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Decision

Matter of: RiverTech, LLC

File: B-420246

Date: December 21, 2021

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James Y Boland, Esq., and Michael T. Francel, Esq., Venable, LLP, for Eagle Harbor, LLC, the intervenor.
James E. Hicks, Esq., Department of Justice, for the agency.
Kenneth Kilgour, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency unreasonably evaluated technical quotations is denied where the evaluation conformed to the requirements of the solicitation and Federal Acquisition Regulation section 16.505.
2. Protest that the agency failed to conduct a proper best-value tradeoff analysis is denied because, when an agency reasonably evaluates competing quotations as essentially equal technically, no tradeoff is required in choosing the lower-priced quotation.

DECISION

RiverTech, LLC, of Colorado Springs, Colorado, protests the issuance of a task order to Eagle Harbor, LLC, of Manassas, Virginia, under request for quotations (RFQ) No. 15DDHQ21Q00000034, issued by the Department of Justice, Drug Enforcement Administration (DEA), for professional, technical, and administrative support services for four DEA program offices. The protester asserts that the agency unreasonably evaluated technical quotations and failed to perform and document a proper best-value tradeoff analysis.

We deny the protest.

BACKGROUND

The RFQ was issued to vendors holding indefinite-delivery, indefinite-quantity (IDIQ) contracts under the General Services Administration's One Acquisition Solution for Integrated Services (OASIS) Governmentwide Acquisition Contract. The competition was open to OASIS 8(a) Sub Pool #1 contract holders. The solicitation contemplated the issuance of a single fixed-price and time and materials task order with a term of 1 year and four 1-year options. Agency Report (AR), Tab 3, RFQ at 20-21.¹

The task order would be issued to the contractor whose quotation represented the best value to the agency, considering technical approach, corporate experience of contractor, past performance, and price. The RFQ provided that the technical approach factor was the most important, and that the non-price factors, when combined, were more important than price. RFQ at 185.

The competition was to be conducted in two phases. In the first phase, offerors were to submit factor 1--technical approach--quotations. *Id.* at 187. The agency would invite vendors submitting the most highly rated quotations under phase I to participate in phase II, but any phase I vendor was permitted to continue in the competition. *Id.* at 186. The agency would evaluate the two remaining technical factors and price under phase II. *Id.*

Under the technical approach factor--factor 1--the agency would assess its level of confidence that the vendor will successfully perform the task order requirements, including the transition. The agency would consider the organization and management of the project effort, quality control, client liaison, and several personnel issues, including: plans for retaining the incumbent staff; recruiting, screening, and clearing applicants; and the supervision of project team members. *Id.* at 183.

Under the corporate experience of contractor factor--factor 2--the agency would assess the likelihood that the vendor's relevant experience would minimize the risk of unsuccessful performance, comparing that experience to the nature, scope, complexity, difficulty, and resources and qualifications required to perform this task order. *Id.* at 183-184.

Under the past performance factor--factor 3--the RFQ required vendors to identify their proven experience providing the same, or similar, services to other federal agencies "no older than three-to-five years past performance." *Id.* at 184. More relevant past performance would be given "greater value." *Id.* The references would be compared to information contained in the Contractor Performance Assessment Reporting System. *Id.* The agency reserved the discretion to survey some or all of the vendor's references. *Id.*

¹ The agency report exhibits were combined into one PDF document. Many of those exhibits, including the RFQ, were unnumbered. For that reason, citations to the agency report exhibits are to the PDF page of the combined exhibits document.

The RFQ advised vendors that DEA would assign a confidence rating to each evaluation factor based on the contractor’s understanding of the statement of work requirement. *Id.* at 183, 185-186. The RFQ did not provide for assigning quotations significant strengths, strengths, weaknesses, significant weaknesses, or deficiencies.

RiverTech and Eagle Harbor participated in phase I, and, based on their high confidence ratings for the technical approach factor, both vendors--and two others--were invited to participate in phase II.² Contracting Officer’s (CO) Statement (COS) at 4. The chart below summarizes the confidence ratings and price of the protester and awardee’s quotations:

Factor	RiverTech	Eagle Harbor
Factor 2, Corporate Experience	High confidence	High confidence
Factor 3, Past Performance	High confidence	High confidence
Price	\$94,890,930	\$86,938,831

Id. The TEP concluded that any of the three vendors with the highest rated quotations--including RiverTech and Eagle Harbor--could be recommended for award, noting that all three “excel and demonstrated capabilities in relation to all three Factors set forth in the RFQ.” *Id.* at 346. The TEP determined that all three of the vendors have in-depth knowledge of all of the task order requirements and that any one of the three could successfully perform the requirements of the task order. *Id.* at 347.

The contracting officer selected Eagle Harbor for award as the firm whose quotation represented the best value to the agency. AR, Tab 6, CO Award Decision Memorandum at 353-354. The contracting officer stated that “the outcome of the Government’s evaluation consistently indicates there simply are no technical differences between Eagle Harbor, [] and River Tech[’s quotations].” *Id.* at 353. When quotations “are evaluated as technically equal in quality,” the CO noted, “price or cost will become a major consideration in selecting the successful Offeror.” *Id.* at 352. Here, the CO concluded, “Eagle Harbor is the offeror identified that submitted the most advantageous proposal with the lowest task order pricing.” *Id.*

On September 27, 2021, DEA provided RiverTech with the notice of award to Eagle Harbor. COS at 4. After a requested and provided debriefing, RiverTech filed this protest.³

² One additional vendor elected to participate in phase II, as permitted by the RFQ. See AR, Tab 5, Technical Evaluation Panel (TEP) Report at 346.

³ This protest is within our jurisdiction to hear protests related to task and delivery orders placed under civilian agency multiple-award IDIQ contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

DISCUSSION

RiverTech asserts two challenges to the reasonableness of DEA's conduct of the procurement. First, the protester alleges that the agency unreasonably evaluated the protester's technical quotation when DEA failed to identify a number of the quotation's strengths. Second, RiverTech argues that DEA failed to properly document its finding that the quotations of RiverTech and Eagle Harbor are essentially equal in technical quality and failed to conduct a proper best-value tradeoff analysis. We address those allegations below, and we find neither to have merit.⁴

Technical Evaluation

RiverTech argues that DEA unreasonably evaluated the protester's technical quotation by failing to identify a number of strengths in it. Comments at 6-7. DEA asserts its evaluation was reasonable and in accordance with the requirements of the Federal Acquisition Regulation (FAR) and the RFQ. DEA asserts that it was fully aware of and considered the entirety of RiverTech's quotation in formulating its confidence ratings. Response to Comments at 4.

The task order competition here was conducted pursuant to FAR subpart 16.5; in such competitions, the FAR does not require formal evaluation plans or scoring of quotations. FAR 16.505(b)(1)(v)(B). The evaluation of quotations in a task order competition, including the determination of the relative merits of quotations, is primarily a matter within the contracting agency's discretion, because the agency is responsible for defining its needs and the best method of accommodating them. *CSRA LLC*, B-417635 *et al.*, Sept. 11, 2019, 2019 CPD ¶ 341 at 9. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. *Id.* A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. *Id.*

The protester identified what it considered improperly overlooked strengths in its quotation under each of the three non-price factors. Comments at 6-8. For each of these factors, RiverTech argues that, but for the agency's failure to identify these strengths, the agency would have assessed RiverTech's quotation "an even higher confidence rating." *Id.* at 7-8.

RiverTech's allegation is premised on two erroneous assumptions: (1) that the RFQ provided for the assignment of strengths, and (2) that its quotation could have been assessed a higher confidence rating. As the CO notes, the RFQ's evaluation scheme did not provide for the assignment of strengths, and DEA did not, in its evaluation, assess quotation strengths for any vendor's quotation. Response to Comments, Decl.

⁴ We have reviewed and considered the entirety of RiverTech's pleadings. To the extent that the protester asserted other allegations not addressed, they, too, were found to be without merit.

of CO at ¶ 4. Moreover, as further noted by the CO, RiverTech's quotation received the highest possible confidence rating under each of the three non-price technical evaluation factors. *Id.* at ¶ 8. There was no higher confidence rating that RiverTech's quotation could have achieved, even if DEA had recognized these allegedly overlooked strengths.

Setting aside the above matters, the CO contends that the TEP was aware of the various aspects of RiverTech's quotation that the protester argues the agency improperly failed to evaluate as strengths. *Id.* at ¶¶ 4-8. The CO states that, in the TEP's view, these quotation features did not merit mention. *Id.* RiverTech argues that the CO's assertion that DEA considered these allegedly overlooked strengths is unsupported by the evaluation record. Supp. Comments at 4. An agency is not obligated to document an area of a proposal or quotation that does not warrant the assignment of a strength or, in this case, particular mention. See *HP Enter. Servs., LLC*, B-410212.2, Jan. 26, 2015, 2015 CPD ¶ 54 at 12-13 n.22. The agency's failure to document those aspects of the protester's quotation that DEA determined did not warrant mention in the evaluation thus provides no basis on which to find the evaluation unreasonable. The record--including the protester's continuing disagreement with the agency's evaluation--does not provide a basis to sustain the allegation that DEA unreasonably evaluated the technical quotations by overlooking strengths in RiverTech's quotation.

Best-Value Tradeoff Analysis

RiverTech also asserts that DEA failed to conduct a reasonable best-value tradeoff "as required under RFP section 2.8."⁵ Protest at 13. The protester further asserts that the agency report contains no tradeoff analysis, because "there is no qualitative assessment of the competing features of the proposal of Eagle Harbor and RiverTech." Comments at 4. In response, the agency contends that a tradeoff was unnecessary, because DEA selected for award a quotation that the agency evaluated as of equal technical quality and lower priced than the protester's quotation. Response to Comments at 6.

Where, as here, a solicitation provides for issuance of a task order on a best-value tradeoff basis, it is the function of the source selection authority to perform a price/technical tradeoff, that is, to determine whether one quotation's technical superiority is worth its higher price. *CSRA LLC, supra* at 16. No price/technical tradeoff is required as part of a best-value source selection, however, when proposals or quotations are deemed technically equal and one was lower-priced than the other. See *Verizon Bus. Network Servs., Inc.*, B-419271.5 *et al.*, Apr. 26, 2021, 2021 CPD ¶ 191 at 9, *citing The MIL Corp.*, B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 14.

⁵ Section 2.8 of the RFQ concerns facility clearances. See RFQ at 21. Presumably, the protester intended to refer to section 2.18, which provides that the "basis of award is best value trade-off between non-price and price factors."

We first consider whether DEA reasonably found the quotations from RiverTech and Eagle Harbor to be essentially equal in quality. As discussed above, the RFQ provided that DEA would assign a confidence rating to each evaluation factor based on the contractor's understanding of the statement of work requirement. RFQ at 183, 185-186. The only evaluation of quotations required under the RFQ was the assignment of confidence ratings; the RFQ did not provide for the assignment of strengths and weaknesses or adjectival quality ratings. In other words, under the terms of the RFQ, DEA would assign confidence ratings to the vendors' quotations, and those confidence ratings--along with price--would be the evaluation tools DEA used to select the best value quotation. Based on the announced evaluation criteria, we conclude that the agency reasonably determined the quotations of RiverTech and Eagle Harbor--to which DEA assigned identical confidence ratings--to be essentially equal.

The record reflects that the agency's selection of Eagle Harbor's quotation for award without a price/technical tradeoff analysis was likewise unobjectionable. The TEP recommended that award be made to Eagle Harbor, RiverTech, or a third vendor "[b]ased on the overall technical confidence ratings" of high confidence assigned to those vendors' quotations under all of the technical evaluation factors. AR, Tab 5, TEP Report at 346-347. The CO chose Eagle Harbor's quotation for task order award because--among the three highest technically rated quotations--Eagle Harbor's was the lowest priced. AR, Tab 6, CO Award Decision Memorandum at 353-354. Because the quotations were essentially equal, we agree with DEA that it was not required to conduct a tradeoff analysis before reasonably selecting the lowest priced of the three quotations for award. The allegation that the agency failed to perform a proper best-value tradeoff analysis provides no basis on which to sustain the protest.

Similarly, RiverTech's assertion that DEA failed to conduct a comparison of the competing strengths and weaknesses of vendors' quotations does not provide a basis to sustain the protest. See Comments at 1; see also *id.* at 4 (arguing that a tradeoff decision must "compare the competing strengths and weaknesses of each proposal"). The RFQ made one mention of a comparative analysis of quotations, providing that: "Following receipt of responses, and completion of evaluation of each eligible individual Offeror's response, the Government may perform a comparative analysis to select the Offeror that is best suited to fulfill the requirements, based on the Offerors' responses to the factors outlined in this RFQ and their equal importance." RFQ at 186. This is the solicitation's lone reference to a comparative analysis of competing quotations, and it says only that the agency may conduct such a comparison. Otherwise, per the RFQ's announced evaluation scheme, the technical evaluation would consist of the assignment of confidence ratings to each of the three technical evaluation factors. See, e.g., RFQ at 187 (noting that the "Technical evaluation criteria is based on a confidence rating based on the vendor's quote submission"). The assertion that DEA failed to conduct the comparison of quotations is without merit.

Finally, RiverTech contends that the agency's selection decision fails to satisfy the requirements of FAR section 16.505(b)(7). Comments at 8. This section requires that the contracting officer "document in the contract file the rationale for placement and

price of each order, including the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision.” The tradeoff required here is between technical and price, and, as explained above, no such tradeoff is required where quotations are evaluated as essentially equal technically and the agency selects the lower priced quotation for award. Neither the FAR nor the RFQ contemplated the comparison of quotation strengths and weaknesses that RiverTech asserts DEA improperly failed to conduct, nor was one possible where DEA, consistent with the announced evaluation scheme, did not quantify the quality of the quotations with the assignment of strengths and weaknesses. This allegation is without merit.

The protest is denied.

Edda Emmanuelli Perez
General Counsel