



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Computers Universal, Inc.

File: B-401564.2

Date: December 7, 2009

Peter L. Cannon for the protester.

Daniel J. Donohue, Esq., Akerman Senterfitt, LLP, for CACI-ISS, Inc., an intervenor.

Robert T. Wu, Esq., Department of the Army, for the agency.

Nora K. Adkins, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

In a solicitation that provided for multiple awards of indefinite-delivery/indefinite-quantity contracts for professional services, the agency reasonably concluded that the proposal presented moderate risk under the corporate capability factor and unknown risk under the past performance factor, and therefore it was not among the proposals that provided the “best value” to the government notwithstanding its comparatively low price.

DECISION

Computers Universal, Inc. (CUI) of Westerville, Ohio protests the Department of the Army’s decision not to award it a contract under request for proposals (RFP) No. W91QVN-09-R-0142 for professional services to support the U.S. Forces Korea Command and staff missions in the Republic of Korea.

The protest is denied.¹

¹ CUI was not represented by counsel in this protest. Accordingly, our Office did not issue a protective order, and CUI and the intervenor were provided only a redacted version of the agency report. In resolving the protest, we reviewed *in camera* unredacted copies of all evaluation and source selection documents and have based our decision on the full record. As much of the information reviewed by our Office is source selection sensitive and proprietary in nature, our discussion of the evaluation is necessarily limited.

The RFP, issued on May 18, 2009, provided for the award of multiple indefinite-delivery/indefinite-quantity (ID/IQ) contracts. RFP at 3. Each contract was to provide all personnel, materials, travel, and other services necessary to support six “task areas” including: transformation support; theater exercises and simulation support; policy, planning, and strategy analysis; knowledge management; special programs and community outreach; and general and administrative support. Id. at 37-39. The RFP included primarily fixed-price contract line item numbers (CLINs) for these various support services, with some cost reimbursement CLINs for “other direct costs” and “surge support,” and provided a guaranteed minimum and maximum ordering amount of \$25,000 and \$100,000,000 respectively. The period of performance for each contract awarded included a 1-year base period, with four 1-year option periods. Id. at 3-31.

Although a specific number of multiple awards were not required by the RFP, the solicitation advised that awards would be made to those offerors whose proposals provided the “best value” to the government, based on the evaluation of corporate capability, past performance, and price.² The RFP stated that the corporate capability and past performance factors were equally weighted in the evaluation and that the two factors together were more important than the price factor. Id. at 55-57.

With regard to the corporate capability factor, the RFP stated the agency would evaluate the “quality of the Offeror’s proposal as it pertains to corporate capability, qualifications, and resources necessary to meet the Government’s requirements” and the offeror’s “approach to identify, track, ... and mitigate the risk.” Id. at 55. Offerors were specifically asked to provide a management plan “in sufficient detail” that described each offeror’s proposed organizational structure; methods for recruitment, training, and staff retention; risk identification and response strategy; quality control policies, processes, and procedures; and subcontract management approach. Id. The RFP stated that each evaluated proposal would receive either a “low risk,” “moderate risk,” or “high risk” rating, which were defined as follows:

² The competition here was conducted using the commercial item acquisition procedures of Federal Acquisition Regulation (FAR) Part 12. RFP at 55.

Low Risk	Little doubt exists, based on the Offeror’s proposed management plan, that the Offeror can perform the proposed effort. The Offeror’s management plan demonstrates an approach which thoroughly addresses the minimum requirements identified in the instructions to offerors The plan represents an approach that is feasible or practical .
Moderate Risk	Some doubt exists, based on the Offeror’s proposed management plan, that the Offeror can perform the proposed effort. The Offeror’s management plan demonstrates an approach which moderately addresses the minimum requirements identified in the instructions to offerors. The plan represents an approach that may not be feasible or practical .
High Risk	Significant doubt exists, based on the Offeror’s proposed management plan, that the Offeror can perform the proposed effort. The Offeror’s management plan does not address the minimum requirements identified in the instructions to offerors. The plan represents an approach that lacks clarity, and is neither feasible nor practical .

Id. at 56 (emphasis added).

With regard to the past performance factor, the RFP required offerors to describe a maximum of 10 past contracts that were of “similar scope, magnitude, and complexity” to the work required by the solicitation. The solicitation advised that the agency would evaluate past performance for “performance risk” and rate each offeror’s performance as “low risk,” “moderate risk,” “high risk,” or “unknown risk,” which were defined as follows:

Low Risk	Little doubt exists, based on the Offeror’s performance record, that the Offeror can perform the proposed effort.
Moderate Risk	Some doubt exists, based on the Offeror’s performance record, that the Offeror can perform the proposed effort.
High Risk	Significant doubt exists, based on the Offeror’s performance record, that the Offeror can perform the proposed effort.
Unknown Risk	Little or no relevant performance record identifiable: equates to unknown risk rating having no positive or negative evaluation significance.

Id. at 57.

With regard to the price factor, the RFP stated that proposed prices would be evaluated for reasonableness and whether the prices were “realistic based on the

labor category description; reflect a clear understanding of the requirements; and are consistent with industry standards.” Id.

Nine offerors submitted proposals in response to the RFP. On July 2, the agency awarded six contracts to offerors other than CUI. On July 6, CUI protested to Office, challenging the evaluation of its proposals under the corporate capability and the past performance factors, and contesting the reasonableness of another offeror’s price. On the agency report due date, the agency informed our Office of its intent to take corrective action. Thus, we dismissed CUI’s initial protest as academic on August 5.

In implementing its corrective action, the agency reevaluated all proposals and reaffirmed its earlier decision to award six contracts to offerors other than CUI. In this regard, each of the six awardee’s proposals received ratings of low risk for both the corporate capability and past performance factor. In contrast, CUI’s proposal received a rating of moderate risk for corporate capability and unknown risk for past performance. Agency Report (AR), Tab 13, Source Selection Decision, at 1.

Specifically with regard to corporate capability, the agency found that CUI’s management plan had “deficiencies” in five evaluated areas because the plan only “moderately” addressed these areas and/or “represent[ed] an approach that may not be feasible or practical.” AR, Tab 12, Source Selection Evaluation Board (SSEB) Report Addendum, at 2. For example, the agency noted that the proposal lacked details about methods used for recruitment, and the agency questioned the feasibility of CUI’s proposed training approach given that the proposal lacked information to support success with the proposed approach. Id. at 2-3. The agency also determined that the proposal did not identify anyone within the company that would be responsible for risk management and that CUI’s risk identification and response strategy only seemed to be a “plan to create a plan.” Id. at 3. The agency found that CUI’s description of its quality control process was “ambiguous” and that the proposal did not include any discussion of the firm’s quality control policies. Id. at 3. The agency also noted that CUI’s description of its subcontract management was “rudimentary, at best,” and that the firm failed to provide a sufficient staffing plan for the scope of service required by the RFP. Id. at 3-4.

With regard to past performance, the agency assessed CUI’s proposal an unknown risk rating because the firm had “very limited” relevant past performance. Although the agency recognized that CUI had some limited experience relevant to one of the six task areas required by the RFP, the agency found that CUI lacked relevant experience in the remaining five task areas, which the agency noted were “key tasks” to be performed. Id. at 14.

The agency evaluated offerors’ proposed prices for each labor category and found that CUI’s prices were “similar” to five other low-priced offers, although the agency noted that each of these low-priced offers was also higher technically rated. AR, Tab 13, Source Selection Decision, at 3. Because CUI’s proposal was lower rated

than other similarly priced proposals, it was not found by the agency to be among the proposals that provided the “best value” to the government, and, therefore, CUI’s proposal was not selected for award.³ Id. at 3-4. On August 26, the Army announced its award decision, and CUI filed this protest with our office on August 28.

In its protest, CUI challenges the reasonableness of the agency’s evaluation of its proposal under the corporate capability and past performance factors.

The evaluation of proposals is primarily the responsibility of the contracting agency. Federal Env’tl. Servs., Inc., B-260289, B-260490, May 24, 1995, 95-1 CPD ¶ 261 at 3. In reviewing protests challenging an agency’s evaluation of proposals, we will not substitute our judgment for that of the agency regarding the merits of proposals; rather, we will examine the agency’s evaluation only to ensure that it was reasonable and consistent with the solicitation’s evaluation criteria, and with applicable procurement statutes and regulations. Valenzuela Eng’g, Inc., B-283889, Jan. 13, 2000, 2000 CPD ¶ 1 at 4. A protester’s mere disagreement with the agency’s evaluation does not render the evaluation unreasonable. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

CUI claims that its proposal should have received a low, rather than moderate, risk rating for corporate capability. For example, CUI asserts that its risk management approach was improperly “penalized” for not identifying a specific person within the company to be responsible for risk management. CUI argues that the RFP did not require offerors to identify this person and, in any event, CUI identified who was involved in its risk management plan in its proposal. Protest at 5-6; CUI’s Comments at 8. However, the record shows that CUI’s proposal does not identify who will be responsible for risk and, as the agency noted in its evaluation, the proposal fails to provide any specific risk strategy other than to provide a “plan to create the plan.” AR, Tab 12, SSEB Report Addendum, at 3. Thus, we find reasonable the agency’s assessment of a deficiency in this area.

CUI also complains that it was unreasonably “penalized” under the corporate capability factor for the firm’s proposed quality control plan, staffing plan, and subcontract management, arguing in part that the agency considered unstated evaluation criteria. Protest at 6; CUI’s Comments at 8-9. However, we find no evidence in the record that the agency evaluated unstated criteria. Rather, each of the deficiencies assessed related to CUI’s failure to provide sufficient detail in its proposal, which left the agency with “some doubt” that CUI could perform the effort and concern that some aspects of CUI’s proposed approach “may not be feasible or

³ Although the agency selected for award the five offerors who proposed prices similar to CUI, it also selected one offeror (CACI-ISS) who submitted a higher-priced proposal that was also among the highest technically rated proposals. AR, Tab 13, Source Selection Decision, at 3-4.

practical.” Id. at 2. We have reviewed the record and find that the agency’s analysis and evaluation conclusions are reasonable and that CUI was appropriately assessed a moderate risk rating under the corporate capability factor. Although CUI disagrees with the evaluation conclusions, it has not shown them to be unreasonable. Entz Aerodyne, Inc., supra, at 3.

CUI next challenges the unknown risk rating assessed to its proposal for past performance, contending that its proposal included past performance “that covered all areas of the solicitation.” Protest at 5. We find reasonable the agency’s evaluation conclusion that CUI’s past performance record did not show relevant experience in five of the six “key” task areas required by the RFP. Thus, CUI was assigned an unknown risk rating because, in accordance with the solicitation, “little or no relevant” past performance information was provided. Based on our review of the record, we find that the agency’s evaluation of CUI’s past performance was reasonable.

Finally, CUI complains that the proposed prices of one of the offerors (CACI-ISS) were unreasonably high, and it challenges the award to CACI-ISS on this basis. In performing its price evaluation, the agency reviewed each labor category price submitted by the offerors and compared them to other offerors’ prices and to market prices. The agency also compared proposed labor prices to several General Services Administration (GSA) schedule contracts, including one held by CACI-ISS, which included labor rates in the same or similar categories as those required here. Based on this review, the agency found all offerors’ prices to be “reasonable and realistic.” Contract Officer’s Statement at 5; AR, Tab 11, Price Negotiation Memorandum, at 6-7. The protester has not shown that this analysis was inadequate or that CACI-ISS’s price was unreasonably high under these circumstances.

In any event, the record shows that CUI’s proposal was not likely to receive an award, even if it were to prevail on its claim that CACI-ISS’s price was too high. In this regard, as discussed above, the agency reasonably determined that CUI’s lower price was not worth the added risk of its proposal. As stated in the source selection decision, “[n]o award will be made to [CUI]” because “the Government is not willing to accept a proposal with moderate risk when there are multiple offerors with realistic prices and low risk ratings.” AR, Tab 13, Source Selection Decision, at 4.

The protest is denied.

Lynn H. Gibson
Acting General Counsel