make use of evaluation results, and must use their own judgment to determine what the underlying differences between proposals might mean to successful performance of the contract. Applied Physical Sciences Corp., B-406167, Feb. 23, 2012, 2012 CPD ¶ 102 at 6; Information Network Sys., Inc., B-284854, B-284854.2, June 12, 2000, 2000 CPD ¶ 104 at 12. The number of identified strengths is not dispositive. Agencies may reasonably distinguish between the strengths assigned to offerors, and may conclude a single strength is of more value than multiple, lesser strengths. AdvanceMed Corp.; TrustSolutions, LLC, B-404910.4 et al., Jan. 17, 2012, 2012 CPD ¶ 25 at 21.

Here, the record shows that the SSA recognized that CSI had three more strengths than ALOG under the mission approach subfactor, but determined that they did not warrant CSI's higher price. See AR, Tab 7, Source Selection Decision, at 17-20. Although CSI disagrees with this judgment, its disagreement does not demonstrate that the SSA's decision was unreasonable.

The protest is denied.

Susan A. Poling
General Counsel