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Decision

Matter of: Federal Acquisition Services Team OASIS JV, LLC

File: B-418776.6; B-418776.7

Date: June 22, 2021

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Christine C. Fontenelle, Esq., Department of Homeland Security, for the agency.

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DIGEST

Protest challenging agency's evaluation of quotations and conduct of discussions is denied where record shows the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations and, to the extent the agency may arguably have failed to engage in adequate discussions with the protester, there is no reasonable possibility the protester was competitively prejudiced by the agency's actions.

DECISION

Federal Acquisition Services Team, OASIS, JV, LLC (FAST), of Virginia Beach, Virginia, protests the issuance of a task order to Global Miracle Solutions (GMS), of Salt Lake City, Utah, under request for quotations (RFQ) No. 70RCSA20Q0000028, issued by the Department of Homeland Security, Cybersecurity Infrastructure Security Agency, for budget, procurement, and contract management support services. FAST argues that the agency miscalculated quotations, failed to engage in adequate discussions, and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RFQ contemplates the issuance, on a best-value tradeoff basis, of a time-and-materials type task order for a base year and two 1-year options to perform budget, procurement, and contract management support services. Firms were advised that the agency would evaluate proposals considering price and three non-price considerations, past experience, management approach, and staffing approach. Agency Report (AR),

exh. 8, RFQ, amend, No. 0002, attach. I, Instructions and Evaluation Factors, at 13. Firms were advised that the past experience factor was more important than the management approach and staffing approach factors, and the non-price factors in combination were significantly more important than price. *Id.* Firms also were advised that quotations would be assigned adjectival ratings of high confidence, some confidence, or low confidence for each non-price factor, and that prices would be evaluated for fairness, completeness, and reasonableness. *Id.* at 10-13.

The RFQ also provided that the agency would conduct a two-step evaluation, with quotations being evaluated under the past experience factor during step one, and thereafter being evaluated under the remaining factors during step two. AR, exh. 8, RFQ, amend, No. 0002, attach. I, Instructions and Evaluation Factors, at 8.

The agency evaluated quotations, engaged in discussions, and solicited revised quotations from the firms. Based on those actions, the agency selected GMS for issuance of the task order in October 2020. In the wake of the agency’s initial selection, three unsuccessful firms filed protests with our Office. In response to those protests, the agency took corrective action, agreeing to reevaluate quotations; engage in further discussions; solicit, obtain and evaluate revised quotations; and make a new source selection decision. In response to the agency’s proposed corrective action, we dismissed the earlier protests. *Integrity Management Consulting, Inc.*, B-418776.2, Dec. 2, 2020; *Management and Technical Services Alliance-JV*, B-418776.3, Dec. 2, 2020; *Federal Acquisition Services Team OASIS JV, LLC*, B-418776.4, Dec. 2, 2020 (unpublished decisions).

Thereafter, the agency performed its corrective action, reevaluating quotations, engaging in further discussions, and soliciting, obtaining and evaluating revised quotations. The results of the agency’s reevaluation were as follows:

Firm	Past Experience	Mgmt. Approach	Staffing Approach	Price
FAST	High Confidence	Low Confidence	Some Confidence	\$17,853,230
GMS	High Confidence	High Confidence	High Confidence	\$23,384,412
Firm A	High Confidence	Some Confidence	Some Confidence	\$17,407,716
Firm B	High Confidence	Low Confidence	Some Confidence	\$19,051,360

AR, exh. 20, Source Selection Decision Document (SSDD), at 5. Based on these evaluation results, the agency selected GMS, finding that its quotation offered the best value to the government. After being advised of the agency’s source selection decision and requesting and receiving a debriefing, FAST filed the instant protest.¹

¹ The solicited task order is to be issued in connection with the General Services Administration’s One Acquisition Solution for Integrated Services indefinite-delivery,

DISCUSSION

FAST raises various challenges to the agency's evaluation of quotations, arguing principally that the agency applied unstated evaluation criteria, and otherwise misevaluated its quotation.² FAST also argues that the agency misevaluated the GMS quotation in several instances, and that certain of these evaluation errors should have caused the agency to find the GMS quotation unacceptable and ineligible for issuance of the task order. Finally, FAST argues that the agency failed to engage in adequate discussions.

We have considered all of FAST's allegations and find no basis to object to the agency's actions for the reasons advanced by the protester. We discuss FAST's principal contentions below. We note at the outset that, in reviewing challenges to an agency's evaluation of proposals, our Office does not substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation scheme and applicable statutes and regulations. *CDO Technologies, Inc.; Abacus Technology Corporation*, B-418111 *et al.*, Jan. 14, 2020, 2020 CPD ¶ 26 at 5.

Unstated Evaluation Considerations

FAST argues that the agency applied unstated evaluation considerations in reviewing its quotation in two instances, when evaluating its quotation for "knowledge management" processes and tools, and when evaluating its quotation for "innovation." We have reviewed both of these allegations and find no merit to either. We discuss the first example for illustrative purposes.

FAST alleges that the agency applied an unstated evaluation consideration under the management approach factor because the agency assigned a weakness based on a lack of clarity regarding its description of how its knowledge management approach would be "executed and leveraged" by agency personnel. According to the protester, the RFQ contemplated only an assessment of how the firm's personnel working on the task order--as opposed to agency personnel--would execute and leverage its knowledge management approach. In support of this aspect of its protest, FAST directs our attention to a portion of the management approach evaluation factor that reads as follows:

indefinite-quantity contract program. Because the value of the task order exceeds \$10 million, our Office has jurisdiction to consider the protest. 41 U.S.C. § 4106(f)(1)(B).

² A second unsuccessful firm filed a separate protest in connection with the agency's latest source selection decision. We are issuing a separate decision in response to that protest.

The Government will also evaluate the Quoters' defined Knowledge Management processes and tools required to create, share, use, and manage knowledge in the performance of this contract to ensure staff performing on this contract stays apprised and applies the latest procurement/budget trends and regulations that impact the day to day performance of this contract.

AR, exh. 8, RFQ, amend No. 0002, attach. I, Instructions and Evaluation Factors, at 10.

We find no merit to this aspect of FAST's protest. While the language quoted above would appear to lend support to FAST's interpretation, language elsewhere in the management approach evaluation factor makes it clear that the agency intended to evaluate how well its own personnel--as opposed to contractor personnel--would be able to access the necessary information to perform their duties; in other words, the RFQ expressly contemplated consideration of how the proposed knowledge management tools would be used by agency personnel. Specifically, the RFQ provided as follows:

Demonstrated knowledge and experience in managing procurement data and systems to *maintain, enhance, or develop systems* to manage large volumes of purchase request files, contract databases, fund and spend plan databases *to meet various reporting needs of the organization.*

AR, exh. 8, RFQ, amend No. 0002, attach. I, Instructions and Evaluation Factors, at 10 (emphasis supplied).

It is also clear from FAST's quotation that it understood it was required to demonstrate how agency personnel would execute and leverage the proposed knowledge management tools or approach presented in its quotation. In a portion of its quotation bearing the title "Knowledge Management Processes and Tools," FAST's initial quotation provides as follows:

Our Team applies best practices when creating, sharing, and managing knowledge across the teams and departments to increase efficiency and productivity. CSD [the Cybersecurity Division of the Cybersecurity Infrastructure Security Agency] will benefit by leveraging our knowledge, making it easily and intuitively available, connecting/enhancing/ contextualizing to facilitate mission-driven decisions.

AR, exh. 11, FAST Initial Quotation, FAST Phase 2 Technical Quotation, at 7. In responding to this weakness identified by the agency during discussions,³ FAST's revised quotation also makes clear that it understood it was required to demonstrate how agency personnel would execute and leverage its proposed knowledge management tools. FAST's revised quotation provides as follows:

³ A verbatim statement of this weakness was provided to FAST during discussions.

[deleted] are part of our ecosystem of network accessible shared information to provide *CSD staff, Subdivision Teams and SPR [strategy, performance and resources] functional offices, and FAST OASIS Team* personnel with procurement action data linked to repositories of the latest status, reports, and information regarding procurements and SPR operations support. This directly supports our overall knowledge management practices and approach from Section 2.1.1.1.2.1 of our Proposal and the October update.

AR, exh. 13, FAST Revised Quotation, Addendum Response, at 6 (emphasis supplied). It is therefore evident from the terms of its quotation that FAST understood that the underlying purpose of its proposed knowledge management processes or approach was to ensure that agency personnel had available the information generated in connection with performance of the task order.

We note as well that, from a purely practical standpoint, FAST's current interpretation of the RFQ does not withstand logical scrutiny. The very purpose of the solicited requirement is to provide the agency--as opposed to contractor personnel--with budget, procurement and contract management support services. Providing knowledge management resources to the agency--that is, providing management and access to information relating to all aspects of the solicited support services--is an essential element of any resulting requirement. In light of these considerations, we deny this aspect of the protest.

Alleged Misevaluation of the FAST Quotation

In addition to arguing that the agency applied unstated evaluation considerations, FAST argues that the agency otherwise misevaluated its quotation in various instances. We have considered all of these allegations and find no merit to any of them. We discuss two of FAST's misevaluation allegations for illustrative purposes.

FAST also argues--separately---that the agency unreasonably assigned a weakness to its quotation for not clearly conveying how agency personnel would execute and leverage the firm's knowledge management tools. The record shows that the agency found FAST's proposed approach to providing knowledge management tools inadequate and confusing. AR, exh. 18, Price Negotiation Memorandum, Final, at 3. FAST challenges the agency's assignment of this weakness because, according to the protester, it adequately explained how the assignment of team leads to implement a "[deleted]" model, as well as its use of "[deleted]" satisfied the requirements of the RFQ to provide knowledge management tools.

We find no merit to this aspect of FAST's protest. In advancing this allegation, FAST directs our attention to a pre-discussions evaluation finding of the agency evaluators relating to this weakness. AR, exh. 17, Technical Evaluation Report, at 3. However, as noted, FAST was provided the basis for this--and every other weakness originally assigned to its quotation--during discussions. AR, exh. 13, FAST Discussion

Questions. FAST provided a response to this weakness in its revised quotation. AR, exh. 13, FAST Addendum Response, at 5-9, 11.

After reviewing FAST's response, the agency evaluators concluded that the weakness remained in the FAST quotation. Specifically, the evaluators determined that the weakness remained because FAST had failed to explain adequately how its proposed approach of using a "[deleted]" model and its proposed "[deleted]" would meet the agency's requirements. The evaluators found as follows:

In their addendum response, FAST did not adequately clarify how their knowledge management approach will be incorporated by the CSD workforce. In addition, pages 5-9 detail at length about the use of 3 different types of [deleted] and [deleted]. The TET [technical evaluation team] does not believe that the increased use of [deleted] as well as the continued use of the current model (which is similar to that of the [deleted] model suggested here) is a sufficient approach to addressing the complexity of challenges identified in this SOW [statement of work]. In fact, procurement data requires an entirely new records management practice and document configuration control. While the vendor recognizes this increased workload and is committed to training personnel, the fact that their proposal creates 3 new [deleted] (or [deleted]) from which to store and project this data does not appear to be an innovative problem solving improvement from the perspective of the Government.

AR, exh. 18, Price Negotiation Memorandum, Final, at 3.

As noted, FAST is making this argument based on the original weakness identified by the evaluators in its quotation, and suggests that it remedied the agency's concern in its revised quotation by elaborating on its proposed use of a "[deleted]" model along with its proposed use of "[deleted]." However, as the above-quoted language from the revised evaluation materials demonstrates, the record shows that the agency evaluators expressly recognized the features that FAST now maintains were not considered in the agency's evaluation--specifically, the use of a "[deleted]" model, and the creation of "[deleted]"--and concluded that these features did not alleviate the agency's concerns. FAST's disagreement with the agency's conclusions, without more, does not provide a basis for our Office to object to the agency's evaluation of this aspect of FAST's quotation. *Building Operations Support Services, LLC*, B-407711, B-407711.2, Jan, 28, 2013, 2013 CPD ¶ 56 at 9.

FAST also argues that the agency unreasonably assigned a weakness to its proposal under the staffing approach factor. FAST again directs our attention to the pre-discussions evaluation materials produced by the agency, rather than the post-discussions evaluation materials, in maintaining this aspect of its protest. The record shows that, before engaging in discussions with FAST, the agency found as follows:

FAST OASIS provided a visual/graphic of their staffing approach but failed to provide a description of how the proposed staff will interact and depend

on each other. In a dynamic environment, it is critical for the vendor to ensure there is a fluid yet clear staffing plan with defined roles and responsibilities.

AR, exh. 17, Technical Evaluation Report, at 22. As with all of the other weaknesses identified by the agency in the FAST quotation, FAST was advised of this weakness during discussions. AR, exh. 13, FAST Discussions Letter, at 3.

FAST provided a limited response to the agency's concern during discussions, including a very limited explanation of the [deleted] team-lead employees that would report to the firm's proposed program manager (and in one instance, identifying those employees that would be reporting to one of the [deleted] proposed team leads), AR, exh. 13, FAST Quotation Addendum, at 20-21, but FAST did not otherwise extensively respond to the agency's concern. FAST's revised quotation, in addition to the information described above, provides in its entirety, as follows:

To accomplish task execution and assignments the Team Leads will collaborate with each to identify individual resources that are then deployed via the Agile Framework described above as they support the [deleted] across CSD. The Team Leads meet regularly with each other and our PM [program manager] to discuss sharing and assignment of resources, planning of future workload and events, and customer issues and concerns. The team also shares project successes and problem areas, and brainstorms potential options and solutions. The Team can also reach out to JV Corporate resources for help in addressing problems.

Id. at 21.

In evaluating the protester's response, the agency concluded that FAST did not ameliorate its original concern. The evaluators found:

The TET determined that FAST OASIS did not properly address the weakness, and recommends the weakness remain. In their addendum response, FAST only partially addressed the Government's concerns by naming task leads and re-stating that personnel will be [deleted]. However, the TET does not find this to be particularly compelling, and still has lower confidence in the vendor's Staffing Approach.

AR, exh. 18, Price Negotiation Memorandum, Final, at 5. As with the other weakness described above, the record shows that the evaluators reviewed the materials presented by FAST in its revised quotation, but their initial concern remained. Once again, FAST does no more than disagree with the agency's conclusion, and direct our attention to the agency's pre-discussions evaluation materials, which were not prepared after FAST revised its quotation. In light of these considerations we deny this aspect of FAST's protest.

Alleged Disparate Treatment

FAST argues that the agency disparately evaluated its quotation in comparison to the awardee's quotation. According to FAST, the agency assigned a strength to the GMS quotation for offering automated tools, including a software product called [deleted], in connection with its proposed solution. Meanwhile, according to FAST, the agency failed to assign a similar strength to its quotation, despite the fact that, according to the protester, it offered essentially the same solution.

We need not consider this aspect of FAST's protest in any detail since it is clear from the record that, even if FAST were correct, there is no reasonable possibility of prejudice to FAST. Competitive prejudice is an essential element of every viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even if the protester arguably is correct. *Bodell Construction Company*, B-419213, B-419213.2, Dec. 28, 2020, 2021 CPD 44 at 5.

Here, the record shows that under the management approach factor, the agency assigned the GMS quotation a total of five strengths and no weaknesses. AR, exh. 20, SSDD, at 8-9. In comparison, the agency assigned the FAST quotation just a single strength and five weaknesses under the management approach factor. *Id.* at 10. As discussed above, FAST has challenged the assignment of some (but not all) of the weaknesses assigned to its quotation, but we find no merit to FAST's allegations; accordingly, the record shows that FAST was properly assigned these five weaknesses, and has only one strength under the management approach factor.

Even assuming we were to agree with FAST regarding its allegation of disparate treatment, the result would be the assignment of just one additional strength to its quotation under the management approach factor. In those circumstances, the GMS quotation would still be significantly superior under the management approach factor compared to the FAST quotation. In light of these considerations, we need not consider this aspect of FAST's protest in any detail, since it is evident from the record that there is no reasonable possibility of prejudice to FAST based on the reasons it has advanced. *Bodell Construction Company*, *supra*.

Challenges to the Evaluation of the GMS Quotation

FAST raises a number of challenges to the agency's evaluation of the GMS quotation, maintaining that at least certain of these alleged errors would render the GMS quotation ineligible for issuance of the task order. We dismiss these allegations because we conclude that FAST is not an interested party to advance these contentions. Our Bid Protest Regulations, 4 C.F.R. §§ 21.0(a)(1), 21.1(a), require a protester to be an "interested party," that is, as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract, or the failure to award a contract.

Here, as reflected in the chart summarizing the agency's evaluation results above, the record shows that if GMS were eliminated from consideration, Firm A would be next in line for issuance of the task order, rather than FAST. Firm A was rated technically superior to FAST (and in particular received a superior rating under the management approach factor), and also offered a price that was lower than the price offered by FAST. FAST has not challenged any aspect of the agency's evaluation of Firm A. Under the circumstances, FAST is not an interested party to maintain this aspect of its protest.

Adequacy of Discussions

FAST argues that the agency failed to engage in adequate discussions with the firm. As is pertinent to this allegation, the agency identified 5 specific weaknesses in the FAST quotation under the management approach factor, and during discussions, provided FAST with the evaluators' verbatim findings as to these weaknesses. In addition to identifying specific weaknesses in the FAST quotation, the record shows that the evaluators prepared a summary narrative discussing this aspect of the FAST quotation. AR, exh. 17, Technical Evaluation Report, at 19-20. FAST maintains that this summary narrative includes three additional elements that FAST characterizes as identified weaknesses. According to the protester, the agency was required to discuss these three additional issues with it.

As noted, the agency actually discussed all five weaknesses identified in the FAST quotation under the management approach factor, and the record shows that, after discussions, the agency reasonably continued to identify these same five weaknesses in the protester's quotation. Even if the agency had discussed the three additional issues identified by FAST--and FAST had adequately alleviated the agency's concerns--its quotation still would have the five remaining weaknesses identified by the agency. The record also shows that the agency assigned more weaknesses to the FAST quotation than to any other quotation. AR, exh. 20, SSDD. It follows that, even if FAST had resolved the three additional concerns it has identified, it still would have the lowest-rated quotation under the management approach factor. We therefore conclude that, even if FAST were correct in its allegations concerning the adequacy of discussions, it was not competitively prejudiced by the agency's actions.

The protest is denied.

Thomas H. Armstrong
General Counsel