



Decision

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Matter of: MetroStar Systems, Inc.

File: B-416377.5; B-416377.8

Date: April 2, 2020

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DIGEST

1. Protest that agency improperly credited awardees for having mandatory certifications at the time of proposal submission is sustained where the certifications provided by the awardees' proposals were issued to affiliated entities, and where the proposals did not otherwise indicate that these certifications applied to the awardees themselves at the time of proposal submission.
 2. Protest that agency unreasonably credited an awardee with the corporate experience and past performance of affiliated entities is sustained, where the record does not show that the affiliates will provide resources or be relied upon for contract performance.
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DECISION

MetroStar Systems, Inc., of Reston, Virginia, protests the award of five indefinite-delivery, indefinite-quantity (IDIQ) contracts under request for proposals (RFP) No. DJJP-17-RFP-1022, issued by the Department of Justice (DOJ) for information technology support services.¹ The protester argues that the agency conducted an

¹ The five awardees are: Ace Info Solutions, Inc. (AceInfo); Booz Allen Hamilton (BAH); CACI, Inc.-Federal (CACI); SRA International, A CSRA Inc. Company (SRA); and NTT Data Federal Services. Contracting Officer's Statement (COS) at 4. While SRA

(continued...)

unreasonable and unequal evaluation of offerors' technical proposals, and that the resulting best-value tradeoff determination was flawed.

We sustain the protest.

BACKGROUND

On February 22, 2017, DOJ issued the RFP, seeking contractor assistance in support of the agency's Information Technology Support Services-5 (ITSS-5) program. The base period of performance will be from the date of award through September 30, 2022; the solicitation also contains a 5-year option period. Agency Report (AR), Tab 1, RFP, at 0033.² The agency anticipated award of approximately 15 contracts, six on an unrestricted basis and nine to service-disabled veteran-owned small businesses; this protest concerns the award of contracts on an unrestricted basis. Id. at 0091.

The solicitation anticipated that the agency would evaluate proposals in two phases. In phase one, the agency was to evaluate technical and price proposals. The RFP provided for the evaluation of five technical subfactors as part of this phase: corporate experience, past performance, architectural attributes experience, management, and mandatory technical certifications. Id. at 0076.

The mandatory technical certifications subfactor was evaluated as either achieved or not achieved with the agency assessing "whether or not the offeror has the required certification [under International Standards Organization (ISO) 9001], and . . . has either achieved [Capability Maturity Model Integration (CMMI)] Level 2 or 3, OR has a complete, realistic and well-supported plan for achieving CMMI Level 2 or 3 within a reasonable time after award."³ Id. at 0092. A proposal that did not meet these requirements would not be selected for phase two.

The remaining phase one subfactors were evaluated for relative merit.⁴ Corporate experience was significantly more important than each of the other subfactors. Id. at 0090. Past performance and architectural attributes were relatively equal in

referred to itself as CSRA in its proposal, and the agency identified it similarly, we refer to this awardee as SRA to avoid confusion in light of our discussion of similarly named affiliates, e.g., CSRA, Inc.

² DOJ used a Bates numbering system in preparing the agency's report. Citations to the AR in this decision refer to the Bates numbers assigned by the agency.

³ ISO-9000 standards (including ISO 9001) are a series of internationally recognized quality assurance standards. See LBM Inc., B-286271, Dec. 1, 2000, 2000 CPD ¶ 194 at 2 n.2.

⁴ The ratings used to evaluate these subfactors were: excellent, very good, satisfactory, marginal and poor. See AR, Tab 2, Evaluation and Selection Plan, at 1004-1006.

importance, and both subfactors were significantly more important than the management subfactor. Id.

The solicitation contemplated that the most highly rated offerors after phase one would be selected to submit a proposal for phase two. In phase two, proposals were to be evaluated for their technical proficiency and also for their responses to two sample task order scenarios. Id. at 0092. DOJ would then award contracts to those offerors whose proposals were determined to be the most advantageous, with technical merit being significantly more important than price. Id. at 0093. The RFP anticipated that the agency’s best-value tradeoff determination would consider each offeror’s overall technical rating for phase one and its overall technical rating for phase two, with the phase two rating considerably more important than the phase one rating. Id. at 0091.

MetroStar submitted a timely proposal under the procurement’s unrestricted track. As relevant here, DOJ evaluated MetroStar and the eventual five awardees in phase one as follows:

	MetroStar	AcelInfo	NTT	BAH	SRA	CACI
Corporate Experience	Very Good	Very Good	Very Good	Very Good	Excellent	Very Good
Past Performance	Very Good	Very Good	Very Good	Very Good	Excellent	Excellent
Architectural Attributes Experience	Satisfactory	Excellent	Excellent	Excellent	Very Good	Satisfactory
Management	Very Good	Satisfactory	Satisfactory	Satisfactory	Very Good	Very Good
Technical Certifications	Achieved	Achieved	Achieved	Achieved	Achieved	Achieved
Combined Phase One Technical Rating	Very Good	Very Good	Very Good	Very Good	Excellent	Very Good

AR, Tab 4.4, Phase One Technical Consensus Recommendation Report, at 1135.

DOJ selected 14 offerors to proceed to phase two, including MetroStar and the five eventual awardees. On March 28, 2019, all 14 offerors timely submitted phase two proposals. COS at 2. As relevant here, the agency evaluated MetroStar and the five awardees as follows:

	MetroStar	AceInfo	NTT	BAH	SRA	CACI
Phase One Technical Rating	Very Good	Very Good	Very Good	Very Good	Excellent	Very Good
Sample Task Order One	Satisfactory	Very Good	Very Good	Very Good	Excellent	Very Good
Sample Task Order Two	Very Good	Satisfactory	Very Good	Very Good	Very Good	Very Good
Technical Proficiency	Satisfactory	Very Good	Satisfactory	Very Good	Very Good	Very Good
Combined Technical Rating Phase Two	Satisfactory	Very Good				
Overall Technical Rating (Combined Phase One and Two)	Satisfactory	Very Good				
Total Evaluated Price	\$261.3 million	\$215.7 million	\$216.5 million	\$238.3 million	\$185.2 million	\$178.8 million

AR, Tab 13.11, Phase Two Best-Value Recommendation Report, at 3266.

On December 19, the agency awarded contracts to the five highest-rated offerors: AceInfo, NTT, BAH, SRA, and CACI. This protest followed.

DISCUSSION

MetroStar challenges multiple aspects of the agency's evaluation and best-value tradeoff determination. For instance, the protester contends that the agency unreasonably and unequally evaluated the awardees' proposals. In this regard, MetroStar argues that two of the awardees did not comply with a mandatory certification requirement. In addition, the protester argues that the agency assigned unwarranted strengths to the awardees' proposals and failed to credit MetroStar's proposal equally for features evaluated as strengths in the awardees' proposals. The protester also asserts that the agency unreasonably evaluated its proposal by assigning several unwarranted weaknesses and by failing to credit numerous strengths properly. Finally,

the protester argues that the agency's best-value tradeoff failed to compare proposals substantively and was otherwise flawed due to the agency's evaluation errors.⁵

For the reasons discussed below, we sustain MetroStar's protest.

ISO 9001 Certifications

The protester argues that the proposals submitted by SRA and BAH failed to comply with the solicitation's ISO 9001 certification requirement. The solicitation stated that the agency would evaluate "whether or not the offeror has the required certification for ISO 9001," and provided that "[p]roposals will be eliminated from the competition and will receive no further consideration if they do not contain the mandatory ISO 9001 technical certification." RFP at 0090 & 0092 (emphasis omitted). The protester contends that SRA and BAH failed to provide this certification, and instead relied on the certifications of affiliated entities. In response to this argument, the agency asserts that the

⁵ While we do not address in detail every argument raised by the protester, we have reviewed each issue and, with the exception of those issues discussed herein, do not find any basis to sustain the protest. For example, the protester contends that certain negative information, relating to a DOJ Office of Inspector General (OIG) audit conducted on a contract submitted as one of CACI's past performance references should have been considered by the agency's evaluators. The protester argues that even if the evaluators were not aware of the OIG audit, knowledge of CACI's alleged problems performing the audited contract should have been imputed to the agency. The protester argues that the OIG audit properly could not be overlooked because the contract (1) was awarded by the same DOJ division conducting this procurement, (2) is being administered by the same DOJ office responsible for the administration of this contract, and (3) involves "very similar services for many of the same DOJ components" involved in the instant contract. Supp. Comments at 23-24.

Based on our review of the record, however, we do not agree. In this regard, the agency's past performance evaluator provided a statement in this protest explaining that, at the time of the past performance evaluation, he was not aware of CACI's performance on the audited contract beyond the information provided in, and accompanying, CACI's proposal. COS at 6. Additionally, the evaluator explained that he was not aware of the OIG's report, which was in draft form at that time. Id. Similarly, the source selection authority (SSA) provided a statement explaining that he was not aware of the draft OIG report at the time of the agency's source selection determination. See Supp. COS at 1. While the protester requests that we impute knowledge of CACI's alleged performance issues based on the administrative overlap of the two contracts, we decline to do so where the services involved are not the same and where the protester has failed to demonstrate direct knowledge of these alleged performance issues.

solicitation did not prohibit reliance on the ISO 9001 certifications of affiliated entities, and it was therefore reasonable for DOJ to permit their use.⁶

The evaluation of technical proposals is a matter within the agency's discretion. Acquisition Servs. Corp., B-409570.2, June 18, 2014, 2014 CPD ¶ 197 at 7. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Technology & Telecomms. Consultants, Inc., B-415029, Oct. 16, 2017, 2017 CPD ¶ 320 at 3. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was improper. Technica LLC, B-413546.4, B-413546.5, July 10, 2017, 2017 CPD ¶ 217 at 5.

Based on our review of the record, we find that the solicitation did not permit offerors to meet the ISO 9001 certification requirement using certifications that did not apply to the offeror's quality management system at the time of proposal submission. In this regard, the RFP required the offeror to be the entity that "has the required certification for ISO 9001." RFP at 0090. Responding to offerors' questions about this requirement, the agency further explained that the offeror itself, and not its subcontractor, must be the one with the ISO certification. Supp. Protest, Ex. 1, Phase One Questions and Answers (Q&As), at No. 21. Further, in several related questions, offerors asked the agency if it was acceptable for the offeror to have the certification in progress or to have a plan in place for achieving ISO 9001 certification after award. The agency responded each time that this would not be acceptable and that the certification was required for the prime offeror "at [the] time of response submission." Id. at Nos. 28, 32, 41 & 42.

Despite this guidance, two of the awardees, BAH and SRA, did not provide evidence that they had ISO 9001 certifications in place at the time of proposal submission. Instead, both offerors provided certifications issued to affiliated entities without explaining how these certifications applied to their own quality management systems. While the agency argues that these certifications can be imputed to the respective offerors since they are "perfectly good ISO 9001 certification[s], within the corporate family, managed by a central office," Memorandum of Law (MOL) at 22, we note that the evaluation record provides no support for this conclusion.

For example, the certification provided in BAH's proposal was issued to a subsidiary, Booz Allen Corporate Quality Office. AR, Tab 18.1, Booz Allen Phase One Technical Proposal, at 3491. The certification stated that it applied to the "management of provisioning of services including systems engineering, system administration and management consulting to the federal government by Booz Allen's Corporate Quality Office and SIDEPOCKET BRIDGE." Id. The address listed on the certification also was

⁶ The agency also argues that even if this determination was erroneous, such error did not competitively prejudice MetroStar. The agency makes a similar assertion with respect to all of the errors addressed within this decision. We address these arguments below.

not BAH's listed address, and instead was the address for BAH's subsidiary. Id. Thus, the certification provided no indication that it applied to BAH's quality management system.

SRA's certification, issued to SRA's parent entity, CSRA, Inc., stated that it applied to the "central management of distributed information technology driven training services as defined by government agency contractual requirements." AR, Tab 20.1, SRA Technical Proposal, at 3700. SRA's proposal further elaborated that the certification was for a quality management system managed by the "CSRA Defense Training Division's [program management office] located in Orlando, FL." Id. at 3699. While SRA asserted that this certification "demonstrates that CSRA has mature ISO 9001-compliant processes in place now," it also stated that "[u]pon award, CSRA will incorporate the ITSS-5 IDIQ program into this ISO 9001:2015 certified [quality management system]." Id. This latter caveat implies that while, at the time of proposal submission, there was a certification for an ISO 9001-compliant quality management system within the CSRA corporate family, that certification did not cover SRA's specific quality management system. Id. at 3699. It is thus unclear that SRA met the RFP requirement to have a certification in place at the time of proposal submission.

In sum, there is no evidence in BAH's or SRA's proposals that either offeror (as opposed to an affiliate) had an ISO 9001 certification in place at the time of proposal submission. In the absence of such evidence, we conclude that the agency unreasonably credited these offerors with meeting the applicable requirement.

Affiliate Past Performance and Corporate Experience

The protester argues that DOJ improperly credited a third awardee, CACI, with the corporate experience and past performance of its affiliates. In this respect, three of the five past performance references submitted for CACI's past performance, and two of its three corporate experience references, involved contracts performed by affiliates (specifically CACI-ISS, Inc.; CACI NSS, Inc.; or CACI Technology Insights, Inc.). MetroStar contends that CACI's proposal does not demonstrate any meaningful involvement by these affiliates in CACI's proposed technical approach. The protester argues that it was therefore unreasonable for the agency to credit the experience of these affiliates in the evaluation of CACI's corporate experience and past performance.

An agency properly may attribute the experience or past performance of a parent or affiliated company to an offeror where the firm's proposal demonstrates that the resources of the parent or affiliate will affect the performance of the offeror. Perini/Jones, Joint Venture, B-285906, Nov. 1, 2000, 2002 CPD ¶ 68 at 4. The relevant consideration is whether the resources of the parent or affiliated company--its workforce, management, facilities or other resources--will be provided, or relied upon, for contract performance such that the parent or affiliate will have meaningful involvement in contract performance. Ecompex, Inc., B-292865.4 et al., June 18, 2004, 2004 CPD ¶ 149 at 5. While it is appropriate to consider an affiliate's performance record where the affiliate will be involved in the contract effort or where it shares

management with the offeror, it is not appropriate to consider an affiliate's record where that record does not bear on the likelihood of successful performance by the offeror. National City Bank of Indiana, B-287608.3, Aug. 7, 2002, 2002 CPD ¶ 190 at 10.

Here, the agency argues that it reasonably credited CACI with the past performance and experience of its affiliates because CACI's proposal indicated that these affiliates would have meaningful involvement in the contract effort proposed by CACI. In this regard, DOJ notes that CACI's proposal referred, in multiple places, to the corporate commitment supporting the efforts of "Team CACI." Supp. MOL at 10-11. For example, CACI's proposal stated, "[a]s demonstrated by our corporate commitment, capabilities, and successful past performances, we leverage our [program management office] leadership, mission-focused staff, technical capabilities, and unique insight into the true mission drivers for the DOJ to provide consistently reliable, effective, high quality support." AR, Tab 19.1, CACI Phase One Technical Proposal, at 3590. CACI's proposal also committed to retaining "the qualified, cleared incumbent staff currently providing superior service across the DOJ." Id. The agency also notes that one CACI affiliate, CACI-ISS, Inc., currently performs on the ITSS-4 program, the predecessor effort to the current ITSS-5 contract.

Based on our review of the record, we conclude that CACI's proposal does evidence the meaningful involvement of CACI-ISS, Inc., but does not evidence the meaningful involvement of the other two affiliates. With respect to the first point, the agency is correct that CACI's proposal committed to using the ITSS-4 incumbent staff, the ITSS-4 program management office, and other resources of CACI-ISS, Inc. See id. at 3589, 3590 & 3612. These commitments demonstrate the meaningful involvement of CACI-ISS, Inc. on the instant effort. We therefore find that the agency reasonably credited the past performance and corporate experience of this affiliate in its evaluation of CACI's proposal.

CACI's proposal, however, does not demonstrate that the other two affiliated entities, CACI NSS, Inc. and CACI Technology Insights, Inc., will be involved in the contract effort here.⁷ CACI's technical proposal does not specifically mention these affiliates, and the proposal does not mention what resources or personnel, if any, these entities would use to perform the contract. While CACI's proposal does contain generalized references to "Team CACI" and to leveraging incumbent personnel from "across the DOJ," which could be oblique references to the involvement of these affiliates, these references are simply too vague to evidence the meaningful involvement of either affiliate. Id. at 3589 & 3590; see Alutiq Pacific, LLC, B-409584, B-409584.2, June 18, 2014, 2014 CPD ¶ 196 at 7-8 (noting that generalized references to "Team Bowhead," a term that is not defined as including affiliates of the offeror, do not form an adequate basis to credit such affiliates with having meaningful involvement in the proposed contract effort). In addition, the evaluation record contains no indication that the agency

⁷ CACI used contracts performed by these two companies as one corporate experience sample and two past performance references. See AR, Tab 19.1, CACI Phase One Technical Proposal, at 3601 & 3606.

considered this issue and similarly fails to provide the agency's basis for crediting the CACI proposal with the experience and past performance of these two affiliates. Accordingly, we find unreasonable the agency's assignment of this experience and past performance to the CACI proposal.

Unequal Phase Two Evaluation

The protester argues that several aspects of the agency's phase two evaluation amounted to disparate treatment. We have reviewed these arguments and find only one has merit.

In this regard, the agency concedes that it unequally assigned two major strengths to awardees' proposals under the sample task order one subfactor, while only assigning MetroStar's proposal one strength, despite the fact that all four offerors proposed the same thing. Specifically, the agency credited the proposals of SRA, BAH, and CACI for proposing key personnel that all had security clearances and would be available to perform on day one after award. See AR, Tab 13.1, Sample Task Order One Technical Evaluation Report, at 3117. In contrast, the agency credited MetroStar's proposal with only one strength for "[a]ll proposed personnel hav[ing] existing security clearances and [being] available upon award." Id. at 3133. In response to this protest ground, the agency acknowledged that MetroStar should have received two major strengths rather than just one. MOL at 32. We agree.

PREJUDICE

Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Raytheon Co., B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17.

Here, the agency argues that any errors it committed did not prejudice MetroStar because correcting these errors would not have increased MetroStar's overall technical rating and also because, even if some of the five awardees had not received an award, this would only have resulted in the agency making fewer awards. In support of this assertion, DOJ notes that it chose to make five awards to the five highest-rated offerors, all of which received ratings of very good. The agency argues that even if correcting these errors resulted in some of the five awardees no longer receiving an award, this cut-off rationale would still apply for the remaining awardees. In that scenario, the agency would have kept the same rationale and just made fewer awards.

We see no support within the record for the agency's position, however. The contemporaneous evaluation documents, e.g., the consensus best-value recommendation report and the source selection determination, do not contain any indication of what the agency would have done had there been only two or three offerors with overall ratings of very good. We note too that the statement submitted by

the contracting officer/source selection authority in response to MetroStar's protest did not support the agency's position. For example, the statement did not contain any representation that the agency would have chosen to make fewer awards if several of the awardees were eliminated from consideration. See generally COS at 4-5.

Accordingly, we find that correcting the errors noted above might have resulted in a substantially different best-value tradeoff because three of the five current awardees might have received significantly lower technical ratings or been eliminated from consideration altogether. In this respect, we note that the RFP provided that proposals that did not comply with the ISO 9001 certification requirement would be eliminated from the competition and would receive no further consideration. Indeed, the agency eliminated the proposals of several offerors that did not provide the requisite evidence of an ISO 9001 certification. See AR, Tab 4.3, Phase One Technical Evaluation Report, at 1054. In addition, we note that the solicitation required offerors to provide the agency a minimum of three qualifying corporate experience samples and five past performance questionnaires. RFP at 0078 & 0080. Given these requirements, but for the above discussed errors, the agency might have concluded that only two offerors received overall ratings of very good, and, as a result, might have considered making award to offerors with overall satisfactory ratings, such as MetroStar.

In such circumstances, we resolve any doubts regarding prejudice in favor of the protester since a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. See Kellogg, Brown & Root Servs., Inc.-Recon., B-309752.8, Dec. 20, 2007, 2008 CPD ¶ 84 at 5. Accordingly, we conclude that MetroStar has established the requisite competitive prejudice to prevail in its bid protest.

RECOMMENDATION

We recommend that the agency reevaluate proposals in a manner consistent with the terms of the solicitation and this decision, and make a new source selection decision based on that reevaluation. We also recommend that the agency reimburse MetroStar its reasonable costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time spent and the cost incurred, must be submitted to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Thomas H. Armstrong
General Counsel