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**Comptroller General
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**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: AccuTech Solutions, Inc.

File: B-405191; B-405191.2

Date: September 16, 2011

Kenneth D. Brody, Esq., David, Brody & Dondershine, LLP, for the protester.
Joseph G. Billings, Esq., and Rita J. Piel, Esq., Miles & Stockbridge, PC, for NuAxis, an intervenor.
Sherry Kinland Kaswell, Esq., Department of the Interior, for the agency.
Frank Maguire, Esq., and Scott H. Riback, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that proposal should have been rated technically excellent is denied where technical evaluation plan provided that proposal would be rated excellent only when vendor's approach contained no identified deficiencies or weaknesses and protester failed to demonstrate that the identification of weaknesses by the technical evaluation panel was unreasonable.

DECISION

AccuTech Solutions, Inc., of Alexandria, Virginia, protests the award of a contract to NuAxis, of Vienna, Virginia, under request for proposals (RFP) No. D11PS40135, issued by the Department of the Interior, National Business Center (NBC), for managed desktop support services. AccuTech challenges the evaluation of its and the awardee's proposals. We deny the protest.

BACKGROUND

This acquisition was limited to firms eligible under the Small Business Administration's section 8(a) program. Agency Report (AR) at 1. Offerors were required to complete a pricing schedule for a task called Management Desktop Support Services, as well as for an optional second task called , Tier 1 Customer Support Center. RFP, attach. 3, Schedule B. Award was to be made on a "best value" basis considering the following non-price factors, in descending order of

importance: management approach and technical capabilities; past performance; organizational experience; and personnel qualifications. RFP, attach. 2, at 3.¹ The RFP further provided that the non-price factors, when combined, were significantly more important than cost or price, but as non-price factors became more equal, price would become significantly more important in the best value trade-off analysis. Id. at 5.

Twelve proposals were received by the proposal due date and the agency's technical evaluation panel (TEP) evaluated the proposals. AR, exh. 12 (TEP consensus report); AR, exh. 14 (source selection decision). Seven proposals, including those of AccuTech and NuAxis, were rated very good overall, and five proposals were rated satisfactory. AR, exh. 14, at 5. Evaluated prices ranged from \$121,620,436 for the lowest-priced offeror to \$478,256,198 for the highest-priced offeror, AccuTech. Id. at 9. NuAxis, at \$177,534,629, had the lowest-priced proposal among those rated very good. Id.

In making its source selection decision, the agency determined that, since a number of the proposals had been rated very good, price would become the determining consideration among those proposals. AR, exh. 14, at 5. The agency therefore made award to NuAxis as the lowest-priced proposal among those receiving a very good rating. AR, exh. 14, at 11. AccuTech's proposal, which had the highest evaluated price of all offerors—more than twice NuAxis's evaluated price—received no mention in the agency's best value analysis.

TECHNICAL EVALUATION

The TEP identified three weaknesses in AccuTech's proposal. AR, exh. 14, 6-7. AccuTech challenges the TEP's findings with regard to each of the identified weaknesses, and asserts that its proposal should have been assigned an excellent rating instead of a very good rating. In this connection, the agency's evaluation scheme provided that a proposal would be rated very good where an offeror's approach contained no identified deficiencies and only a few minor weaknesses, and there was little doubt that the offer demonstrated a high quality of understanding of the contract requirements. AR, exh. 14, at 5. In contrast, a proposal would be rated excellent where the offeror's approach contained no identified deficiencies or weaknesses and there was no doubt that the offer demonstrated an exceptional understanding of the contract requirements. Id. AccuTech maintains that, since none of the weaknesses identified by the agency was in fact reasonable, its proposal should have been found to have no weaknesses and should have received a rating of excellent.

¹ In rating proposals, the agency assigned adjectival ratings of either excellent (very low risk), very good (low risk), satisfactory (moderate risk), poor (high risk) or unacceptable (unacceptable risk). Agency Report (AR), exh. 14, at 6-7.

In reviewing a protest against an agency's proposal evaluation, we do not reevaluate proposals, but, rather, review the agency's evaluation to ensure that it was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Philips Med. Sys. of N. Am. Co., B-293945.2, June 17, 2004, 2004 CPD ¶ 129 at 2. Although we have reviewed each of AccuTech's challenges to its evaluation--and in each case conclude that the agency's findings were reasonable in light of the RFP's requirements and the contents of AccuTech's proposal--we discuss below one of the identified weaknesses for illustrative purposes.

The RFP advised that the agency would consider the offeror's specific methods and techniques for completing each discrete in the statement of work, including the provision of quality assurance. RFP attach. 1 at 7. Further, the RFP's statement of work advised offerors that key, high level service objectives would include implementation of quality assurance and continuous improvement programs across all IT service management areas. RFP attach. 4 at 9. AccuTech addressed quality assurance in section A.5 of its proposal, which related only to the Customer Support Center optional task. Proposal at vii, 45-46. The TEP found a weakness in the AccuTech proposal because its discussion of quality assurance was confined to the Customer Support Center optional tasks, but did not address the provision of a quality assurance program in connection with the primary desktop support tasks. AR, exh. 14, at 7.

The protester challenges the agency's finding and directs our attention to a chart in its proposal entitled service desk structure and operations. According to the protester, this chart shows that the desktop support tasks and the Customer Support Center optional tasks are interrelated and integrated, and that, therefore, the quality assurance procedures discussed in the portion of its proposal relating to the Customer Support Center optional tasks also apply to the primary desktop services tasks.

We find the agency's evaluation of this aspect of AccuTech's proposal reasonable. The chart alluded to by the protester makes no mention of its quality assurance program, nor does it represent that the quality assurance program measures outlined in the Customer Support Center optional tasks portion of its proposal were applicable to the primary desktop services tasks. The chart represents only that AccuTech's proposed tier 2 and 3 service desk operations will interact with the tier 1 Customer Support Center operations; the chart makes no mention whatsoever of AccuTech's quality assurance procedures. This is significant because the RFP makes clear that the Customer Support Center services were not necessarily being acquired under this solicitation. The statement of work specifically provides:

The Tier 1 CSC [Customer Support Center] is excluded from the mandatory deliverables of this requirement; however, the contractor must ensure that all processes and procedures for the Tier 2 and Tier 3 End-User support are integrated with the Service Desk's processes and

procedures. Provision of the Tier 1 Service Desk is being requested as an Optional Task in this contract.

RFP attach. 4 at 6. Thus, the chart included in the AccuTech proposal did no more than represent that AccuTech would integrate the mandatory tier 2 and 3 requirements with the optional tier 1 Customer Support Center, as required by the statement of work. However, given the fact that operation of the tier 1 Customer Support Center was an optional aspect of the requirement, there is no basis for AccuTech to have assumed that the agency would actually acquire those services; correspondingly, there would have been no basis for the agency to have assumed that quality assurance measures outlined for the optional services were necessarily being proposed in connection with the mandatory services. We therefore find that the agency reasonably identified a weakness in this area of the AccuTech proposal.

PRICE EVALUATION

AccuTech challenges the agency's evaluation of price proposals. In this connection, the RFP required offerors to supply pricing for five different quantity ranges at three separate locations; essentially offerors were required to provide graduated pricing depending on the quantity being acquired. RFP attach. 1 at 10; RFP attach. 3, Pricing Schedules. In evaluating proposals, the agency calculated evaluated prices by adding prices for all of the quantity ranges together. AR, exh. 14, at 9. Under this calculation, AccuTech's price was evaluated at \$478,256,198 and NuAxis's price was evaluated at \$177,534,629. Id.

AccuTech asserts that pricing should have been evaluated based only on the price for ordering the maximum potential quantity rather than on the prices for all of the differing quantities. The protester asserts that its evaluated price under a correct calculation would have been \$199,563,763, or roughly one half of the evaluated price calculated by the agency.

Although AccuTech is correct that its evaluated price would have been much lower had the agency used the calculation that AccuTech urges, it also is true that all of the other offerors' prices would have been significantly reduced as well. For example, using the protester's calculation, its evaluated price would have been \$199,563,763, while the awardee's evaluated price would have been \$65,918,244. In short, while the agency's approach of adding all of the quantities together may not have been as probative of the total cost to the government as it might have been, we see no basis to conclude that the agency committed a prejudicial error since, even if we agreed with the protester that the agency's calculation was improper, there is no showing of prejudice in the record. AR, exh. 14, at 9. As indicated above, there were six other firms whose proposals had been assigned very good technical ratings and whose evaluated prices were lower than AccuTech's. Thus, even if the agency's actions were improper, they were not prejudicial to AccuTech since it was not otherwise in line for award. Joint Mgmt. & Tech. Servs., B-294229, B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 7.

Finally, AccuTech asserts that the agency applied an unstated price evaluation methodology in its best value analysis. In particular, the record shows that, when the agency compared NuAxis's proposed base period prices to the lowest-priced offeror's base period prices,² it made a calculation using actual projected quantities. AR, exh. 14, at 10-11. AccuTech asserts that this alternative calculation was improper because it constituted a new evaluation methodology in determining which proposal represented the best value. The protester contends that the agency changed the pricing evaluation methodology without amending the solicitation.

AccuTech is not an interested party under our Bid Protest Regulations, 4 C.F.R. § 21.1(a) (2011), to challenge the calculations the agency used to make its ultimate selection between the two lowest-priced offerors. Since, for the reasons discussed above, AccuTech has not shown that its proposal should have received a rating higher than very good, and since the record shows that it submitted the seventh-low price among the firms whose proposals also had been rated very good, AccuTech lacks the direct financial interest necessary to make this assertion. We therefore decline to consider this aspect of AccuTech's protest.

The protest is denied.

Lynn H. Gibson
General Counsel

² That firm's proposal was rated only satisfactory under the non-price evaluation factors.