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**United States Government Accountability Office
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Decision

Matter of: GeoNorth LLC

File: B-411473; B-411473.2; B-411473.3

Date: August 6, 2015

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Robert K. Tompkins, Esq., Kelly A. Krystyniak, Esq., Elizabeth N. Jochum, Esq., and Denisse Velarde-Cubek, Esq., Holland & Knight, LLP, for Bowhead Professional Solutions, LLC, the intervenor.

Brian Kau, Esq., Department of the Navy, for the agency.

Paul N. Wengert, Esq., Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated proposals is denied, where record shows that agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

DECISION

GeoNorth LLC, of Anchorage, Alaska, a small business, protests the issuance of a task order under the Seaport-e multiple-award task order contract to Bowhead Professional Solutions, LLC (BPS), of Alexandria, Virginia, by the Department of the Navy, under request for proposals (RFP) No. N00024-14-R-3145 for range operations support services for the Naval Surface Warfare Center Dahlgren, in Virginia.¹ GeoNorth argues that the Navy misevaluated both GeoNorth's and BPS's proposals.

¹ The solicitation contemplates a competition among small business contractors that hold indefinite-delivery, indefinite-quantity (IDIQ) contracts under the Seaport-e multiple-award IDIQ contract program. As the value of the task order here exceeds \$10 million, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award IDIQ contracts. 10 U.S.C. § 2304c(e)(1)(B).

We deny the protest.

BACKGROUND

The Navy issued the solicitation on September 24, 2014 to small businesses holding a subset of the Seaport-e contracts, seeking proposals to provide services for a base year, two option years, and up to two award-term years. RFP at 1-2, 33-34. The solicitation anticipated the placement of a cost-plus-incentive-fee, level-of-effort task order with the contractor whose proposal was evaluated as offering the best value. The best value determination was to be based on five factors: technical understanding/capability/approach; management capability/approach; key personnel; past performance; and cost. Id. at 84.² The technical factor was most important, followed by management, followed by the key personnel and past performance factors (deemed equally weighted). Id. at 86. When combined, the four non-price factors were designated to be significantly more important than the cost factor. Id.

The solicitation provided that the technical factor would assess the vendor's understanding and capability to successfully perform, as demonstrated during an oral presentation. RFP at 86-87. The management factor evaluation was to assess whether both the oral presentation and written task order proposal showed an integrated team with a coordinated approach to work performance that demonstrated a clear understanding of contract reporting requirements, and assured quality long-term support. Id. at 87. The key personnel factor was to assess whether proposed personnel satisfied minimum requirements, and whether their qualifications matched the responsibilities of their respective positions. Id. Finally, the past performance evaluation was to consider the relevance and quality of the vendor's past performance, using both references submitted by the vendor and information obtained by the agency independently. Id.³

The Navy received proposals from four vendors, including Bowhead and GeoNorth. Agency Report (AR) at 5. The Navy had each vendor make an oral presentation for

² The solicitation also specified three mandatory requirements for security clearances and certifications, which are not at issue in the protest. RFP at 71.

³ For the technical, management, and key personnel factors, the solicitation provided for the assignment of adjectival ratings of outstanding, good, acceptable, marginal, and unacceptable. RFP at 84-85. For the past performance factor, the RFP provided for the assignment of adjectival ratings considering two elements: relevance, and quality. The adjectival ratings for relevance were very relevant, relevant, somewhat relevant, and not relevant. For the quality rating the RFP contemplated assignment of ratings of substantial confidence, satisfactory confidence, limited confidence, or no confidence (plus an unknown confidence rating for a firm without past performance). Id. at 85-86.

evaluation under the technical and management factors. Id. The Navy also obtained information regarding the vendors' past performance for evaluation under the past performance factor. AR, Tab 6, Technical Evaluation Report, at 15-16 (GeoNorth Past Performance Evaluation), at 23-24 (Bowhead Past Performance Evaluation). The agency assigned the following ratings to the proposals:

	Bowhead	GeoNorth	Vendor A	Vendor B
Technical	Outstanding	Outstanding	Acceptable	Marginal
Management	Outstanding	Acceptable	Acceptable	Marginal
Key Personnel	Good	Good	Acceptable	Unacceptable
Past Performance	Very Relevant /Substantial Confidence	Very Relevant /Satisfactory Confidence	Somewhat Relevant /Satisfactory Confidence	Somewhat Relevant /Limited Confidence
Overall	Outstanding	Good	Acceptable	Unacceptable
Proposed Cost	\$57.8 million	\$62.4 million	\$61.3 million	\$48.1 million
Probable Cost⁴	\$60.6 million			

AR, Tab 6, Technical Evaluation Report, at 2; AR, Tab 7, Source Selection Decision, at 2.

On March 19, the contracting officer selected Bowhead's proposal for award. AR, Tab 7, Source Selection Decision, at 2. Following a debriefing, GeoNorth filed this protest.

ANALYSIS

GeoNorth argues that the Navy misevaluated its proposal under each non-price factor, and also misevaluated BPS's proposal under the past performance factor. As a result, GeoNorth argues that the Navy made an unreasonable source selection decision. We address GeoNorth's principal contentions below.

Past Performance Evaluation

The solicitation directed each vendor to submit up to three past performance references for itself, and one past performance reference for the vendor's

⁴ The Navy explains that it performed a cost realism analysis only for Bowhead's costs because the solicitation provided for the cost realism analysis to be limited to the "likely candidates for award," and that only Bowhead met that standard. AR, Tab 7, Source Selection Decision, at 2; cf. Solicitation at 67, 87 (¶¶ L.5.8, M.7.5.1). Since the provision was expressly identified in the solicitation and was not challenged by the parties, we need not reach the question of whether an agency may properly limit its review of probable costs to only the successful offeror.

subcontractors. RFP at 74. In its proposal, BPS submitted three past performance references for Bowhead and one reference each for its four proposed subcontractors. AR, Tab 8, Bowhead Written Proposal, at 19-37. The evaluators found BPS's past performance references relevant, particularly a contract that included range support services at the Army's Aberdeen Proving Grounds. AR, Tab 6, Technical Evaluation Report, at 23. The evaluators found that BPS's past performance references had given it high ratings, and that the quality of its subcontractors' work was rated average or above average. Id. The evaluators also contacted references for the Aberdeen Proving Grounds contract, who gave positive reports. Id. at 24. On the basis of that record, the evaluators assigned BPS's past performance a very relevant/substantial confidence rating. Id.

GeoNorth argues that the agency's past performance evaluation of BPS was unreasonable because the Navy improperly credited BPS with the experience of an affiliate, Bowhead Science and Technology, LLC (BS&T), that actually had been the contractor on each of BPS's past performance references. GeoNorth argues that BPS's proposal did not show a commitment of BS&T's resources to perform the task order. GeoNorth specifically directs our attention to a recent decision of our Office, Alutiq Pacific, LLC, B-409584, B-409584.2, June 18, 2014, 2014 CPD ¶ 196, where we found that an agency improperly had attributed the past performance of BPS's affiliates to BPS.

We find no merit to this aspect of GeoNorth's protest. The evaluation of past performance largely is a matter within the discretion of the contracting agency, which our Office will review only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. OSI Collection Servs., Inc.; C.B. Accounts, Inc., B-286597.3 et al., June 12, 2001, 2001 CPD ¶ 103 at 5. A protester's disagreement with the agency's evaluation, without more, does not provide our Office a basis to object to the agency's evaluation. Harris IT Servs. Corp., B-406067, Jan. 27, 2012, 2012 CPD ¶ 57 at 10. In addition, an agency properly may attribute the past performance of an affiliated company to an offeror where the record shows that the resources of the affiliate--for example, using the affiliate's employees as key personnel--will be provided for performance of the solicited requirement. IAP-Hill, LLC, B-406289 et al., Apr. 4, 2012, 2012 CPD ¶ 151 at 3.

As noted, the record shows that the evaluators viewed the Aberdeen support contract as the most relevant past performance example for BPS. The record shows that **[DELETED]** of the key personnel that BPS proposed for the current requirement performed on the Aberdeen contract. SAR, Tab 4, BPS Technical Proposal, Appendix A, Key Personnel Resumes. Given this clear nexus between the resources used by BS&T to perform the Aberdeen contract, and the resources proposed by BPS to perform the current requirement, we find that the agency reasonably could attribute the past performance of BS&T on the Aberdeen contract to BPS.

GeoNorth argues that there is nothing in the contemporaneous evaluation record to show that, at the time they performed their evaluation, the agency's evaluators actually were aware of the fact that the key personnel proposed by BPS were the same individuals that performed on the Aberdeen contract. GeoNorth maintains that these facts were only recognized by the agency during the protest. GeoNorth therefore argues that the agency's claim during the pendency of the protest that it relied on this fact in attributing the Aberdeen contract to BPS during its past performance evaluation should be disregarded.

We disagree. The chairman of the Navy's source selection committee explained during the protest that the evaluators recognized that BPS's key personnel would be involved in performance of the current requirement by BPS. SAR, Tab 3, Affidavit of Chairman of Source Selection Committee. The agency's explanation during the protest is consistent with the contemporaneous record, and accordingly, there is no basis for our Office to discount it. TaxSlayer LLC, B-411101, May 8, 2015, 2015 CPD ¶ 156 at 8. As a result, the record provides an adequate basis for our Office to conclude that the attribution of the affiliate's past performance to BPS was reasonable.⁵

GeoNorth also challenges the evaluation of its own past performance, arguing that the Navy evaluators discounted both GeoNorth's performance record, and the past performance of GeoNorth's major subcontractor (which is the current range operations contractor at Dahlgren). Essentially GeoNorth alleges that the agency over-emphasized minor employee recruitment and retention issues on less relevant contracts (one contract to operate a calibration lab, and another contract to provide facility-wide secretarial services at the Naval Surface Warfare Center Dahlgren), in assigning GeoNorth a satisfactory confidence rating.

We find no merit to this aspect of GeoNorth's protest. The record shows that the evaluators considered, among other things, a verbal report from a contracting officer's representative that one position on the GeoNorth contract for calibration lab support had remained unfilled for over a year, and other information indicating that **[DELETED]** secretarial employees on the secretarial services contract had left GeoNorth's employment. AR, Tab 6, Technical Evaluation Report, at 15-16. The Navy concluded that these reports raised a concern that GeoNorth could experience difficulty in recruiting or retaining staff on the range support services contract. Id.; SAR, Tab 3, Affidavit of Chairman of Source Selection Committee at 8. As a result,

⁵ The circumstances here are distinguishable from those in Alutiiq Pacific, LLC, supra. In that case, there was nothing in the record to show that the resources of BPS's affiliated concerns would be used during BPS's performance of the solicited requirement.

the evaluators rated the overall quality of GeoNorth's past performance as satisfactory confidence.⁶ Id. at 2.

The Navy states that its evaluators recognized that the adverse performance reports were from less relevant contracts, but that they nevertheless justified the Navy's concern since they involved hiring and retention, which were matters that would also be important in performing the Dahlgren range support contract. Id. at 8. In considering the past performance record as a whole, the evaluators concluded that a rating of satisfactory confidence, rather than substantial confidence correctly reflected the quality of GeoNorth's past performance.

In the final analysis, the record here provides a reasonable basis for the Navy to have considered GeoNorth's performance under other contracts, and particularly to have considered reports that GeoNorth had experienced some problems retaining employees and recruiting replacements. Moreover, the record shows overall that the evaluators considered both the positive and adverse past performance information, and made a reasoned judgment that GeoNorth's performance record reflected satisfactory confidence, rather than substantial confidence. GeoNorth's protest allegation amounts to no more than disagreement with the agency's conclusion; such disagreement, without more, does not provide our Office a basis to object to the agency's evaluation of GeoNorth's past performance. We therefore deny this aspect of GeoNorth's protest.

Key Personnel Evaluation

GeoNorth argues that, although the Navy properly assigned its proposal a strength for offering three key personnel whose experience was longer than the minimum experience specified in the solicitation, the Navy also should have assigned additional strengths for each of its other key personnel for exceeding the RFP's minimum qualifications in particular ways. GeoNorth further asserts that, based on the absence of any assigned weaknesses for its key personnel, the agency should have rated GeoNorth outstanding, rather than good, under the key personnel factor.

The record shows that the Navy evaluators identified a strength in GeoNorth's proposal based on the one area where GeoNorth's proposed key personnel exceeded the minimum requirements in a way that the agency believed would improve the likelihood of successful performance: having more experience than the RFP required. AR, Tab 14, Technical Evaluation Report, at 14. To the extent that GeoNorth's personnel may have exceeded the agency's stated requirements in

⁶ The record also shows that the agency reviewed contractor performance assessment reports (CPARs) for the calibration contract. Those reports showed that GeoNorth's ratings declined over time from a mix of very good and satisfactory ratings to a majority of just satisfactory ratings. AR, Tab 10, CPARs reports.

other ways (for example, by having experience on the incumbent contract), the Navy states that its evaluators did not identify these other attributes as being significant enough to merit the assignment of additional evaluation strengths. AR, at 13-14.

We have no basis to object to this aspect of the agency's evaluation. Where an evaluation is reasonable and consistent with the evaluation criteria, the protester's assertion that its proposal should have been assessed these additional strengths under a factor does not demonstrate an unreasonable evaluation, but rather, mere disagreement with the agency's evaluation judgments. See Harris Patriot Healthcare Solutions, LLC, B-408737, Nov. 21, 2013, 2014 CPD ¶ 5 at 7. Simply stated, the agency was not required to assign separate, additional strengths for every aspect of GeoNorth's key personnel that the protester believes exceeded the RFP's minimum requirements.

Evaluation of GeoNorth under Technical and Management Factors

GeoNorth also argues that its proposal should have received additional strengths under the technical evaluation factor and a higher rating under the management evaluation factor. We need not consider these allegations. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions. In order to demonstrate prejudice, a protester must demonstrate that, but for the agency's alleged errors, it would have had a substantial chance of receiving the award. McDonald Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

We conclude that, even if the agency's evaluation under the technical and management factors were unreasonable, it would not be prejudicial to GeoNorth. As discussed, the Navy's evaluation under the past performance and key personnel factors is unobjectionable. The record also shows that GeoNorth's proposal was assigned the highest possible rating (outstanding) under the technical evaluation factor (albeit without the express identification of additional strengths that GeoNorth believes should have been found by the agency). In addition, the record shows that GeoNorth's proposed cost was higher than BPS's cost. It follows that, even if GeoNorth's proposal had also been rated outstanding under the management factor (as GeoNorth claims should have been the case), its proposal still would have been rated inferior under the past performance factor, and equally-rated under the technical, management, and key personnel factors, when compared to BPS's proposal. In short, even if all of GeoNorth's additional allegations were meritorious, its proposal still would have been rated inferior to BPS's proposal, and would have

been higher in cost. We therefore conclude that any remaining errors that GeoNorth alleges occurred would not have been prejudicial to the protester.

The protest is denied.

Susan A. Poling
General Counsel