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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Metal Works of Montana, Inc.

File: B-410377

Date: December 10, 2014

Aiden Curran, Metal Works of Montana, Inc., for the protester.
Antonio Robinson, Esq., Department of Agriculture, for the agency.
Charles W. Morrow, Esq., and Jonathan L. Kang, 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 quote and the award decision is denied where the record reflects that the agency reasonably evaluated the protester's quote, and determined the awardee's slightly higher-priced, higher technically-rated quote to be the best value.

DECISION

Metal Works of Montana, Inc., of Missoula, Montana, protests the establishment of a blanket purchase agreement (BPA) with SNF, Inc., d/b/a BFX Fire Apparatus, of Fort Worth, Texas, under request for quotations (RFQ) No. RFQ873282, which was issued by the Department of Agriculture, Forest Service, for type 6 fire apparatuses.¹ Metal Works challenges the evaluation of its quote and the source selection decision.

We deny the protest.

BACKGROUND

The RFQ, which was issued on May 13, 2014 as a small business set-aside, sought to establish a BPA, to acquire type 6 (wild land fire engine) fire apparatuses, engine models 643P and 643U, under separate fixed-price line items for each, for a 1-year base period and three 1-year options. RFQ at 7. The procurement was conducted

¹ The term fire apparatus refers to a fire engine or truck.

via the General Services Administration (GSA) eBuy portal pursuant to the Federal Supply Schedule (FSS) procedures in Federal Acquisition Regulations (FAR) subpart 8.4. Id. The Forest Service solicited vendors holding FSS contract No. FSS 23V, special item number 190-01, firefighting apparatus and attachments.

The RFQ required the vendor to provide the labor, equipment, supplies, and materials to ensure that all parts and components met the requirements and specifications for each model of engine. See Id. at 7-8; attach. 2, at 4; attach. 4, at 60. The schedule specified unit prices for the “Model 643P (Aluminum)” and “Model 643U (Composite Body).” See RFQ at 7. The RFQ advised that, for both models, weight and corrosion resistance were important considerations due to the coastal environment where the agency would use the apparatuses. Id. at 9. The RFQ also advised that the government considered the lighter weight and corrosion resistance of aluminum to be a positive attribute, and that construction materials (e.g., fiber composite) that result in a weight savings, rust prevention and added payload capability would be considered to provide additional value. See id.

The RFQ provided for award on a best-value basis and contemplated a tradeoff between the price and non-price factors: past performance, technical capability, and price. For evaluation purposes, price was “slightly more important” than the non-price factors. Id. at 13.

As relevant here, the past performance factor required vendors to provide any letters of recommendation, awards, or related projects which supported its ability to provide a quality product and service. RFQ at 11. The RFQ stated that the past performance evaluation would be based on this information and information in the past performance information retrieval system (PPIRS).² Id. The RFQ explained that the Forest Service would consider prior contracts with the agency and that a vendor without PPIRS reports would not be adversely affected because the agency would still evaluate the vendors’ other information. See id. at 11-12. Also, as relevant here, under the technical capability factor, the RFQ required the vendor to explain how it planned to support the apparatus along with photos of the completed apparatus. Id. at 12. Under this factor, the RFQ again advised that the weight of the apparatus would be a consideration for award under the procurement. See id. at 12-13.

Three vendors, including Metal Works and SNF, submitted quotes by the closing date of June 16. The quotes were evaluated by a technical evaluation panel (TEP),

² PPIRS is a web-enabled, government-wide application that collects quantifiable delivery and quality past performance information. See FAR § 42.1503.

which utilized an adjectival rating scale to evaluate quotes under the technical and past performance factors.³ The pertinent results were as follows:

	Metal Works	SNF
Past Performance	Acceptable	Exceptional
Technical	Marginal	Exceptional
Price	\$5,086,459	\$5,143,339

Agency Report (AR), Tab 12, TEP Evaluation; Metal Works Price Quote, at 3-7; SNF Price Quote, at 7-10.

In selecting SNF for the award, the source selection official (SSO) found that even though Metal Works quoted slightly-lower prices, SNF's quote represented the overall best value. AR, Tab 13, Decision Document, at 4. The SSO found SNF's quote to be well prepared and that it included detailed information on the company's history, on-site training plan, customer support plan, and tilt test. The SSO also found that the company has service contracts at various locations; that it has a toll-free phone number that is monitored 24 hours a day, 7 days a week; that it has a person dedicated to assisting agency personnel with parts, service, and warranty questions; and that it provided a detailed training plan. *Id.* at 3. By contrast, the SSO found that Metal Works' quote was lacking in technical detail; that Metal Works proposed a steel body, rather than a composite body, for the 643U engine; and that despite proposing to provide an aluminum body for the 643P engine, Metal Works had never built an aluminum body. *Id.* SNF was selected for award on August 14. This protest followed.

DISCUSSION

Metal Works contends that the Forest Service unreasonably evaluated its quote under the past performance and technical factors, and failed to give the proper weight to price in the award decision. For the reasons discussed below, we find no basis to sustain the protest.

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; DEI

³ The ratings utilized by the panel were unacceptable, marginal, satisfactory, and exceptional. In evaluating the quotes, the TEB considered the quality and content of the quotes with regard to letters of recommendation, certificates, test data, and detailed technical information on how the vendor planned to support the apparatus in the field. See AR, Tab 12, TEP Evaluation, at 1.

Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. DEI Consulting, supra.

Past Performance

Metal Works argues that the Forest Service unreasonably evaluated its past performance by focusing exclusively on the information in PPIRS, and also ignored or failed to give adequate weight to the exceptional ratings reflected in those PPIRS reports. The protester also argues that the agency's evaluation of the awardee's past performance reflected bias.

Where a solicitation requires the evaluation of offerors' or vendors' past performance, we will examine an agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria, since determining the relative merits of offerors' past performance information is primarily a matter within the contracting agency's discretion. The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 10.

As noted above, the past performance evaluation was to be based on information provided by the vendor, as well as information available in PPIRS. Vendors were required to provide letters of recommendation, awards, or related information concerning their capabilities, including previous experience building the 643P and 643U engines. For this purpose, Metal Works provided a list of six similar projects completed in the past three years, with descriptions of the scope of work and points of contact for each project. The protester, however, did not provide any letters of recommendations or awards, or any other information regarding its capabilities for this factor. AR, Tab 5, Metal Works Quote, at 9.

The record shows that the Forest Service considered the list of six similar projects submitted by Metal Works, the comments of three references identified by the protester and contacted by the agency, and two PPIRS reports. See AR, Tab 10, Metal Works Evaluation, at 1-2. The agency also noted that the protester did not provide any letters of recommendation. Id. at 1. With regard to the references, the agency noted that two contacts gave positive feedback, but one stated the engine had not been used long enough to give feedback. Id.; AR, Tab 12, TEP Evaluation, at 1. With regard to the PPIRS reports, the agency found that Metal Works received exceptional and very good ratings, but noted that the assessing officials provided very limited information in support of the ratings and did not explain how the company exceeded the contractual requirements or how the government benefitted.

AR, Tab 10, Metal Works Evaluation, at 2. Based on the information in the quote, and the PPIRS reports, the evaluators assigned Metal Works' quote an acceptable rating.

Contrary to Metal Works' arguments, the evaluation of the protester's past performance does not show that the Forest Service focused exclusively on the information in Metal Works' PPIRS reports. Rather, as discussed above, the record reflects that the agency considered all of the information that Metal Works included in its quote for this purpose. The record also does not show that the Forest Service ignored the exceptional and very good ratings in Metal Works' PPIRS reports. Instead, the record evidences that the Forest Service attached less significance to these ratings because the comments in support of these ratings were limited and did not explain areas where Metal Works exceeded the requirements. See AR, Tab 10, Metal Works Evaluation, at 1-2.

Metal Works argues that if the Forest Service had concerns with the level of detail provided in the PPIRS reports, it should have contacted the agency officials who provided the assessments, rather than discounting the ratings. We disagree. While the agency had the discretion to seek additional information, there was no requirement, under the solicitation's terms or under any procurement laws or regulations, for the agency to seek additional information to enhance the information it found in Metal Works' PPIRS reports. See U.S. Tech. Corp., B-278584, Feb. 17, 1998, 98-1 CPD ¶ 78 at 6. We also find that the agency was not required to simply accept or adopt the ratings of the assessing officials in PPIRS. In this regard, we have found that an agency's evaluation of an offeror's past performance may discount PPIRS ratings if there is a reasonable basis in the record for doing so. See Constellation NewEnergy, Inc., B-409353.2, B-409353.3, July 21, 2014, 2014 CPD ¶ 219 at 8. Here, as noted above, the Forest Service found that the comments in support of the ratings were limited and did not explain how Metal Works' performance exceeded the contract requirements.

Metal Works also argues that the Forest Service gave improper significance to letters of recommendations, to the exclusion of other past performance information in its quote. Because the agency gave favorable consideration to letters of recommendation submitted by SNF, the protester contends that the agency was biased in favor of the awardee.

Government officials are presumed to act in good faith, and a protester's contention that procurement officials are motivated by bias or bad faith must be supported by convincing proof; our Office will not consider allegations based on mere inference, supposition, or unsupported speculation. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-9.

Here, the record does not show any evidence of bias or that the agency gave improper emphasis to letters of recommendation in the evaluation of SNF's and

Metal Works' past performance. As noted above, the record shows that consistent with the terms of the RFQ, the Forest Service based the evaluation of Metal Works' past performance, including PPIRS reports on the information that was contained in Metal Works' quote. Moreover, the record reflects that unlike Metal Works' quote, SNF's quote included several letters of recommendation and similar projects, and PPIRS reports substantiating the ratings of good and exceptional in the PPIRS reports. See AR, Tab 11, SNF Evaluation, at 1-2; Tab 12, TEP Evaluation, at 2. For the reasons discussed above, we find the Forest Service's evaluation of Metal Works' past performance to be reasonable.

Technical Evaluation

Next, Metal Works argues that the Forest Services' evaluation of the vendors' quotes was based on unstated evaluation factors because the agency credited strengths to SNF's quote because of its discussion of tilt-test data and its training plan, and criticized the protester's failure to address this information. Protest Comments at 2. The protester argues that this information was not requested by the RFQ and therefore should not have been considered. We find no merit to the protester's contention.

As discussed above, the RFQ required vendors' quotes to address "how you plan to support the apparatus once it is delivered to the receiving unit." RFQ at 12. Moreover, the solicitation will require the contractor to provide on-site training for the safe operation and maintenance of the apparatus, and for the apparatuses to meet tilt requirements. Id. at 8; attach. 2, at 4; attach. 4, at 60. The RFQ here provided for award on a best-value basis, and the record shows that the agency concluded that SNF's quote was the better value due to the level of detail and quality reflected in the quote. See AR, Tab 12, TEP Evaluation, at 1. A vendor bears the burden of submitting an adequately written submission that contains all of the information required under a solicitation and where a quotation omits, inadequately addresses, or fails to clearly convey required information, the vendor runs the risk of an adverse agency evaluation. Liberty Test Equip., B-409916, Aug. 25, 2014, 2014 CPD ¶ 246 at 3. We therefore find no basis to object to the agency's evaluation.⁴

⁴ The protester also argues that the agency erroneously attributed 25 years experience building aluminum and composite engines to SNF because the company's website states that the firm only began manufacturing fire apparatuses in 2002. Protester's Comments (Oct. 17, 2014) at 2. As the agency notes, however, the website cited by the protester states that the firm resumed manufacturing in 2002, and that the firm overall has more than 25 years of experience. See FX website, available at: <http://www.brandfxbody.com/firetruck/about>; see also, AR, Tab 6, SNF Quote, at 2. In any event, the record does not reflect that this was a major discriminator in the agency assigning SNF's quote a
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Metal Works also argues that the evaluation of its quote under the technical evaluation factor was unreasonable because the agency found that its proposal to provide a steel body for the 643U engines contributed to its marginal rating for this factor based on weight and corrosion issues associated with the use of steel, as opposed to composite materials. As noted above, the RFQ schedule required vendors to propose unit prices for a model 643U (composite) engine. The protester notes that the RFQ attached specifications, which stated that 643U engine could be either a steel or composite body. See RFQ, attach. 4, at 60. The protester contends that the RFQ should be interpreted to permit vendors to quote either a steel or composite body, because only SNF offers a composite body 643U engine, and that permitting either type of body promotes competition.

In our view, notwithstanding the attached specifications, the RFQ schedule clearly requested vendors' to propose a price for providing a composite body version of the 643U engine.⁵ See RFQ at 7. Additionally, as discussed above, the RFQ advised vendors that the agency was concerned with weight and corrosion issues. Id. at 9. For this reason, we conclude that the agency reasonably found that the protester's proposal to provide a steel body version of the 643U engine contributed to the quote's overall marginal rating for the technical evaluation factor.

Best Value

Finally, Metal Works argues, based on the arguments discussed above, that the best-value decision was flawed because the agency should have considered its quote to have been superior to, or at least equal to, SNF's quote under the non-price factors. However, as discussed above, we find no merit to the protester's

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more favorable rating, and the best value which was based on the detail and quality in SNF's quote. We therefore find no basis to sustain the protest.

⁵ To the extent that there was a difference between the schedule and the attached specifications for the model 643U engine, we find that this was, at best, a patent ambiguity in the RFQ, which the protester should have protested prior to the RFQ's closing date. An ambiguity exists if a specification is susceptible to more than one reasonable interpretation that is consistent with the solicitation, when read as a whole. Poly-Pacific Techs., Inc., B-293925.3, May 16, 2005, 2005 CPD ¶ 100 at 3. A patent ambiguity exists where the solicitation contains obvious, gross, or glaring error, while a latent ambiguity is more subtle. Where a patent ambiguity is not challenged prior to the submission of quotes, we will dismiss as untimely any subsequent challenge to the meaning of the term. MEDI/e-Imagedata Corp., B-410018, Sept. 30, 2014 CPD ¶ 286 at 4. We find the protester's challenge is untimely.

arguments. Rather, our review of the record supports the Forest Services' evaluation of both SNF's and Metal Works' quotes, as well as the agency's conclusion that SNF's slightly higher-priced quote provided the best value to the government and merited the award.

The protest is denied.

Susan A. Poling
General Counsel