



Decision

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Matter of: AGVIQ, LLC

File: B-413586

Date: November 2, 2016

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James J. Schubert, Esq., Department of the Navy, for the agency.

Alexander O. Levine, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's best-value determination is denied where the agency's tradeoff analysis was reasonable and consistent with the solicitation's evaluation criteria.

DECISION

AGVIQ, LLC, a small business located in Anchorage, Alaska, challenges the award of a contract to Cape Environmental Management, Inc., of Honolulu, Hawaii, under request for proposals (RFP) No. N62742-15-R-1807, issued by the Department of the Navy, Naval Facilities Engineering Command (NAVFAC) Pacific for environmental remediation services in the NAVFAC Pacific region. AGVIQ argues that the Navy's best-value determination lacked a rational basis.

We deny the protest.

BACKGROUND

The solicitation was issued on June 1, 2015 with the objective of obtaining remediation services at environmentally-contaminated sites, predominantly located at Navy and Marine Corps installations, as well as at other federal agency locations. RFP at 12. The RFP envisioned that the work ordered under the resulting contract would be performed predominantly in Hawaii and Guam, but might include other

locations within the NAVFAC Pacific area of responsibility. Id. The solicitation contemplated award of a cost-plus-award-fee, indefinite-delivery, indefinite-quantity contract for a one-year base period, with four one-year options. RFP, Award Fee Plan, at 1.

The solicitation called for award to be made to the responsible offeror whose offer is determined to be the most advantageous to the government considering both cost and non-cost evaluation factors. RFP at 117. Non-cost factors included experience, safety, and past performance. Id. at 117. Under the solicitation's evaluation scheme, experience and safety were of equal importance and, when combined, were equal in importance to past performance. Id. All of the non-cost evaluation factors, when combined, were significantly more important than cost. Id. The importance of cost would increase, however, if offerors' non-cost proposals "are considered essentially equal in terms of overall quality, or if cost is so high as to significantly diminish the value of a non-cost/price proposal's superiority to the Government." Id. at 117-18. In determining the best value, the solicitation provided that the agency "need not quantify the tradeoffs that led to the best value decision." Id. at 117.

For the experience and past performance factors, the solicitation permitted offerors to identify projects performed by proposed subcontractors. Id. at 118. The solicitation provided, however, that a subcontractor's experience and past performance would not be given the same level of consideration as either a prime contractor or a joint venture partner's because "there is no direct legal relationship between the Government and a subcontractor." Id. For the experience factor, the RFP stated that experience would be evaluated based on the (1) complexity, (2) scope, (3) contract volume/project size and/or (4) location of the work performed relative to the requirements of the solicitation. Id. at 119-20. The solicitation further provided that certain types of experience "may be evaluated more favorably," including (1) experience working for the Navy/Marine Corps, (2) experience that provides relevant innovative approaches to the performance of work described in the performance work statement (PWS), and (3) experience working in Guam, Hawaii, or the Northern Marianas Islands. Id. at 120. For the past performance factor, the RFP stated that the evaluation would be "based upon customer satisfaction in the execution of the same recent relevant projects submitted for Factor 1 (Experience)." Id. at 121.

AGVIQ timely submitted its proposal in response to the solicitation. The agency's final ratings of AGVIQ's and Cape's proposals were as follows:

	AGVIQ	Cape
Experience	Good	Good
Safety	Good	Good
Past Performance	Substantial Confidence	Substantial Confidence
Cost	\$88,232,894	\$94,023,531

Memorandum of Law at 3.

For the experience factor, the agency evaluated eight projects identified by Cape, all of which had been performed by Cape as the prime contractor, and eight projects identified by AGVIQ, six of which had been performed by AGVIQ¹ and two of which had been performed by AGVIQ's proposed subcontractors.² Agency Report (AR), Tab 7, Initial Source Selection Evaluation Board (SSEB) Report, at 0329, 0337. The agency evaluated Cape as having four strengths, and AGVIQ as having three strengths. AR, Tab 14, Final SSEB Report, at 0431, 0434-435. Neither offeror received any weaknesses, significant weaknesses, or deficiencies. As relevant here, both AGVIQ and Cape received strengths as a result of projects involving work for the Navy or Marine Corps. Id. Both offerors also received strengths as a result of proposing [DELETED]. Id. Cape was also awarded two strengths that AGVIQ was not: a strength for all eight of its prior projects having involved work in Guam or Hawaii, and a separate strength for the projects identified on its RFP Attachment J.10 Workload Experience Form having demonstrated experience working concurrently in Guam and Hawaii. See id. at 0434-435. AGVIQ received one strength that Cape did not: a strength because one of its identified projects,

¹ One of the six projects identified by AGVIQ was performed by a joint venture for which AGVIQ was the managing partner.

² These eight projects were identified on the RFP J.9 Attachment, Specialized Recent Project/Contract Experience Information, which requested a maximum of eight recent, relevant projects. AR, Tab 2, RFP, at 0167. The RFP also requested offerors submit a separate list of at least ten concurrent projects, totaling a minimum of \$10 million at multiple locations, on the RFP J.10 Attachment, Workload Experience Form. Id. at 0168. The projects identified on the J.9 form were designed to demonstrate the offeror's recent and relevant project experience, while the J.10 form was designed to demonstrate the offeror's capability and capacity to deliver on-schedule products similar to the type and complexity of the tasks described in the PWS. See id. at 0167-0168.

which had been performed by a proposed subcontractor, used an innovative approach to the work performed, resulting in reduced project costs. Id. at 0431.

For past performance, the agency evaluated the relevance and overall ratings of Cape’s and AGVIQ’s projects as follows:

Project Number	AGVIQ		Cape	
	Relevance	Overall Rating	Relevance	Overall Rating
1	Very Relevant	Very Good	Very Relevant	Excellent
2	Relevant	Excellent	Very Relevant	Satisfactory
3	Somewhat Relevant	Very Good	Very Relevant	Very Good
4	Very Relevant	Very Good	Very Relevant	Excellent
5	Very Relevant	Excellent	Very Relevant	Very Good
6	Very Relevant	Very Good	Very Relevant	Excellent
7	Very Relevant	Very Good	Very Relevant	Excellent
8	Very Relevant	Excellent	Very Relevant	Very Good

Id. at 0432 & 0436.

The Navy’s source selection authority (SSA) reviewed the agency’s findings and concluded that Cape’s non-cost proposal was superior to AGVIQ’s non-cost proposal, and that “the cost difference of 6.5% (\$5,765,033) between AGVIQ and Cape does not outweigh the technical advantage Cape provides.” AR, Tab 17, Source Selection Decision Document, at 0471. In support of this conclusion, the agency explained that “Cape’s more relevant project experience, greater experience working for the Navy/Marine Corps, greater project/concurrent experience working in Hawaii and Guam/Northern Marianas Islands and submission of more very relevant performance is of more value than the innovation demonstrated by AGVIQ.” Id. at 0472. The agency also noted that “[a]lthough AGVIQ’s proposal provides a cost advantage of approximately 6.5% (\$5,765,033) over the Cape proposal, because the technical factors and past performance/performance confidence assessment factor combined are significantly more important than cost the Cape proposal was deemed a better value.” Id.

The SSA directed award to Cape on July 5. This protest followed.

DISCUSSION

AGVIQ argues that the agency’s best-value determination lacked a rational basis for issuing an award to the equally-rated, but higher-cost Cape. In this regard, the protester asserts that the agency placed improper weight on the fact that the projects identified by Cape under the experience factor were performed in Guam and Hawaii; improperly discounted AGVIQ’s strength for innovation; and incorrectly

concluded that Cape had greater experience working on projects for the Navy and Marine Corps. AGVIQ also asserts that the Navy's cost/technical tradeoff failed to properly consider the importance of cost or to identify the benefits associated with Cape's higher-cost proposal.

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results; cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the evaluation criteria. Diversified Tech. & Servs. of Virginia, Inc., B-412090.2, B-412090.3, Dec. 16, 2015, 2016 CPD ¶ 34 at 11. Where a cost/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. Crowder Constr. Co., B-411928, Oct. 8, 2015, 2015 CPD ¶ 313 at 10. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific cost or price value difference when selecting a higher-cost, higher-rated proposal for award. Asset Management Real Estate, LLC, et al., B-407214.5 et al., Jan. 24, 2014, 2014 CPD ¶ 57 at 19.

The record here shows that the SSA performed a reasonable best-value tradeoff. With regard to the weight placed by the agency on the location of the projects identified by Cape and AGVIQ under the experience factor, AGVIQ argues that location was only one of four subfactors (the other three being complexity, scope, and contract volume/project size), and that, because the solicitation did not prescribe the weight for any of these subfactors, they should have been equally weighted. This argument incorrectly characterizes the agency's evaluation criteria as evaluation subfactors. See Noble Supply & Logistics, B-411229.3 et al., June 24, 2015, 2015 CPD ¶ 232 at 11. Here, the categories at issue were listed by the RFP as elements of the agency's relevance evaluation criteria, and such disclosure did not transform the evaluation criteria into subfactors. See id.; Kuhana-Spectrum, B-401270, July 20, 2009, 2010 CPD ¶ 61 at 2 n.2.

We find nothing unreasonable about the weight placed by the agency on the location of the projects identified by AGVIQ and Cape. In this regard, the RFP advised offerors that "[p]roject experience working in Guam, Hawaii, or the Northern Marianas Islands may be evaluated more favorably." RFP at 120. In light of this guidance, the agency's awarding of strengths to Cape on the basis of its experience working in Guam and Hawaii was reasonable.³ Having awarded strengths on this

³ As discussed above, Cape received one strength as a result of the fact that the projects it identified under RFP Attachment J.9, which sought the submission of specialized experience, involved work in Guam or Hawaii, and a separate strength as a result of the fact that the projects Cape identified under RFP Attachment J.10

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basis, it was reasonable for the SSA's tradeoff decision to utilize these strengths as a key differentiator between the proposals submitted by Cape and AGVIQ. See Tabcon, Inc., B-411554, Aug. 18, 2015, 2015 CPD ¶ 257 at 8 ("An agency, in making its tradeoff analysis, may ultimately focus on a particular discriminator, even if it is not one of the most heavily weighted factors, where it has a reasonable basis to do so.").

AGVIQ also argues that the Navy improperly discounted, without explanation, the strength AGVIQ received for identifying a project that demonstrated an innovative approach to the work performed. We do not agree. The SSA expressly considered this strength in her source selection decision document, but ultimately concluded that "Cape's more relevant project experience, greater experience working for the Navy/Marine Corps, greater project/concurrent experience working in Hawaii and Guam/Northern Marianas Islands and submission of more very relevant past performance is of more value. . . ." AR, Tab 17, Source Selection Decision Document, at 0472. We do not find this conclusion to be unreasonable or inconsistent with the solicitation's evaluation criteria. In this regard, we note that AGVIQ's strength for identifying a project that demonstrated an innovative approach arose from one project (out of eight), which was performed by a proposed subcontractor.⁴ See AR, Tab 14, Final SSEB Report, at 0429. In contrast, all eight of the projects identified by Cape involved work performed by Cape in Hawaii or Guam. See id. at 0433.

AGVIQ additionally challenges the SSA's statement that Cape demonstrated "greater experience working for the Navy/Marine Corps." AR, Tab 17, Source Selection Decision Document, at 0470. AGVIQ points out that the projects AGVIQ identified on the RFP J.10 form show that AGVIQ performed approximately [DELETED] worth of concurrent work, whereas the projects identified by Cape on its J.10 submission demonstrated approximately [DELETED] worth of concurrent work and that much of that work was performed for the Air Force, not the Navy. Comments at 5; Response to SSA Decl. at 2. In response to this point, the SSA explained that her statement regarding "Cape's greater experience working for the Navy/Marine Corps" did not refer to the concurrent work identified by both offerors

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Workload Experience Form demonstrated experience working concurrently in Guam and Hawaii. Insofar as these represented different proposal submissions, containing different projects, we do not find the assessment of two separate strengths to be unreasonable.

⁴ The solicitation expressly cautioned offerors that a "subcontractor's experience and past performance will not be given the same level of consideration as either a prime contractor or a joint venture partner because there is no direct legal relationship between the Government and a subcontractor." RFP at 118.

under the J.10 form, but instead referred to the number of specialized projects identified by the two offerors on the J.9 form. See SSA Decl. at 1. On its J.9 form, Cape identified eight projects it had performed for the Navy or Marine Corps while, on its J.9 form, AGVIQ identified six projects it had performed for the Navy or Marine Corps and two projects its proposed subcontractors had performed.⁵ We do not find the agency's consideration of the number of Navy/Marine Corps projects identified on the J.9 form to be unreasonable, despite the fact that AGVIQ identified larger value Navy/Marine projects under the J.10 form than Cape did. In this regard, the J.9 form, by its terms, was clearly intended to gauge "recent, relevant projects" to determine each offeror's relevant project experience performing work similar in complexity, scope, volume/size, and location. AR, Tab 2, RFP, at 0167. In contrast, the J.10 form was designed to gauge each offeror's "capability and capacity to deliver on-schedule products" while working on many different projects concurrently. Id. at 0168. In light of the fact that the J.9 form was specifically aimed at evaluating the degree of similarity between offerors' experience and the current requirements, we do not find the SSA's citation to Cape's "greater experience working for the Navy/Marine Corps" on its J.9 form to be unreasonable.

Last, AGVIQ asserts that the agency did not identify any benefits associated with Cape's higher cost, and also ignored the cost difference between the two proposals, despite the solicitation's statement that the importance of cost would increase if offerors' non-cost proposals were considered essentially equal. We disagree. As noted above, the source selection decision contained a detailed analysis, and comparison, of the strengths offered by the two non-cost proposals. Ultimately, based on this analysis, the record demonstrates that the Navy concluded that the two proposals were not essentially equal and that "the cost difference of 6.5% (\$5,765,033) between AGVIQ and Cape [did] not outweigh the technical advantage Cape provides." AR, Tab 17, Source Selection Decision Document, at 0471. While AGVIQ disagrees with the weighting applied by the agency, we find that the Navy's best-value determination was reasonable and consistent with the evaluation criteria.

The protest is denied.

Susan A. Poling
General Counsel

⁵ Additionally, we note that the dollar value of the eight projects identified by Cape on its J.9 form was greater than the dollar value of the six projects identified by AGVIQ by approximately \$6.5 million. Compare AGVIQ Non-Cost Proposal, at AGVIQ023-038 with Cape Non-Cost Proposal, at CAPE013-028.