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Decision

Matter of: e-Management

File: B-407980; B-407980.2

Date: May 2, 2013

Gregory S. Jacobs, Esq., and Joelle E.K. Laszlo, Esq., Reed Smith LLP, for the protester.

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

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DIGEST

In a competition for a task order under a government-wide acquisition contract, the agency reasonably excluded the offeror's proposal from the competitive range where the offeror did not satisfy a solicitation requirement.

DECISION

e-Management, of Silver Spring, Maryland, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. HSSCCG-12-R-00032 issued by the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), for enterprise architecture services and governance planning.

We deny the protest.

BACKGROUND

The RFP was issued to vendors holding 8(a) Streamlined Technology Application Resource for Services (STARS) II government-wide acquisition contracts in Functional Area 2, Constellation 2. The STARS II contracts are multiple-award, indefinite-delivery/indefinite-quantity (ID/IQ) contracts awarded by the General Services Administration for various information technology services and service-based solutions. See STARS II Contract, Pricing, § 1.1. The contracts encompass four functional areas of services. As relevant here, Functional Area 2

concerns computer systems design services. Id., Contract Scope, § 1.2. Within the four functional areas are qualification levels known as constellations. Constellation I is the basic level. Constellation II requires contractors to have one or more of the following industry credentials: ISO 9001:2000, ISO 9001:2008, CMMI Level II (or higher) - Development, CMMI Level II (or higher) - Service.¹ Id., Contract Scope, § 1.3. The STARS II contract provides that if the work fits into a functional area and a customer requires one of the Constellation II designated credentials, it is a Constellation II opportunity in that functional area. Id. § 1.4.

With regard to the procurement at issue, the RFP provided for the issuance of a task order for a comprehensive set of services to assist USCIS to maintain its enterprise architecture and increase its capabilities for a 6-month base period and three 12-month option periods.² Offerors were informed that the selection decision would be on a best-value basis, considering technical, past performance, and price. RFP at 69. The RFP also stated that the “[c]ontractor shall possess at least an International Organization for Standardization (ISO) 9001-2000 or higher.” Id. at 17. In response to a question concerning whether the agency would accept a CMMI Level 3 credential as an alternative to the ISO certification, USCIS informed firms that it sought “only the ISO 9001-2000 or higher Contractor certification.” RFP amend. 1, at 2.

Before the closing date for receipt of proposals, e-Management asked the following question of the contracting officer:

Our company does [sic] our CMMI L2 rating, but do not have ISO certification. Will our CMMI L2 rating be an acceptable alternative to the ISO 9001-2000 certification? If not, this new requirement would essentially eliminate our ability to submit an offer as a prime.

See Agency Request for Dismissal, attach. 2, e-Management e-mail, Aug. 29, 2012. The contracting officer informed e-Management that a CMMI credential would not

¹ “ISO” refers to a family of standards for quality management systems, established by the International Organization for Standardization, a non-governmental organization. The word ISO is derived from the Greek word “isos,” meaning “equal.” See www.iso.org. The Capability Maturity Model Integration (CMMI) was developed by the Carnegie-Mellon Software Engineering Institute and is a process improvement approach that provides organizations with the essential elements of effective processes. See <http://cmmitrust.com/cmmitrust-getting-started/frequently-asked-questions/faqs-all/>; ACCESS Systems, Inc., B-400623.3, Mar. 4, 2009, 2009 CPD ¶ 56 at 4 n.4.

² The RFP includes fixed-price, labor-hour, and cost-reimbursement contract line items. RFP at 2-6.

be accepted as a substitute for the ISO certification. Id., USCIS e-mail, Sept. 5, 2012.

USCIS received three proposals, including e-Management's. As relevant here, e-Management's proposal identified one of its subcontractors as holding the required ISO 9001-2000 certification. Agency Report (AR), Tab 5, e-Management Technical Proposal, Vol. 1, Executive Summary, at xxiii. In this regard, e-Management identified [Deleted].³ [Deleted].

Proposals were evaluated by the agency's technical and business evaluation committees. Although e-Management's technical proposal was found acceptable by the technical evaluation committee, the contracting officer, who is the source selection official, determined that e-Management's proposal was unacceptable because the protester did not satisfy the ISO 9001-2000 requirement. The contracting officer also agreed with the business evaluation committee that the protester's price was not reasonable or acceptable, because the firm's prices for the fixed-price line items were significantly lower than the independent government estimate. AR, Tab 8, Competitive Range Determination, at 3. The contracting officer concluded that e-Management would not be eligible for award even if allowed to revise its proposal because the firm would be unable to obtain the ISO 9001-2000 certification in a reasonable amount of time.⁴ Id. at 4.

The protester's proposal was excluded from the competitive range.⁵ After receiving a debriefing, e-Management protested to our Office.⁶

DISCUSSION

e-Management raises multiple challenges to USCIS's decision to exclude its proposal from the competitive range. First, the protester complains that the agency did not evaluate the firm's proposal in accordance with the RFP, which according to

³[Deleted].

⁴ The contracting officer noted that e-Management had provided no indication that it had begun the process of obtaining the required certification. AR, Tab 8, Competitive Range Determination, at 4.

⁵ The proposals of the remaining two offerors were also found to be unacceptable, but the contracting officer concluded that their proposals could become acceptable with discussions. AR, Tab 8, Competitive Range Determination, at 4.

⁶ The estimated value of this task order (base period plus optional contract line items and option years) is \$33.5 million. AR, Tab 4, Independent Government Cost Estimate. As a result, this procurement falls within our jurisdiction to hear protests related to the issuance of task orders under multiple-award ID/IQ contracts valued in excess of \$10 million. 10 U.S.C. § 2304c(e)(1)(B).

the protester allows the prime contractor to satisfy the ISO 9001-2000 or higher certification requirement through a subcontractor.⁷ Protest at 5. e-Management also contends that, even if the prime contractor itself must satisfy this certification requirement, the solicitation was latently ambiguous about this requirement. Id. at 7. e-Management asserts that, had it known prior to the closing date for proposals that the solicitation required the prime contractor to hold the ISO certification, it would have protested this requirement. Id.

Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. SECO Systems, Inc., B-404905.3, B-404905.4, Oct. 4, 2011, 2011 CPD ¶ 234 at 4. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation §15.306(c)(1); D & J Enter., Inc., B-310442, Dec. 13, 2007, 2008 CPD ¶ 8 at 2. A protester's mere disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. SPAAN Tech, Inc., B-400406, B-400406.2, Oct. 28, 2008, 2009 CPD ¶ 46 at 9.

Here, the record shows that the agency reasonably evaluated e-Management's proposal in accordance with the solicitation. We think that the RFP reasonably informed prospective offerors--i.e., Constellation II contract holders--that the prime contractor must have the requisite certification. Moreover, e-Management knew from its exchange with the contracting officer, quoted above, that USCIS expected this requirement to be met by the Constellation II prime contract holder. See Agency Request for Dismissal, attach. 2, e-Management e-mail, Aug. 29, 2012. For this reason also, we do not agree with the protester that the solicitation was latently ambiguous.

e-Management also contends that USCIS treated offerors disparately by excluding e-Management's proposal from the competitive range, while including other proposals also found to be unacceptable. Supp. Protest at 12. The record shows, however, that although the agency found that the three offerors' proposals were unacceptable, the contracting officer concluded that only e-Management could not correct the evaluated deficiency in its proposal. That is, e-Management did not have the required ISO certification, and e-Management provided no indication that it planned to obtain it. AR, Tab 8, Competitive Range Determination, at 4. In

⁷ e-Management also challenges the agency's determination that its fixed price was unreasonably low. Because, as explained below, we find that the agency reasonably found that e-Management's proposal should not be included in the competitive range because it lacked the ISO 9001-2000 certification, we need not address its complaint about the evaluation of its price.

contrast, the contracting officer concluded that the proposals of the remaining two offerors could become acceptable through discussions. Id. Our review of the record provides no basis for our Office to conclude that the protester has been treated unfairly here.

The protest is denied.

Susan A. Poling
General Counsel