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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: Building Operations Support Services, LLC

File: B-407711; B-407711.2

Date: January 28, 2013

Eden Brown Gaines, Esq., Brown Gaines, LLC, for the protester.
Richard B. O’Keeffe, Jr., Esq., and William A. Roberts, III, Esq., Wiley Rein LLP, for Chugach Federal Solutions, Inc., an intervenor.
Richard J. McCarthy, Esq., James A. Vatne, Esq., and James T. Mahoney, Esq., National Aeronautics and Space Administration, for the agency.
Noah B. Bleicher, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of agency’s evaluation of proposals under mission suitability and past performance factors and source selection decision is denied where evaluation and selection was reasonable and consistent with the solicitation criteria.

DECISION

Building Operations Support Services (BOSS), LLC, of Bowie, Maryland, protests the National Aeronautics and Space Administration’s (NASA) award of a contract to Chugach Federal Solutions, Inc., of Anchorage, Alaska, under request for proposals (RFP) No. NNG10000489R for facilities operations and maintenance services at the Goddard Space Flight Center in Greenbelt, Maryland. BOSS challenges the agency’s evaluation of mission suitability and past performance as well as the source selection decision.

We deny the protest.

BACKGROUND

NASA issued the RFP in November 2010 as a competitive section 8(a) set-aside seeking proposals for a wide variety of facilities operations and maintenance

services.¹ RFP, Cover Letter, at 1. The RFP provided for the award of a cost-plus-fixed-fee contract with a technical performance incentive fee for the RFP's core services, as well as an indefinite-delivery/indefinite-quantity portion for other services and construction. RFP §§ B.2, B.8-B.12, C.1., L.8; RFP Cover Letter, Nov. 24, 2010, at 1. The RFP contemplated a 2-year base period of performance and three 1-year option periods. RFP § F.4. Award was to be made following a best value trade-off analysis considering cost/price and two non-price factors: mission suitability and past performance. RFP § M.3. Under the RFP, price was approximately equal to mission suitability and past performance, and price was significantly less important than the mission suitability and past performance factors combined. Id. The RFP also advised that the evaluation would be conducted in accordance with the requirements outlined in Federal Acquisition Regulation (FAR) Subpart 15.3 and NASA FAR Supplement (NFS) Subpart 1815.3. Id.

With respect to the mission suitability factor, the RFP identified two subfactors--technical approach and management approach--that encompassed 20 different areas that NASA would evaluate.² Id. at § M.4.1. The RFP stated that NASA would classify its findings under the subfactors as significant strengths, strengths, significant weaknesses, weaknesses, or deficiencies. Id. at § M.4.2. Then, consistent with NFS § 1815.304-70, the agency would assign point scores to the subfactors--technical approach (450 points) and management approach (550 points)--for a possible total score of 1,000 points. Id. at § M.4.3. As further outlined in NFS § 1815.304-70(b)(2), the agency would arrive at point scores for the mission suitability factor by assigning proposals an adjectival rating and percentile rating under each subfactor, and then multiplying the possible point score by the percentile rating assigned.³ See id.

¹ The RFP identified a variety of services to be performed by the winning firm, including preventative maintenance for institutional equipment, repair of institutional equipment, overall facilities operations, use of reliability centered maintenance technology to predict issues, operation of a 24/7/365 console, critical mission support, facilities planning, operations and maintenance of large chiller and boiler plants, chemical treatment of plants, snow and ice removal, repair and replacement of roofs, and asbestos and lead abatement. RFP Cover Letter, Nov. 24, 2010, at 1.

² For example, under the technical approach subfactor, the RFP stated that the agency would evaluate an offeror's methodology for preventative maintenance and repairs for the high voltage electrical systems, and an offeror's safety and health plan. RFP § M.4.1. Under the management approach subfactor, the RFP stated that the agency would evaluate an offeror's organizational structure and staffing plan, among several other areas. Id. The RFP did not identify these areas of evaluation as sub-subfactors.

³ The adjectival rating scheme and accompanying percentile ranges, as outlined in NFS § 1815.305(a)(3), are as follows: excellent (91 to 100 percent); very good
(continued...)

With respect to the past performance factor, the RFP provided that NASA would assign proposals adjectival confidence ratings, consistent with NFS § 1815.305, of very high level, high level, moderate level, low level, very low level, or neutral. RFP § M.6. As relevant here, the RFP provided that the agency would evaluate the past performance of the prime contractor and significant subcontractors.⁴ Id. According to the RFP, the agency would weigh past performance of the prime contractor “more heavily” than the past performance of any significant subcontractor. Id.

NASA received six proposals and, following an initial evaluation by the source evaluation board (SEB), two proposals--BOSS's and Chugach's--were included in the competitive range. Contracting Officer Statement at 8; Agency Report (AR), Tab 21, Competitive Range Determination, at 9. The agency held discussions with the two competitive range offerors and obtained final proposal revisions (FPR) in June 2012. Contracting Officer Statement at 13.

The SEB evaluated the FPRs and prepared a final presentation for the source selection authority (SSA), documenting the board's findings. See AR, Tab 35, Final Presentation to SSA, at BATES 4756-4842. The following table summarizes the evaluators' findings with regard to both offerors:

	BOSS	Chugach
Mission Suitability		
(A) Technical Approach	Very Good (383 points)	Excellent (428)
(B) Management Approach	Good (330)	Very Good (495)
Total Point Score (out of 1,000)	713 ⁵	923
Past Performance Confidence Rating	Very High	Very High
Proposed Cost	\$97,835,781	\$103,907,082
Probable Cost	\$98,328,704	\$105,013,549

Id. at BATES 4772-4773, 4810; Contracting Officer Statement at 13-14.

(...continued)

(71 to 90 percent); good (51 to 70 percent); fair (31 to 50 percent); and poor (0 to 30 percent).

⁴ The RFP defined a proposed “significant subcontractor” as a subcontractor that is “estimated to meet/exceed an average annual cost/fee of \$2,000,000.” RFP § M.6.

⁵ The SEB rated BOSS's proposal as having one significant strength and three strengths under the technical approach subfactor and no strengths, weaknesses, or deficiencies under the management approach subfactor. AR, Tab 35, Final Presentation to SSA, at BATES 4776, 4783.

The SSA reviewed the SEB report and concluded that the “superiority” of Chugach’s mission suitability proposal outweighed the 6 to 7 percent savings of BOSS’s proposal. AR, Tab 36, Source Selection Statement, at 8. Accordingly, the SSA decided that Chugach’s proposal represented the best value to the government and selected the firm for award. Id. On October 10, 2012, NASA provided BOSS a written debriefing, which highlighted the evaluators’ findings with regard to the significant strengths and strengths of the proposals, among other things. This protest followed.

DISCUSSION

BOSS asserts that the agency’s evaluation of its proposal under the mission suitability factor was flawed. BOSS also challenges the agency’s past performance evaluation and the selection of Chugach for award over BOSS.

In reviewing an agency’s evaluation, our Office will not reevaluate proposals; instead, we will examine the record to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable procurement statutes and regulations. Metro Mach. Corp., B-402567, B-402567.2, June 3, 2010, 2010 CPD ¶ 132 at 13; Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. An offeror’s mere disagreement with the agency’s evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

First, BOSS objects to the agency’s evaluation of its proposal under the mission suitability factor. BOSS argues that NASA failed to assess every aspect of its proposal and only evaluated the areas of its proposal that were identified as a significant strength or strength. Protest at 5. The protester asserts that a “full assessment” of each subfactor would have led to a higher mission suitability score for BOSS. Id. at 6. Additionally, BOSS argues that NASA did not give enough consideration to the firm’s lower cost in the mission suitability evaluation, and that the agency ignored multiple other strengths or significant strengths in its proposal. Id.; Comments/Supplemental (Supp.) Protest at 4-14. For these and similar reasons, BOSS complains that the adjectival ratings and point scores assigned to its proposal were arbitrary and not sufficiently explained. Comments/Supp. Protest at 2-4. As discussed below, none of BOSS’s arguments provides a basis to sustain the protest.

Here, the agency’s evaluation of BOSS’s proposal under the mission suitability factor was unobjectionable and consistent with the terms of the solicitation. The agency explains that each member of the 6-person SEB evaluated every aspect of the offerors’ initial and final proposals. Contracting Officer Statement at 8, 13; AR, Tab 35, Final Presentation to SSA, at BATES 4774. As contemplated by the solicitation, the evaluators classified their findings (as strengths, weaknesses, etc.), reached a consensus on the findings, assigned adjectival ratings and points for

each subfactor, and presented their consensus findings to the SSA. AR, Tab 35, Final Presentation to SSA, at BATES 4774. As noted above, the evaluators rated BOSS's final proposal as having one significant strength and three strengths under the technical approach subfactor and no strengths, weaknesses, or deficiencies under the management approach subfactor.⁶ Id. at BATES 4776, 4783. The evaluators then considered the definitions for the various adjectival ratings included in NFS § 1815.305 to determine the appropriate adjectival and percentile rating based on the identified strengths and lack of any weaknesses. We find that the SEB's ratings of very good under the technical approach subfactor and good under the management approach subfactor were consistent with the definitions of very good and good in NFS § 1815.305.⁷

That the SEB did not discuss in its report each and every area identified under the subfactors does not mean that the agency did not consider them. Contrary to the protester's assertion, the agency was not required to document "determinations of adequacy" or otherwise explain why aspects of BOSS's proposal did not receive a strength, weakness, or deficiency. Hernandez Eng'g Inc.; ASR Int'l Corp., B-286336 et al., Jan. 2, 2001, 2001 CPD ¶ 89 at 9; see ViroMed Labs., Inc., B-310747.4, Jan. 22, 2009, 2009 CPD ¶ 32 at 6. As the agency explains, the aspects of BOSS's proposal that were not rated as a strength or weakness "did not warrant or merit any finding" and were not reflected in the SEB's presentation to the SSA.⁸ AR at 8. That the SEB's report to the SSA documented only the strengths noted in BOSS's proposal was consistent with the solicitation.⁹ See RFP § M.4.2;

⁶ As an example, the evaluators found that BOSS's proposed quality control plan was a strength because the plan demonstrated a "detailed and thorough" approach to ensure that requirements would be met, which enhanced the potential of successful contract performance. AR, Tab 35, Final Presentation to SSA, at BATES 4779.

⁷ A very good proposal is defined as follows: "A proposal having no deficiency and which demonstrates over-all competence. One or more significant strengths have been found, and strengths outbalance any weaknesses that exist." NFS § 1815.305(a)(3)(A). A good proposal is defined as follows: "A proposal having no deficiency and which shows a reasonably sound response. There may be strengths or weaknesses, or both. As a whole, weaknesses not off-set by strengths do not significantly detract from the offeror's response." Id.

⁸ Indeed, BOSS even acknowledges that "[n]o findings or the failure to assign an adjectival rating indicates the proposal met the minimum requirements or standards." Comments/Supp. Protest at 4.

⁹ The SEB report also highlighted areas that were identified as weaknesses in BOSS's initial proposal, but that were remedied in its FPR. See e.g., AR, Tab 35, Final Presentation to SSA, at BATES 4781.

see also FAR § 15.305(a) (“The relative strengths, deficiencies, significant weaknesses, and risks supporting proposal evaluation shall be documented”); NFS §§ 1815.305(a)(i)-(ii), 1815.370(h)(2) (SEB presentation to SSA shall focus on significant strengths, deficiencies, and significant weaknesses).

Similarly, we also reject the protester’s complaint that the record does not contain an explanation of how the adjectival and percentile ratings were determined. As explained above, the evaluators assigned point scores in accordance with the rating scheme outlined in the RFP and NFS § 1815.305. In any event, the protester’s focus on the ratings is misplaced, as point scores and adjectival ratings are but guides to, and not substitutes for, intelligent decision-making. E.g., Kellogg Brown & Root Servs., Inc., B-298694.7, June 22, 2007, 2007 CPD ¶ 124 at 5; TPL, Inc., B-297136.10, B-297136.11, June 29, 2006, 2006 CPD ¶ 104 at 17. There is simply no requirement that the record contain an explanation, as BOSS contends here, of how the agency evaluators translated individual strengths and weaknesses into point scores, only that the point scores be adequately supported in order to determine their reasonableness. See Magellan Health Servs., B-298912, Jan. 5, 2007, 2007 CPD ¶ 81 at 6. As explained above, we conclude that the SEB report adequately supports the evaluators’ assigned point scores and ratings.

BOSS also objects to the assigned scores and ratings on the basis that NASA should have found additional strengths or significant strengths in its proposal. Protest at 6; Comments/Supp. Protest at 5-14. For example, BOSS asserts that “logic would suggest” that its proposed staffing plan should have been assessed as a strength because, according to BOSS, the staffing plan met the RFP’s requirements at a “lower cost to NASA.” Protest at 6.

Here, the SEB concluded, and BOSS acknowledges, that the firm proposed an “adequate” staffing plan that met the RFP’s requirement. AR, Tab 35, Final Presentation to SSA, at BATES 4784; See Protest at 6. As explained above, NASA was not required to assign a higher rating simply because the proposal area met the solicitation’s minimum requirements. Applied Tech. Sys., Inc., B-404267, B-404267.2, Jan. 25, 2011, 2011 CPD ¶ 36 at 9; Archer Western Contractors, Ltd., B-403227, B-403227.2, Oct. 1, 2010, 2010 CPD ¶ 262 at 5 n.5. Moreover, BOSS does not contend that its proposed staffing plan “enhances the potential for successful performance or contributes toward exceeding the contract requirements,” which is what the RFP required for a proposal area to be rated as a strength. See RFP § M.4.2.

Rather, BOSS argues that its lower proposed cost (than Chugach’s) warrants additional strengths under the mission suitability evaluation. With respect to this assertion, the agency argues, and we agree, that cost savings are not considered

as part of the evaluation of the mission suitability factor under this RFP.¹⁰ AR at 10-11. Instead, the RFP stated that the agency would consider cost savings during a comparison of the offerors' cost/price proposals and during the cost/technical tradeoff. See RFP § M.5. We conclude that BOSS's assertion that its proposed staffing plan should have been rated as a strength constitutes mere disagreement with the agency's judgment and provides no basis for sustaining the protest.¹¹

Next, BOSS challenges the agency's evaluation under the past performance factor. Specifically, BOSS argues that its proposal should have received a higher past performance rating than Chugach's because Chugach placed "significant reliance" on the past performance of its subcontractors. Protest at 5; Comments/Supp. Protest at 16.

With regard to Chugach's past performance, the SEB evaluated a total of eight past performance projects, three of which were performed by Chugach's significant subcontractor. AR, Tab 35, Presentation to SSA, at BATES 4833. In accordance with the RFP, NASA assessed the relevance of each effort in terms of size, content, and complexity as compared to the procurement at issue, as well as a consideration of customer satisfaction. See RFP § M.6. The evaluators reached consensus and assigned an overall performance rating of very high to the five efforts performed by Chugach; to the three efforts performed by Chugach's subcontractor, the evaluators

¹⁰ The RFP provided that the evaluation of mission suitability would include the results of any cost realism analysis; that is, it would take into consideration whether a proposal demonstrated a lack of understanding of the RFP's requirements. RFP § M.4. In this respect, the RFP provided that proposals could be downgraded in the mission suitability evaluation if they demonstrated a "lack of resource realism," not upgraded merely for offering a lower price, as the protester suggests. Id.; see Protest at 6.

¹¹ In a supplemental protest, BOSS raised additional objections to the agency's evaluation of various other requirements under the mission suitability subfactors. For the first time, the protester argued that these areas of its proposal should have been rated as strengths or significant strengths. Comments/Supp. Protest at 5-14. BOSS, however, knew that NASA did not rate these areas as strengths or significant strengths when it received its written debriefing and should have raised these allegations in its initial protest. These allegations, asserted for the first time in a supplemental protest filed with BOSS's comments on the agency report, are untimely raised in a piecemeal fashion and will not be considered. See 4 C.F.R. § 21.2(a)(2) (2012) (requiring that protest issues be presented within 10 days after the basis of protest is known or should have been known); Williamson County Ambulance Serv., Inc., B-293811.5 et al., Dec. 15, 2004, 2005 CPD ¶ 5 at 10.

assigned one very high rating and two high ratings. AR, Tab 35, Presentation to SSA, at BATES 4833.

Based on these ratings, and consistent with the past performance evaluation criteria, we find that NASA reasonably assigned Chugach's proposal a past performance confidence rating of very high. There is no indication in the record that NASA did not weigh the past performance projects of Chugach "more heavily" than the projects of its significant subcontractor, as required by the RFP. See RFP § M.6. Indeed, any suggestion otherwise is not supported by the facts because two of the three past performance projects attributed to Chugach's subcontractor were rated lower overall than the projects that Chugach performed. See AR, Tab 35, Presentation to SSA, at BATES 4833. Moreover, the evaluation criteria here do not contemplate that an offeror who merely submits more past performance projects attributable to the prime would receive a higher past performance rating on that basis, as the protester suggests. In sum, the protester's challenge to the agency's past performance evaluation is without merit and does not provide a basis to sustain the protest.

Lastly, BOSS objects to the source selection decision on the basis that the SEB report demonstrated a "functional tie" between proposals and that the agency did not explain why award was made to Chugach. Protest at 4-5; Comments/Supp. Protest at 16. BOSS argues that NASA "should have placed more weight on cost." Comments/Supp. Protest at 17.

Agencies enjoy discretion in making cost/technical tradeoffs where the solicitation provides for the award of a contract on a best value basis; the agency's selection decision is governed only by the test of rationality and consistency with the solicitation's stated evaluation scheme. Marine Hydraulics Int'l, Inc., B-403386.3, May 5, 2011, 2011 CPD ¶ 98 at 4.

In this case, our review of the record shows that the source selection authority's statement explains a well-reasoned basis for a tradeoff that justified paying Chugach's higher price. The SSA explained that he carefully reviewed the SEB's consensus findings with regard to each of the evaluation factors. AR, Tab 36, Source Selection Statement, at 7. The record shows that the SSA looked beyond the adjectival and percentile ratings and detailed in his statement the strengths and significant strengths of both proposals under the mission suitability factor. See id. at 4-6. The SSA noted that Chugach's proposal received more strengths and significant strengths than BOSS's (10 versus 4), and found that the "advantages offered by the Chugach proposal would likely result in performance benefits" Id. at 7. In this regard, the SSA determined that Chugach's mission suitability proposal was "substantially better" than BOSS's. Id. at 8. The SSA further determined that the past performance factor did not provide a "meaningful discriminator" because both offers received identical ratings under the factor, and, therefore, the SSA weighed cost and mission suitability equally. Id. In the source

selection statement, the SSA specifically concluded that the “superiority” of Chugach’s mission suitability proposal outweighed the 6 to 7 percent cost savings of BOSS’s proposal. Id. In this respect, the SSA concluded as follows:

I find that the technical advantages described in the Significant Strengths and Strengths associated with Chugach’s proposal are more valuable to NASA than the cost savings offered by BOSS’[s] proposal. Chugach’s technical approach is worth the additional cost because the value to NASA of the enhanced potential for successful contract performance and for exceeding the contract requirements outweighs the 6-7% cost savings offered by BOSS.

Id.

Based on our review of the record, we find that the agency’s source selection decision is adequately documented, and we see no basis to question the agency’s determination that Chugach’s proposal represented a better value to the government than did BOSS’s proposal. BOSS’s assertion that NASA should have placed more weight on its lower price reflects its disagreement with the SSA’s decision, but does not provide a basis to sustain the protest.

In sum, we find reasonable the agency’s evaluation under the mission suitability and past performance factors and conclude that award to Chugach was unobjectionable.

The protest is denied.

Susan A. Poling
General Counsel