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Decision

Matter of: National Sourcing, Inc.

File: B-411703.2

Date: March 22, 2016

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Paul C. Scheck, Esq., Department of the Navy, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO participated in the preparation of the decision.

DIGEST

1. Protest that agency unreasonably evaluated protester's quotation as merely acceptable under the performance approach evaluation factor is denied where the agency reasonably identified multiple weaknesses in the protester's quotation, including its inadequately-supported intent to significantly reduce staffing levels.
 2. Protest that agency unreasonably found awardee's past performance to be relevant is denied where solicitation expressly advised vendors that past performance would be considered in the aggregate, and the awardee's aggregate past performance was reasonably similar to the solicitation requirements.
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DECISION

National Sourcing, Inc. (NSI), of Tampa, Florida, protests the Department of the Navy's award of a task order to Strategic Data Systems (SDS), of San Diego, California, pursuant to request for quotations (RFQ) No. N00024-15-R-3063 for services supporting the Naval Personnel Command's (NPC) customer service center. NSI, the incumbent contractor, asserts that the agency improperly evaluated NSI's quotation with regard to NSI's performance approach, and improperly evaluated SDS's quotation with regard to SDS's past performance.

We deny the protest.

BACKGROUND

In December 2014, the agency issued RFQ No. N00024-15-R-3063 to contractors holding SeaPort Enhanced (SeaPort-e) indefinite-delivery indefinite-quantity (IDIQ) contracts. The solicitation contemplated award of a task order to provide various services supporting NPC's customer service center for a 12-month base period and four 1-year option periods.¹ RFQ at 9. The solicitation's performance work statement (PWS) identified various tasks the contractor must perform within the following areas: (1) customer service operations; (2) knowledge management system development, maintenance support, and CRM (customer relationship management) analytics; (3) emergency coordination center support; (4) transaction processing support; (5) remote location support; (6) website content/application development, maintenance and support; (7) site management support; and (8) other tasks. RFQ at 10-19. The solicitation provided for award on a best-value basis, considering the following evaluation factors: performance approach, past performance, socio-economic, and cost/price.² RFQ at 59.

With regard to performance approach, the solicitation directed offerors to "provide in detail a performance approach that will successfully accomplish the requirements of the solicitation." RFQ at 56. The solicitation elaborated that "[p]erformance [a]pproach is rated on how you plan to perform this effort, i.e., it is forward looking." Id.

With regard to past performance, the solicitation directed vendors to identify up to 3 relevant contracts performed within the past 5 years, and defined "relevant" as performance "that is of similar scope and magnitude to that which is described in the solicitation." Id. The solicitation specifically provided that "references will be evaluated in the aggregate in order to allow offerors who may not have the entire scope and magnitude of the requirement under one individual contract to still be considered acceptable if past performance with the full scope and magnitude of the requirement can be demonstrated within the allotted number of references." Id.

With regard to cost/price, the solicitation identified various labor categories that were previously used to perform the required tasks and provided level-of-effort

¹ The solicitation states that the customer service center is "the wide-world entry point to address any/all Navy Human Resource (HR) issues for more than 1.7 million Sailors . . . and their families." Agency Report (AR), attach 4, RFQ, at 9.

² Vendors were advised that the non-cost/price evaluation factors were listed in descending order of importance, and that those factors combined were more important than cost/price. Id. at 59.

estimates, by contract period, for each labor category.³ RFQ at 4-5. Vendors were instructed that “[p]ricing information shall be submitted for all labor categories with a price breakdown sufficient to establish compliance with the Service Contract Act.”⁴ Id. at 57. Although vendors were not required to use the estimated staffing levels, the solicitation provided that the cost/price quotation “shall support” the non-cost/price quotation⁵ and warned that a quotation “may be downgraded” if the two portions of the quotation were inconsistent. Id.

In January 2015, the agency received quotations from 12 vendors, including NSI and SDS.⁶ Among other things, NSI’s quotation reflected its intent to reduce staffing levels by nearly [redacted] percent over the 5-year performance period.⁷ AR, attach 5, NSI’s Non-Cost/Price Quotation, at 11. NSI’s staffing reductions were based, in part, on its assertion that “self-help” transactions⁸ would increase from the then-current rate of 13.6 percent of all transactions, to [redacted] percent. Id.

On June 17, 2015, the agency selected SDS for award. On June 26, NSI filed its first protest challenging the award. On July 23, the agency advised our Office that it would take corrective action, stating that it would reevaluate its requirements and the vendors’ submissions, and make a new source selection decision. Accordingly, we dismissed NSI’s June 26 protest. National Sourcing, Inc., B-411703, July 30, 2015 (unpublished decision).

³ The solicitation indicated that a total of 49 FTEs (full time equivalent personnel) would be required during each year of contract performance. RFQ at 4-5.

⁴ The solicitation stated that “[t]he Government does not intend to conduct a price realism analysis, but does intend to ensure compliance with the SCA [Service Contract Act].” Id. at 57.

⁵ The solicitation required submission of quotations in three separate volumes: volume I--non-price quotation; volume II--past performance; and volume III--cost/price quotation. Id. at 53.

⁶ The submissions of the other vendors, and the agency’s evaluations thereof, are not relevant to this protest and are not further discussed.

⁷ In contrast, the solicitation referred to annual workload growth, stating: “The consolidated Customer Service Center (CSC) generates over 300,000 service requests/transactions annually with an average growth rate (3 yr) of 12%.” Id. at 10

⁸ NSI states that self-help “is an aspect of the [customer service center’s] services whereby Navy personnel, veterans and their families can find answers to their human resource questions through the knowledge base system . . . [without] the assistance of a contractor staff member.” NSI Comments, January 27, 2016, at 12.

Thereafter, the agency's technical evaluation board (TEB) reevaluated the vendors' submissions with the following results:⁹

	NSI	SDS
Performance Approach	Acceptable	Good
Past Performance	Substantial Confidence	Satisfactory Confidence
Socio-Economic	Outstanding	Outstanding
Cost/Price	\$14,755,528	\$14,465,220

AR, attach. 7, TEB Report, at 21; attach. 8, Business Clearance Memo/Source Selection Decision, at 4, 8.

The source selection authority (SSA) reviewed the TEB's evaluation record, and considered the various strengths and weaknesses that had been identified in the two quotations. AR, attach. 8, Business Clearance Memo/Source Selection Decision, at 7-8, 11-15. In documenting her review, the SSA discussed NSI's intent to reduce staff levels, stating:

A significant weakness was noted within the NSI's quoted approach to staffing the requirements. As part of their recruiting and retention plan, NSI quoted an alternate LOE [level of effort] to what was stated within the solicitation. NSI would staff the base year and Option I with [redacted] FTEs [redacted]. However, NSI would progressively reduce its staffing levels over the remaining option periods. It would staff the effort with [redacted] FTEs in Option II, [redacted] FTEs within Option III, and ultimately only [redacted] FTEs within Option IV. As stated within NSI's approach, the reduction in FTEs is based on the historical number of transactions being processed through Self-Help (13.6% in 2014) and the [redacted]. As a result of these methods, NSI without substantiating its claim with any empirical data, concludes that CSC [customer service center] Self-Help will exceed [redacted] of total interactions, thereby reducing its personnel needs. . . . While NSI's recommendation of [redacted] that may result in some efficiencies is viewed as a strength, NSI has provided no sound data or statistics to supporting its assertion that self-help interactions will ultimately increase to [redacted] in the resultant contract's out-years, thereby allowing NSI to reduce its staffing levels by

⁹ In evaluating quotations under the performance approach and socio-economic evaluation factors, the agency assigned adjectival ratings of outstanding, good, acceptable, marginal, or unacceptable. AR, attach. 8, Business Clearance Memo/Source Selection Decision, at 7-8. In evaluating quotations under the past performance factor, the agency assigned ratings of substantial confidence, satisfactory confidence, or unknown confidence. Id.

[redacted] FTEs in option year 2, [redacted] FTEs in Option year 3 and [redacted] FTEs in the final option year.

Id. at 13-14.

Upon completing her review, the SSA concluded that SDS's quotation offered the best value to the government, summarizing her decision as follows:

Overall, the non-price quote submitted by SDS was rated Good and was considered superior to the quote submitted by NSI. In the most important factor, Performance Approach, SDS's proposal was significantly stronger, warranting a rating of Good when compared to NSI's approach that was rated Acceptable. Notably, SDS's Performance approach to each of the three most important PWS task[s] was superior to NSI's approach, and SDS's approach contained strengths that outweighed any weaknesses. On the other hand, NSI's approach contained multiple weaknesses, including a failure to adequately address several aspects of the PWS.^[10] It also contained a significant weakness in its staffing approach as it called for progressively reducing its staffing levels in anticipation of the unproven benefits of its proposed technical advances. In the next most important factor, Past Performance, SDS was rated lower as compared to NSI, who demonstrated high quality performance on more relevant past performance, and in the least important factor, Socio-Economic Plan, the quotes were both Outstanding and were considered technically equivalent. When all of the factors are given the weight provided in the solicitation, SDS's non-price proposal is rated higher than NSI's as its significant superiority in the most important factor, Performance Approach, outweighs the superiority of NSI's proposal in the second-most-important factor, Past Performance. Of particular significance is the risk presented by NSI's staffing approach when compared to SDS's low-risk Performance Approach that quotes the staffing levels stated in the solicitation.

. . . SDS's quote provided the highest-rated non-price quote and the lowest price quote. Accordingly, the Contracting Officer, as SSA, has

¹⁰ In addition to the significant weakness related to staffing reductions, NSI's quotation was evaluated as containing various other weaknesses. For example, with regard to operation of the customer service center, the agency assigned weaknesses for NSI's: reliance on the government to accomplish tasks required by the RFQ; failure to provide definitive/acceptable solutions for improving the customer service center; focusing on what NSI has done, but failing to provide details on future goals/accomplishments; and assertions that implementation of technical tools was outside of the contract. AR, Tab 7, TEB Evaluation Report, at 2-3.

determined that the quote submitted by SDS represents the best value and is the most advantageous to the Government.

Id. at 15

Award was made to SDS on December 2, 2015. This protest followed.¹¹

DISCUSSION

NSI protests that the agency under-rated NSI's quotation under the performance approach evaluation factor, and over-rated SDS's proposal under the past performance evaluation factor. As discussed below, we find no basis to sustain the protest.

Evaluation of NSI's Quotation Under the Performance Approach Factor

First, NSI challenges the agency's evaluation of NSI's quotation as merely acceptable under the most important evaluation factor, performance approach, maintaining that it should have received "at least a rating of [g]ood." Protest at 7. Specifically, NSI challenges the agency's assignment of a significant weakness regarding NSI's intent to reduce staffing levels, complaining that the "proposed efficiencies clearly are based on NSI's experience as the incumbent contractor" and maintaining that the agency "overlook[ed] information" in NSI's quotation. Protest at 19-20.

The agency responds that while vendors were not required to use the estimated level of staffing, the solicitation explicitly directed them to "provide in detail a performance approach that will successfully accomplish the requirements of the solicitation," and required that the cost/price and non-cost/price volumes of the quotation be consistent and supportive. RFQ at 56, 57. In this context, the agency maintains that NSI's quotation did not adequately support its assumption that "Self-Help solutions will exceed [redacted] of total interactions" (as compared to 13.6% in 2014) and, similarly, did not support NSI's proposed staff reduction of nearly [redacted] (from [redacted] FTEs to [redacted] FTEs). See AR, attach 5, NSI's Non-Cost/Price Quotation, at 11. More specifically, the agency notes that, while NSI's quotation referred generally to [redacted], it provided inadequate detail and no data or empirical support for the assumption of significant efficiencies on which its cost/price quotation was based. Accordingly, the agency viewed the risk associated with NSI's proposed staffing as constituting a significant weakness, which offset

¹¹ The estimated value of the task order at issue is greater than \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award indefinite-delivery, indefinite-quantity contracts. 10 U.S.C. § 2304c(e)(1)(B).

other evaluated strengths, and supported the agency's assignment of an acceptable, rather than good, rating under the performance approach evaluation factor.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6; Optimal Solutions & Techs., B-407467, B-407467.2, Jan. 4, 2013, 2013 CPD ¶ 20 at 6. In reviewing protests challenging an agency's evaluation of proposals or quotations, GAO does not reevaluate such submissions, but rather examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. Technology Concepts & Design, Inc., B-403949.2, B-403949.3, Mar. 25, 2011, 2011 CPD ¶ 78 at 8. A protester's disagreement with an agency's judgment, by itself, is insufficient to establish that the agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

Here, the agency's evaluation record shows that it considered all of the information in NSI's quotation that purported to explain the basis for its staffing reductions, and reasonably concluded that the support was inadequate. As the agency points out, the solicitation placed the burden on each vendor to "provide in detail a performance approach that will successfully accomplish the requirements of the solicitation." RFQ at 56. Here, NSI's general references to [redacted], without data or empirical support for its assumptions of significant efficiencies, were inadequate to eliminate the agency's reasonable concerns. Additionally, while NSI asserts that the risk created by its staffing reductions was mitigated by its reliance on, for example, [redacted], see NSI Comments, Jan. 27, 2016, at 11, we fail to see how [redacted] has any meaningful impact on the number of FTEs required to successfully perform the contract. Finally, as noted above, rather than decreasing FTEs, the solicitation indicated that the agency anticipated an "average growth rate (3 yrs) of 12 %." RFQ at 11. Although NSI maintains that various statistics, including the growth rate, were "factored into" its decision to reduce staffing, it fails to provide any meaningful specifics beyond the general references identified above. See NSI Comments, Jan. 27, 2016, at 13. On the record here, we find no merit in NSI's protest that the agency improperly evaluated its quotation under the performance approach evaluation factor, and deny NSI's protest challenging its evaluation under that factor.¹²

¹² As noted above, in addition to the significant weakness regarding staffing reductions, the agency identified various other weaknesses in NSI's proposal. We have reviewed the record regarding each of these weaknesses and find no basis to question the reasonableness of the agency's judgments.

Evaluation of SDS's Past Performance

Next, NSI protests that the agency's evaluation of SDS's past performance "must have been improper," asserting that SDS "could not have provided any relevant past performance information" because "SDS's expertise lies in IT support." Protest at 20, 23. NSI maintains that, to be relevant under this solicitation, a vendor's past performance must have involved operating a call center and "providing customer service for a broad base of users" regarding "non-IT issues." *Id.* at 20-23. Finally, following receipt and review of the agency report, NSI for the first time asserts that, to be relevant, SDS's past performance was required to be similar to "all of the eight PWS task areas." NSI Comments, Jan. 27, 2016, at 4 (underlining in original).

The agency responds that two of the three prior contracts SDS submitted for evaluation involved operation of information technology (IT) call centers under which SDS was responsible for responding to customer questions and providing help desk support, performing knowledge management and analysis activities, and providing emergency coordination center support. Contracting Officer's Statement, Jan. 13, 2016, at 11-14; AR, attach. 6, SDS's Past Performance Volume, at 1-6; AR, attach. 7, TEB Report, at 17-20. All of these activities are contemplated by the solicitation at issue here. Further, the agency notes that the combined magnitude of these contracts was greater than the magnitude of the contract contemplated under this solicitation. AR, attach. 7, TEB Report, at 17-20. Accordingly, the agency concluded that, in the aggregate, SDS's past performance was sufficiently similar in scope and magnitude to be considered relevant for purposes of evaluation.¹³

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of broad agency discretion which we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented.

Green Earthworks Constr., Inc., B-410724, B-410724.2, Feb. 2, 2015, 2015 CPD ¶ 68 at 4; DynCorp Int'l LLC, B-406523.2, B-406523.3, Dec. 16, 2013, 2014 CPD

¶ 7 at 6. The evaluation of experience and past performance is, by its very nature, subjective, and an offeror's disagreement with an agency's evaluation judgments does not demonstrate that those judgments are unreasonable. K-MAR Indus., Inc., B-411262, B-411262.2, June 23, 2015, 2015 CPD ¶ 189 at 4; Glenn Def.

Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7. Finally, to be considered similar in scope, an offeror's past performance need not be

¹³ The agency notes that NSI received a higher past performance rating than SDS (substantial confidence vs. satisfactory confidence) due, in part, to the greater relevance of NSI's past performance. AR, attach. 7, TEB Report, at 21; attach. 8, Business Clearance Memo/Source Selection Decision, at 15.

identical to, or compared to every aspect of, the current solicitation's requirements. Silverback7, Inc., B-408053.2, B-408053.3, Aug. 26, 2013 CPD ¶ 216 at 8-9.

Here, the solicitation advised vendors that the agency would evaluate a vendor's past performance in the aggregate to determine whether its prior contracts were "of similar scope and magnitude" to the requirements of this solicitation. RFQ at 59. First, we reject NSI's assertion that, to be considered relevant, SDS's past performance was required to be similar to "all of the eight PWS task areas." NSI Comments, Jan. 27, 2016, at 4 (underlining in original). To the contrary, as noted above, we have specifically held that "similar in scope" does not mean identical, nor does it require a contractor to demonstrate past performance regarding every requirement of a solicitation's PWS. Silverback7, Inc., supra. Next, we reject NSI's assertion that, to be similar in scope, SDS's past performance had to demonstrate customer service support for "non-IT" issues. See Protest at 20-23. Here, the solicitation contemplated various activities, including customer service support regarding human resource matters, as well as various other issues, specifically including IT-related services.¹⁴ RFQ at 10-19. NSI's attempt to preclude the agency's consideration of IT-related services in assessing the relevance of past performance is wholly unpersuasive. Finally, we reject NSI's unsupported assertion that the magnitude of SDS's past performance was insufficient. To the contrary, the record establishes that the magnitude of the contracts SDS submitted for consideration, and which the agency properly determined to reflect similarity in scope, exceeded the magnitude of the contract at issue here. AR, attach. 7, TEB Report, at 17-20. On this record, we find no basis to question the agency's determination that SDS's past performance was relevant, nor does the record provide any basis to question the agency's assignment of a satisfactory confidence

¹⁴ Indeed, NSI expressly acknowledges that, in addition to providing customer service for human resource issues, the RFQ required "developing and managing the knowledge management system, providing support to the ECC [emergency coordination center], providing transaction processing support, providing remote location support, developing and supporting content of applications for the NPC's website, site management support, and certain other tasks." Protest at 22.

rating to SDS under the past performance evaluation factor. NSI's protest challenging the agency's evaluation in that regard is without merit.

The protest is denied.¹⁵

Susan A. Poling
General Counsel

¹⁵ In its December 14, 2015 protest, NSI asserted that the agency had failed to perform a proper best-value analysis. Protest at 25-28. As discussed above, the agency reasonably concluded that SDS's quotation was superior to NSI's under the non-cost/price evaluation factors and offered a lower cost/price. Accordingly, there is no basis to challenge the agency's best-value determination.