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Washington, DC 20548**

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Decision

Matter of: Data Solutions & Technology, Inc.

File: B-405077.2

Date: October 12, 2011

Deborah S. Thomas, Data Solutions & Technology, Inc., for the protester.
Maj. Andrew J. Smith, Department of the Army, for the agency.
Linda C. Glass, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protester's contention that its proposal was improperly excluded from the competitive range is denied where the protester has not shown that the agency's evaluation was unreasonable or inconsistent with the stated evaluation criteria.

DECISION

Data Solutions & Technology, Inc. (DST), of Lanham, Maryland, protests the elimination of its proposal from the competitive range by the Department of the Army under request for proposals (RFP) No. W9124J-11-R-0001 for base support services at various Army installations. DST challenges the evaluation of its proposal.

We deny the protest.

BACKGROUND

The RFP was issued on December 7, 2010 and contemplated the award of an indefinite-delivery/indefinite-quantity contract for a 12-month period with four 12-month option periods. The RFP provided for a best value source selection decision on the basis of the following evaluation factors: mission capability; past performance; and cost/price. RFP at 95-96. The mission capability factor was significantly more important than past performance and was divided into the following five subfactors: response to scenario; management approach; staffing and training approach; quality approach; and technical expertise. Id. The first subfactor, response to scenario, was significantly more important than the four remaining subfactors, which were of equal importance, and when combined, were equal in weight to the first subfactor. Id.

As relevant here, with respect to the mission capability evaluation factor, the RFP stated that proposals should not simply rephrase or restate the government's requirements, but should provide a convincing rationale for how the offeror intends to meet the requirements. RFP at 85.

With respect to the response to scenario subfactor under the mission capability evaluation factor, offerors were asked to respond to an individual task order scenario representing required actual services. Id. Offerors were to describe in detail "how the work gets done" in each functional area; describe their processes and procedures for performing the work; submit an organizational chart and narrative; provide manpower matrices depicting staffing for task order performance; include narrative discussing their approach for handling fluctuating workloads; provide a phase-in plan covering the initial 60-day period; and submit a draft of the plan to support mission essential functions in accordance with Department of Defense Federal Acquisition Regulation Supplement (DFARS) § 252.237-7024(b).¹ RFP at 85-86. Of relevance here, the organizational chart and narrative required by the RFP was to depict clear lines of authority and responsibilities. RFP at 97. In addition, the RFP required that the quality control function within the organization demonstrate management's commitment to quality. Id.

In evaluating proposals under the response to scenario subfactor, the agency anticipated assessing the offeror's approach, organizational chart, staffing, approach for handling fluctuating workloads and phase-in plan. RFP at 96-97. Additionally, offerors' plans to provide continuation of mission essential functions were to be evaluated to determine if the minimum plan requirements, as stated in DFARS § 252.237-7024(b) (2), were addressed and provided a feasible approach to providing continuation of mission essential functions. RFP at 97.

Under the staffing and training subfactor, offerors were required to outline their staffing approach to, among other things, recruiting and managing appropriately skilled personnel, cross-training and cross-utilization of personnel, and retention and training of personnel. RFP at 87. Offerors were to identify a list of key personnel labor categories and positions. Id. The RFP anticipated the evaluation of this subfactor would consider whether an offeror's staffing approach was feasible in terms of ability to recruit, hire, retain and manage personnel with the knowledge,

¹ DFARS § 252.237-7024(b) requires offerors to provide written plans describing how they will continue to perform mission essential services. The plans must address: challenges associated with maintaining essential services during an extended event; time lapse associated with acquisition of essential personnel; components, processes for identification and training for personnel; establishment of notification procedures; and communications approaches.

skills, education, and experience required to perform the required services at installations across the continental United States and Hawaii. RFP at 99.

Each mission capability subfactor was to be rated as excellent, good, acceptable, marginal, or unacceptable. RFP at 99. The subfactor ratings were to be used to determine an overall rating for the mission capability evaluation factor. Id. To receive a rating of acceptable under the technical evaluation factor, the RFP required that offerors demonstrate acceptable quality and meet minimum performance and/or capability requirements necessary for satisfactory contract performance. Id. The RFP stated that any mission capability subfactor that received a “marginal” or an “unacceptable” rating would result in a “marginal” or “unacceptable” rating, respectively, for the overall mission capability evaluation factor. Id. The RFP further stated that an offeror must receive a minimum rating of “acceptable” at the mission capability factor level to be eligible for award. Id.

DST submitted a proposal by the February 8, 2011 due date. With regard to the mission capability evaluation factor, the agency found DST’s proposal unacceptable overall. Agency Report (AR), Tab 11, Consensus Evaluation, at 1. The agency found that DST’s proposal significantly failed to meet minimum performance and capability requirements necessary for satisfactory contract performance. Id. The evaluators found that DST’s proposal contained weaknesses and deficiencies that could not be corrected without a major rewrite of the proposal. Id. As a result, DST’s proposal received an overall rating of unacceptable for the mission capability evaluation factor based on its unacceptable rating for the response to scenario, and the staffing and training approach subfactors. Id.

Under the response to scenario subfactor, DST’s proposal was rated unacceptable and was evaluated as having one significant weakness, twelve weaknesses, and three deficiencies. Id. The significant weakness involved DST’s understaffing of the training support brigade. Id. The agency assigned deficiencies for the following: (1) DST’s failure to provide sufficient detail about its draft plan for providing mission-essential contractor services; (2) DST’s failure to demonstrate management’s commitment to a quality organization in its organizational chart and narrative, and (3) DST’s inadequate number of assistant project managers for the task order scenario. Id.

The agency also rated DST’s proposal unacceptable under the staffing and training approach subfactor. The agency assigned the following deficiencies for this subfactor: failure to identify the benefits (cost, performance timeliness, etc.) to the government associated with the proposed cross-training program, and insufficiently describing the proposed project manager’s qualifications. Id. In contrast, DST’s proposal received an acceptable rating for the quality approach subfactor and marginal ratings for the management approach and technical expertise subfactors. Id. at 1-2.

On June 15, 2011, the contracting officer eliminated DST's unacceptable proposal from the competitive range. Contracting Officer's Statement at 7. By letter dated June 17, DST was notified of its exclusion. AR, Tab 12, Notification of Exclusion from the Competitive Range. After receiving a debriefing, DST filed this protest with our Office.

DISCUSSION

DST challenges various aspects of the agency's technical and price evaluation, and alleges that the agency's decision to exclude DST's proposal from the competitive range was based on an evaluation that was inconsistent with the RFP requirements, workload data, and RFP evaluation criteria. Protest at 2.

The determination of whether a proposal is in the competitive range is principally a matter within the sound judgment of the procuring agency. Dismas Charities, Inc., B-284754, May 22, 2000, 2000 CPD ¶ 84 at 3. In reviewing an agency's evaluation of proposals and subsequent competitive range determination, we will not evaluate the proposals anew in order to make our own determination as to their acceptability or relative merits; rather, we will examine the record to determine whether the documented evaluation was fair, reasonable, and consistent with the evaluation criteria. Smart Innovative Solutions, B-400323.3, Nov. 19, 2008, 2008 CPD ¶ 220 at 3.

As a part of our consideration of each of DST's challenges, we have reviewed the pleadings, the evaluation materials, and the protester's proposal. While we do not discuss in detail each of the protester's challenges, we have considered them all and find them to be without merit. We address some of these arguments below.

For example, under the response to scenario subfactor, DST challenges the agency's assignment of a deficiency because the proposal did not provide in sufficient detail DST's draft plan of mission-essential contractor services. The agency determined that DST's draft plan showed a lack of specificity on how the offeror proposed to support mission essential functions. AR, Tab 11, Consensus Evaluation, at 6.

As stated above, the RFP at section L.4.2.4(i) required offerors to submit a draft of the plan to support mission essential functions in accordance with DFARS 252.237-7024(b). RFP at 86. In addressing this requirement, DST presented a one-page narrative that merely provided an outline for the final plan. AR, Tab 8, DST's Proposal Vol. II, at 75. DST maintains that, in accordance with the RFP, a detailed plan was not due until after award. Protest at 14.

The agency maintains, and we agree, that the RFP required a substantive draft plan-not merely the outline of a plan. RFP at 86. In this regard, the RFP specifically provided that the draft plan would be evaluated to determine if the minimum

requirements were addressed and whether it provided a feasible approach to providing continuation of mission essential functions. RFP at 97. The protester's 11-line draft plan, DTS Proposal at 75, simply rephrases the minimum requirements contained in the DFARS and provides no basis for the agency to evaluate the feasibility of the plan. On this record, we find nothing unreasonable regarding the agency's conclusion that DST's plan failed to satisfy the RFP requirement. Accordingly, we find no basis to sustain this protest ground.

DST also challenges the agency's assignment of a deficiency for DST's failure to demonstrate management's commitment to a quality organization in the proposal's organizational chart and narrative. Protest at 14.

The RFP specifically required that quality control personnel be separate from the contractor's production, supervisory staff and management staff. RFP, Attach. 2, Performance Work Statement, at 46. More specifically, the RFP provided that an offeror's organizational placement of individuals responsible for quality control must assure independence from, and freedom from influence by, other parts of the contractor's on-site organization, and be accountable only to the contractor's corporate staff. Id.

DST stated in its proposal that its assistant project managers would establish and maintain the quality control program, and provide independent corporate management oversight surveillance, and inspection of contractor operations. AR, Tab 8, DST Proposal, Response to Scenario, at 1. However, the agency found that the assistant project managers are an integral part of DST's proposed on-site management staff and, consequently, are not free from influence by other portions of DST's on-site organization. As a result, the agency concluded that these individuals could not reasonably provide independent corporate management and oversight surveillance. Contracting Officer's Statement at 11. Although DST, in its protest, states that it identified a project level quality control manager position, the agency notes that this information conflicts with the specific language in the proposal regarding who will perform the quality control function. Moreover, the agency notes that DST did not include a quality control manager position in its staffing tables.

In pursuing this protest, DST has not responded to the agency's concerns regarding DST's failure to account for the quality control manager position in its staffing organization. Based on our review of the record, we find no basis to question the reasonableness of the agency's determination that DST's proposal failed to establish that its quality control organization would operate independently. Accordingly, DST's protest challenging the agency's assessment of a deficiency in this regard is also without merit.

In addition, the agency identified the following two deficiencies under the staffing & training approach subfactor: failure to explain cross-training and cross-utilization of personnel, and failure to provide an adequate description of the key personnel

qualifications. AR, Tab 11, Consensus Evaluation, at 11-12. The protester, while recognizing that its plan was short, argues that since the RFP indicated that the plan would be evaluated, if provided, the plan was not mandatory and therefore an offeror should not be evaluated as deficient for providing one.

In our view, the protester's answer provides no basis to overturn the agency's assessments. The RFP specifically stated that, if proposed, an offeror's personnel cross-training and cross-utilization would be evaluated for feasibility and benefits to the government. RFP at 98. Since the protester provided a cross-training and cross-utilization plan, we do not find it unreasonable for the agency to have evaluated the adequacy of DST's plan. On the second deficiency under this subfactor, the protester provides no response to the agency's concerns about its failure to provide an adequate description of its key personnel qualifications. Consequently, we have no basis to question the agency's evaluation in this regard. The record shows that the protester's proposal did not adequately address its cross-training plan and did not adequately describe its key personnel qualifications. Therefore, we find the agency's evaluation in this regard to be reasonable.

Finally, in its comments responding to the agency report, DST merely reiterated its initial objections concerning the evaluation without specifically rebutting the agency's specific responses. Accordingly, we find that, at best, the record reflects DST's disagreement with the agency's technical judgments, which does not constitute a basis for sustaining its protest. Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5. Based on our review of the record, we find nothing unreasonable in the agency's determination to eliminate DST's proposal from further consideration.

The protest is denied.

Lynn H. Gibson
General Counsel