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Decision

Matter of: Optimization Consulting, Inc.

File: B-407377; B-407377.2

Date: December 28, 2012

Theodore P. Watson, Esq., and Idris S. Keith, Esq., Watson & Associates, LLC, for the protester.

Capt. Nicholes Dembinski, Department of the Army, for the agency.

Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

An agency reasonably excluded the protester's proposal from the competitive range where the proposal was not among the most highly-rated, given that the protester's significantly higher-priced proposal offered no technical advantages.

DECISION

Optimization Consulting, Inc., of Washington, D.C., protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. W9133L-12-R-0024, issued by the Department of the Army for psychological health support services for the National Guard Bureau. Optimization challenges the agency's evaluation of its price and technical proposals.

We deny the protest.

BACKGROUND

The RFP, issued as a small business set-aside, provided for the award of multiple, indefinite-delivery/indefinite-quantity contracts, with fixed-price, labor hour, and cost reimbursement items, for mental health support services for a 3-year base period and a 2-year option period. RFP at 2-3. A detailed performance work statement (PWS) was provided that described the required services. In this respect, the contractor will provide a broad range of mental health services, including, among other things, counseling, case management, and guidance to support the Army and Air National Guard's (ARNG and ANG, respectively) deployment readiness and reservists' post-deployment readjustment to civilian life. See RFP amend. 3, PWS

at 2-4. The contractor will be required to provide a director of psychological health (DPH) at identified National Guard Bureau locations. Id. at 3.

Offerors were informed that award would be made on a best-value basis considering the following factors, listed in descending order of importance: mission capability, past performance, small business participation, and price. RFP at 132-33. The RFP stated that the non-price evaluation factors, when combined, were more important than the price factor. Id. The mission capability factor included the following two subfactors, which were of equal importance: overall capability, and representative tasks for ANG and ARNG DPH support.¹ Id. at 133-36. Offerors were instructed to submit separate mission capability, past performance, small business participation, and price proposals. RFP amend. 2, at 61-62.

With respect to the overall capability subfactor, offerors were required to describe their corporate experience and resources, as well as provide plans for continuous quality improvement and quality control. See id. at 63-64. Corporate experience was to include recent, comparable experiences in providing the types of services required, including, among other things, management and behavioral health experience. See id. In this regard, the RFP stated that the agency would place particular emphasis on whether an offeror demonstrated experience in a similar field and with contracts of similar size and scope, as well as whether the offeror provided a continuous quality improvement plan to identify and mitigate potential deficiencies on an on-going basis. See RFP at 134.

The offeror's description of its corporate resources was to include a description of its relationships with health benefits and insurance providers, as well as the offeror's affiliate counselor network and approach to data tracking and reporting. See RFP amend. 2, at 64. Offerors' continuous quality improvement plans were required to include specific methods for ensuring consistent, quality performance in all areas, including affiliate performance. Id. Offerors' quality control plans were required to include procedures for ensuring contract compliance and correcting deficiencies, among other things. See id. at 65. Offerors were also informed that the agency would evaluate more favorably a quality control plan that offered effective mechanisms for addressing and identifying additional success measures. See RFP at 134.

Under the representative tasks subfactor, offerors were required to propose a task execution approach, key personnel, and transition/staffing plan for performing the two sample tasks. RFP amend. 2, at 65, 80-124. Offerors were required to describe

¹ The RFP provided two sample tasks for DPH services for the ANG and ARNG. Detailed performance requirements and estimated annual workload data were provided for each task. See RFP amend. 2, at 80-124.

their technical and management approach to completing the tasks, including their approach to service member training, as well as procedure for critical incident management and intervention, and traumatic event management response. Id. at 65. Offerors were also required to propose key personnel, such as the DPH, and provide resumes and narratives describing the education, experience, and qualifications of proposed key personnel. See id.; RFP amend. 3, append. B, Personnel Requirements. In this regard, offerors were instructed to describe their transition/staffing plan for filling and maintaining key personnel positions, orientation methods, timeframes, maintenance and improvement of their affiliate network, and case transfers, among other things. See RFP amend. 2, at 65-66.

The RFP stated that the agency would evaluate the offerors' technical and management approaches to successfully performing two task orders, as well as offerors' understanding of the tasks through their identification and mitigation of performance risks. See RFP at 135. Particular emphasis would be placed on the efficiency of the offeror's organizational structure. Id. Key personnel resumes, education, qualifications, and experience would be evaluated against the PWS requirements. See id. Offeror's transition/staffing plans would be evaluated with particular emphasis on the seamless transition of responsibilities and services. See id. The agency would also evaluate the offeror's hiring plan and procedures, retention strategies, and skill mix, as well as the offeror's recruitment and retention methods, and success in that regard performing similar contracts. See id. at 136.

With respect to price, offerors were informed that the agency would evaluate their total contract life price, which would be based upon the proposed prices for the two sample tasks, the fixed-price contract line items (CLIN), and the ceiling (or maximum) hourly rates for seven required labor categories.² Id. at 139-40; see RFP amend. 2, at 73-74; see also RFP amend. 5 at 2-3. For evaluation purposes, not-to-exceed values were provided for the cost reimbursement CLINs.³ See id.

Offerors were instructed to submit prices and labor rates using a price model (on Microsoft Excel spreadsheets) provided with the RFP, and which was intended to facilitate the agency's evaluation of the offeror's sample task pricing and ceiling labor

² The RFP identified seven separate CLINs: transition-in (CLIN 1--fixed-price); psychological health support services (CLIN 2--fixed-price); travel (CLIN 3--cost); emergency affiliate providers (EAP) (CLIN 4--labor hour); promotional materials (CLIN 5--cost); contractor manpower reporting (CLIN 6--fixed-price); and transition-out (CLIN 7--fixed-price). RFP at 3-8; RFP amend. 2, at 2.

³ The following not-to-exceed (plug) numbers were provided for the two cost reimbursement CLINs (CLINs 3 and 5): \$1,000,000 and \$50,000 for the ANG sample task, respectively; and \$1,500,000 and \$50,000 for the ARNG task, respectively. RFP amend. 4, at 5, 9; RFP amend. 7, at 3, 5.

rates. RFP at 71-72; RFP amend. 5, at 2-3, 5-14. Thus for each sample task, offerors were required to submit “pricing detail” worksheets identifying their proposed hours and rates for the required CLINs and labor categories. See id. Offerors were also required to insert ceiling rates by performance year for all required labor categories on a third worksheet.⁴ See id. Offerors’ total prices for each sample task and the total contract life price would be calculated based upon the formulas programmed into the price model’s spreadsheets. See id.; RFP at 139. Offerors were informed that their total contract life prices would be evaluated for reasonableness and realism. RFP at 139-40.

The agency received 10 proposals, including Optimization’s.⁵ See Contracting Officer’s (CO) Statement at 1-2. As relevant here, Optimization’s total contract life price was \$196,662,108, which included \$30,592,683 for the ANG sample task, and \$22,089,093 for the ARNG task. AR, Tab 19, Optimization’s Initial Price Proposal, at 1, 5, 9. Optimization’s ceiling labor rates ranged from [DELETED] to [DELETED], including [DELETED] for the DPH labor category. Id. at 8.

After receiving initial proposals, the agency amended the solicitation three times to correct formula errors in the pricing model spreadsheets, and requested revised price proposals from the offerors. CO’s Statement at 1; see RFP amends. 5-7. As amended, the RFP advised offerors that the agency would evaluate the total contract life price, including for each option period, based only on the offeror’s price model. See RFP amend. 5, at 2. It also advised offerors that any explanatory pricing notes must be submitted by offerors in a separate document (that is, not as part of the pricing model spreadsheets), should be limited to explaining details not readily discernible from the price model, and must not contain qualifications or options which could result in a change of price or lack of clarity.⁶ Id. at 4.

Technical proposals were evaluated by the agency’s source selection evaluation board (SSEB). Supp. AR at 6. The protester’s proposal was evaluated as marginal under the mission capability factor and both of its subfactors (overall capability and representative tasks). Supp. AR, encl. 1, Overall Capability Subfactor Consensus Evaluation, at 1; encl. 2, Representative Tasks Subfactor Consensus

⁴ As amended the RFP stated that the labor hours for emergency affiliate providers (EAP) (CLIN 3) would be calculated based on the rate in the ceiling rate worksheet.

⁵ Optimization was apparently the incumbent for a pilot project for the ANG, which did not include all of the requirements solicited here and was significantly smaller in magnitude than the requirement. See CO’s Statement at 6; Supp. Comments at 4; Agency Report (AR), Source Selection Advisory Council (SSAC) Report, at 132.

⁶ The solicitation amendments provided more detailed instructions for completing the price models; however, the final instructions were largely similar to the earlier instructions. Compare RFP amend. 5, at 3-4 with RFP amend. 2, at 71-72.

Evaluation, at 1. The SSEB's assessment was that Optimization's proposal did not clearly meet, and did not demonstrate an adequate approach to and understanding of, the requirements.⁷ See id. The SSEB found, among other things, that although Optimization's mission capability proposal offered a number of strengths, those strengths did not offset the proposal's high number of weaknesses. See id. The SSEB also found that the risk of unsuccessful performance for Optimization was high. See id.

For example, the evaluators found that Optimization had no other behavioral health experience other than its performance of the ANG DPH pilot project, and expressed concerns over Optimization's limited corporate experience and capability to manage a national scope of integrated services. See Supp. AR, encl. 1, Overall Capability Subfactor Consensus Evaluation, at 1. In this respect, the evaluators also found that Optimization's description of medical support service for ARNG was too short to discern Optimization's capabilities and that its task execution approach was "ANG-centric." See id.; encl. 2, Representative Tasks Subfactor Consensus Evaluation, at 2. The SSEB also found that Optimization did not effectively address its plan for ARNG transition, including case transitions. Supp. AR, encl. 2, Representative Tasks Subfactor Consensus Evaluation, at 1. Moreover, the SSEB found that Optimization's proposed directors did not meet minimum qualifications. Id. at 2. The evaluators also felt that Optimization's continuous quality improvement plan was a "textbook" description that lacked performance indicators tailored to the requirement. See Supp. AR, encl. 1, Overall Capability Subfactor Consensus Evaluation, at 2. The evaluators also expressed concern with the small size of Optimization's provider network, and concern that Optimization's data tracking and reporting methods lacked substance. See id.

Revised price proposals were evaluated by the agency's price evaluation team (PET). See AR, Tab 27, PET Report; see also Tab 28, SSAC Report, at 2-3, 105. Optimization's final revised price proposal stated three different total contract life prices.⁸ See AR, Tab 26, Optimization's Final Revised Price Proposal, at 14, 18. Specifically, Optimization's price model provided a total contract life price of \$265,619,222, calculated using the spreadsheets' mathematical formulas with the task order and ceiling rate prices inserted by Optimization. See id. at 7-14.

⁷ A marginal rating reflected a proposal that did not clearly meet the requirements, had not demonstrated an adequate approach and understanding of the requirements, with one or more weaknesses that were not offset by strengths, and had a high risk of unsuccessful performance. See RFP at 137.

⁸ The record shows that Optimization's final revised price model was submitted late. The agency states, however, that it nevertheless evaluated it in the interest of determining whether it made Optimization's terms more favorable to the government. CO's Statement at 7.

Optimization's revised price model included \$35,250,048 and \$30,924,896 for the ANG and ARNG tasks, respectively, with ceiling labor rates ranging from [DELETED] to [DELETED], including [DELETED] for the DPH labor category. However, directly below Optimization's proposed \$266 million total contract life price, in what was otherwise intended to be a blank space in the price model spreadsheet, Optimization inserted a total contract life price of \$199,444,167. Id. at 14. Elsewhere, under the heading "Notes," Optimization stated that it "offer[s] a price as stated below based on the AGN [sic] and ARNG pricing details . . . \$199,464,082." Id. at 15-18. The notes identified a total price of \$108,655,606 for the ANG task and \$90,808,476 for the ARNG task. Id. These task prices were different from the prices calculated using the spreadsheet.⁹

The offerors' proposed prices were compared to each other and to the independent government cost estimate (IGCE) for the procurement. AR, Tab 27, PET Report, at 3. The PET also conducted a statistical analysis of the proposed labor rates for each performance year. Id. at 5. The PET found that, although Optimization completed all aspects of the price model as required, it had added EAP costs to the fixed price for DPH services and included additional notes which the PET could not interpret. Id. at 10. The PET also found that Optimization's \$266 million total contract life price, as well as its labor rates, were not fair and reasonable compared to other prices, and that its labor rates were excessive. See id. The PET concluded that Optimization's extremely high price and labor rates, although not unrealistic, may have reflected a lack of understanding of the requirement. Id.

The technical and price evaluations were reviewed by the SSAC, which concluded that only the most highly-rated offers should be included in the competitive range for the purpose of conducting discussions. AR, Tab 28, SSAC Report, at 132. The SSAC agreed with the SSEB that Optimization's proposal was not among the mostly highly-rated proposals. Id. at 131-32. In this regard, the SSAC noted that Optimization proposed the highest total contract life price (\$265,619,111), which was [DELETED] percent above the offerors' average price and [DELETED] percent above the IGCE. See id. Although the SSAC also noted Optimization's proposal of other total prices, \$199,464,082 in its explanatory notes, and \$199,444,167 on its worksheet, it recognized that the PET had verified the propriety of all formulas in Optimization's price model spreadsheet and found that Optimization's \$266 million price should be considered as Optimization's total contract life price, as it was calculated on the same basis as all other offerors.¹⁰ See id. The SSAC determined

⁹ Optimization's initial price proposal did not include any notes. AR, Tab 19, Optimization's Initial Price Proposal; see AR at 12.

¹⁰ The SSAC also concluded that, even if the agency evaluated all offerors' prices based on a similar construct as that used by Optimization for its additional proposed (continued...)

that, in any event considering Optimization's proposed price of \$199 million or \$266 million, there was no advantageous aspect of Optimization's proposal, nor any likely revision, that would put the protester's proposal in line for contract award. See id. at 132.

Four offers were included in the competitive range as the most highly rated offers.¹¹ AR, Tab 29, Competitive Range Determination, at 182-83; CO's Statement at 2. Optimization's proposal was not included, AR, Tab 30, Notice of Exclusion from Competitive Range at 2, and this protest followed.

DISCUSSION

Optimization complains that the agency did not evaluate its price in accordance with the solicitation, arguing that flaws in the RFP's price model resulted in the protester's total price being miscalculated.¹² See Protest at 6-7. In this regard, the protester contends that, despite the numerous RFP amendments and revisions to the price model, the model contained ongoing and unresolved flaws. See id. The protester contends that it proposed a revised price of \$199,464,082 and that Optimization's explanatory notes simply corrected, and explained, the errors in the RFP's spreadsheet.¹³ See Protest at 7. Optimization maintains that, given the spreadsheet's numerous errors, the PET's confusion over Optimization's price, and the agency's late amendment of the RFP, the agency should have engaged in communications or discussions to clarify any questions it had about Optimization's price. See Comments at 2-6.

The Army responds that the protester's price proposal was reasonably evaluated, given Optimization's failure to follow the RFP's instructions for the preparation of

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overall prices, Optimization's evaluated total price would still be the highest. AR, Tab 28, SSAC Report, at 132.

¹¹ The four proposals included in the competitive range all received substantially higher technical ratings and ranged in total contract life price from \$131 million to \$201 million. See AR, Tab 28, SSAC Report, at 132-33.

¹² Optimization also complains that offerors were given less than 24 hours to respond to the final solicitation amendment. See Comments at 3. This complaint, which was not raised within 10 days of when revised price proposals were to be submitted or raised in Optimization's protest, is untimely, and is dismissed.

¹³ Nowhere in Optimization's price proposal, including in the notes section or the email transmitting the proposal to the agency, did Optimization state that the price model spreadsheet contained flaws. AR, Tab 26, Optimization's Final Revised Price Proposal, at 1-18.

price proposals and its submission of multiple total prices. See AR at 15-16. In this regard, the agency states that offerors were clearly informed by the RFP that the total contract life price as calculated by the price model would be the only price evaluated. Id. at 18, citing RFP amend. 5, at 3-4. The agency also denies that the price model, as finally amended, contained flaws. Id. at 16-17. The Army notes that Optimization increased its ceiling labor rates in its final revised proposal by as much as 40 percent for some labor categories, which, according to the agency, accounts for the difference between Optimization's initial price proposal and its final revised \$266 million proposal. Id. at 18-19.

Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Cylab Inc., B-402716, July 13, 2010, 2010 CPD ¶ 163 at 4. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5. In this regard, a protester's mere disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. CMC & Maint., Inc., B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2.

Here, we find that the agency reasonably evaluated Optimization's price proposal in a manner consistent with the RFP.¹⁴ As the agency points out, the RFP explicitly advised that the agency would evaluate a total contract life price for each proposal, including for each option period and representative task, based only on the offeror's price model.¹⁵ Although Optimization insists that the price model contained formula errors, the protester has not identified any such errors or shown how its final revised \$266 million price was miscalculated. In this respect, the protester also fails to explain how its revised total price increased only to \$199,464,082 (or \$199,444,167) from its initial proposed price of \$196,662,108, even though it increased all of its labor rates, some of them significantly, while proposing largely the same labor hours.¹⁶ Compare AR, Tab 19, Optimization's Initial Price Proposal, at 2-4, 6-8 with

¹⁴ Although Optimization contends that the agency's price evaluation was conclusory and inadequately documented, see Protester's Comments at 7-8, we find that the price evaluation is reasonable and adequately documented.

¹⁵ To the extent that the protester complains that the agency required offerors to use a predetermined pricing formula (the price model), see Comments at 7, this protest argument, which was first raised in the protester's comments, is untimely.

¹⁶ As cited above, Optimization's rate for the DPH labor category increased from [DELETED] to [DELETED], although the number of hours for that category remained (continued...)

Tab 26, Optimization's Final Price Proposal, at 8-9, 11-13. Nor does the protester rebut--or even address--the Army's arguments in this regard.

We also disagree that the agency was required to clarify Optimization's multiple price offers. Where, as here, the agency establishes a competitive range to conduct discussions, the agency may conduct communications with an offeror to facilitate the agency's understanding and evaluation of the offeror's proposal or for the purpose of exploring whether a proposal should be included in the competitive range. See FAR § 15.306(b)(2). Such communications, however, cannot "be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal."¹⁷ Id.; Battelle Mem'l Inst., B-299533, May 14, 2007, 2007 CPD ¶ 94 at 4.

Optimization also raises a number of challenges to the agency's evaluation of its proposal under the mission capability factor and to the SSEB's conclusion that the proposal's weaknesses were not offset by its strengths. See Supp. Protest at 1-2; Supp. Comments at 3. The protester contends that the agency's evaluation is conclusory and unsupported, for example, with regard to Optimization's corporate experience.¹⁸ See Supp. Comments at 5. We have considered all of Optimization's arguments, and although we only discuss some of them, we find that they largely reflect the protester's disagreement with the agency's technical evaluation, and offer no basis to sustain the protest.

An agency's evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and identifying the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 5-6. In reviewing protests of an agency's

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the same. See AR, Tab 19, Optimization's Initial Price Proposal, at 2-4, 6-8; Tab 26, Optimization's Final Revised Price Proposal, at 8-9, 11-13.

¹⁷ It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. See, e.g., International Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7. Agencies are not required to infer information from an inadequately detailed proposal or information that the protester elected not to provide. See, e.g., James Constr., B-402429, Apr. 21, 2010, 2010 CPD ¶ 98 at 5 (agency not required to piece together general statements and disparate parts of protester's proposal to determine the protester's intent).

¹⁸ Optimization does not protest the agency's evaluation under the past performance or small business participation factors.

evaluation, our Office does not reevaluate proposals, rather, we review the evaluation to determine if was reasonable, consistent with the solicitation's evaluation scheme, as well as procurement statutes and regulations, and adequately documented. Wackenhut Servs., Inc., B-400240, B-400240.2, Sept. 10, 2008, 2008 CPD ¶ 184 at 6; Cherry Road Techs.; Elec. Data Sys. Corp., B-296915 et al., Oct. 24, 2005, 2005 CPD ¶ 197 at 6.

We find that the agency evaluated the relative merits of Optimization's proposal reasonably and that agency evaluators assessed strengths, weaknesses, and ratings in a fair and impartial manner consistent with the RFP. The contemporaneous evaluation record here consists of hundreds of pages, including evaluators' consensus ratings, as well as a lengthy and detailed SSAC report and competitive range determination. Although the protester may disagree with the agency's evaluation of its mission capability proposal, the record demonstrates that the SSEB and the CO considered all of the information submitted by offerors and available to the agency, and issued a well-reasoned and rational evaluation report and competitive range determination that extensively highlighted key discriminators between Optimization's and other offerors' proposals.¹⁹ Optimization's disagreement with the agency's conclusions regarding weaknesses in its proposal does not establish that the agency's judgment concerning the merits of the protester's proposal was unreasonable. See Savannah River Alliance, LLC, B-311126 et al., Apr. 25, 2008, 2008 CPD ¶ 88 at 7 (protest of evaluation ratings based on protester's selective identification of, and disagreement with, evaluation assessments denied where detailed evaluation record shows that agency assessed ratings based on proposals' merits and fairly highlighted key discriminators in that regard).

¹⁹ For example, while Optimization believes that it has sufficient corporate experience as the incumbent on the ANG pilot project to merit a higher mission capability rating, and asserts that its evaluation was conclusory in that regard, see Supp Comments at 2, the record shows that the agency conducted an extensive assessment, including a detailed comparison of the protester's corporate experience to those of the four offerors proposed for the competitive range. See AR, Tab 28, SSAC Report, at 56, 118, 131-32, 139-40, 151-52, 162-64, 177-78. As discussed above, notwithstanding Optimization's experience on the ANG pilot project (for which the agency in fact assessed a number of strengths), the agency questioned Optimization's capability to manage a national scope of integrated services, based on its "ANG-centric" task execution approach and its short description of ARNG medical support services, among other things. See Supp. AR, encl. 1, Overall Capability Subfactor Consensus Evaluation, at 1; encl. 2, Representative Tasks Subfactor Consensus Evaluation, at 2. We find such considerations consistent with the stated evaluation criteria, well documented, and reasonable. See id.; RFP at 134; amend. 2, at 63-64.

In sum, Optimization has not shown that the agency's evaluation of its price and mission capability proposals was unreasonable or inconsistent with the RFP, and the protester's disagreement with the agency's judgment does not establish that the agency acted unreasonably. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. Accordingly, we find reasonable the agency's judgment that Optimization's proposal was not among the most highly-rated offers, and the exclusion of the protester's proposal from the competitive range on this basis.

The protest is denied.

Susan A. Poling
General Counsel