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Decision

Matter of: Crown Agents USA, Inc

File: B-407748

Date: February 6, 2013

Edward J. Tolchin, Esq., and Ira E. Hoffman, Esq., Offit Kurman PA, for the protester.

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DIGEST

Protest that agency unreasonably evaluated protester's technical proposal and improperly excluded it from the competitive range is denied where the agency reasonably determined that the protester's proposal contained numerous weaknesses and was not among the most highly rated proposals.

DECISION

Crown Agents USA, Inc., of Washington, D.C., protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. SOL-OAA-11-000126, issued by the United States Agency for International Development (USAID) to obtain technical support services for the Strengthening Core Economic Governance Institutions Project for South Sudan, identified as the CORE II project.

We deny the protest.

BACKGROUND

The aim of the Core II project is to strengthen the capacity of selected Government of South Sudan and state-level institutions to carry out their core functions without continued international expert assistance. The objectives for the project are: (1) to strengthen public financial management by assisting the Ministry of Finance and Economic Planning (MoFEP) and state ministries of finance; (2) to strengthen financial governance by assisting the Bank of South Sudan; and (3) to strengthen the management of the natural resources sector, in particular petroleum and

minerals, by assisting the MoFEP and the Ministry of Energy and Mining. RFP at 6-7.

The RFP, which was issued in October 2011, anticipated award of a cost-plus-fixed-fee performance-based contract for a 3-year period, with up to two 1-year option periods. RFP at 83; RFP amend. 1, Question and Answers No. 14. The RFP also included a detailed statement of work (SOW) which described an array of sub-objectives associated with each of the three objectives, possible tasks, and proposed results. RFP at 15-22.

The solicitation provided for award to the offeror whose proposal represented the best value to the government considering cost and the following weighted technical evaluation factors: (1) technical approach (30 points); (2) management structure, key personnel and personnel/staff composition (40 points); (3) monitoring and evaluation (10 points); and (4) past performance (20 points).¹ RFP at 96-97. The RFP advised that in the determination of best value, the technical evaluation factors, when combined, were significantly more important than cost/price.

Each technical evaluation factor included subfactors. For example, the technical approach factor was comprised of two evaluation subfactors: technical soundness and cogent strategy for achieving the objectives of CORE II in the South Sudan context (20 points); and, innovation and creativity (10 points). The management structure, key personnel and personnel/staff composition factor was comprised of four subfactors: quality and relevance of proposed personnel, and demonstrated success working within a team structure on similar projects and in similar contexts (20 points); adequacy of staffing and home office support (10 points); quality and realism of the proposed personnel mobilization plan (5 points); and convincing plan to incorporate South Sudanese staff into CORE II implementation (5 points). Id.

The past performance factor included four subfactors (each weighted 5 points): prior experience in economic governance programs that include ministry of finance functions and central bank functions; experience working in challenging post-conflict environments, emerging governments and other situations relevant to South Sudan; quality of product or service, including consistency in meeting goals and targets, and cooperation and effectiveness of the prime contractor in fixing problems; and demonstrated flexibility, responsiveness, and high-quality technical expertise necessary to effectively provide logistical, financial and human resources support. Id. Offerors were instructed to provide performance references and to identify up to three of their most recent and relevant contracts for efforts similar to the requirements here. In addition, the solicitation advised that the agency reserved the right to obtain past performance information from other sources. Id. at 89.

¹ Cost proposals were to be evaluated on the basis of cost reasonableness, allowability, and realism. RFP at 98.

The RFP provided detailed instructions for the preparation of proposals. Offerors were instructed to submit a technical proposal describing the offeror's conceptual approach and methodology for accomplishing the objectives and results identified in the SOW. In addition, the technical proposal was to demonstrate the offeror's understanding of the work to be performed and the responsibilities of all parties involved. The solicitation also included an illustrative outline to aid offerors in the preparation of their technical proposals. Id. at 87.

The RFP advised offerors that the agency anticipated making award without discussions, but that if discussions became necessary, a competitive range would be established based on the evaluated cost and other evaluation factors listed in the RFP. Offerors were advised that the competitive range might be limited to permit an efficient competition among the most highly rated proposals. Id. at 82, 98.

USAID received five proposals, including one from Crown Agents. A technical evaluation committee (TEC) reviewed and scored the proposals. Crown Agents' technical proposal received a consensus score of 66.4 points out of a possible 100 points, which reflected the TEC's judgment that the protester's proposal was overall very weak. Among other things, the evaluators criticized Crown Agents' technical approach for being too general; failing to demonstrate the firm's knowledge of the current state of human and institutional capacity; failing to demonstrate knowledge of the current state of technical needs in the three objectives; failing to evidence an in-depth understanding of the South Sudan environment, resulting in some unworkable and misguided approaches; and failing to provide sufficient detail about how progress would be made, particularly with regard to human and institutional capacity development. TEC Report at 36-37.

The contracting officer reviewed the TEC's evaluation of proposals and the evaluation of cost proposals, and established a competitive range that included the three most highly rated proposals. Neither Crown Agents' proposal nor the proposal submitted by another offeror was included in the competitive range. Contracting Officer's Statement at 2; AR exh. 6, Competitive Range Determination Memorandum. After receiving notification of its exclusion from the competitive range, the protester requested and received a debriefing. On October 31, 2012, Crown Agents filed this protest.

DISCUSSION

Crown Agents challenges the agency's exclusion of its proposal from the competitive range, disagreeing with the evaluators' judgment under each evaluation factor. According to the protester, but for the agency's improper technical evaluation, its proposal would have been included in the competitive range.

In reviewing a protest challenging 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 evaluation was reasonable and consistent with the stated evaluation factors and applicable statutes and regulations. Smart Innovative Solutions, B-400323.3, Nov. 19, 2008, 2008 CPD ¶ 220 at 3; Foster-Miller, Inc., B-296194.4, B-296194.5, Aug. 31, 2005, 2005 CPD ¶ 171 at 6. Contracting agencies are not required to include a proposal in the competitive range where the proposal is not among the most highly rated. Federal Acquisition Regulation § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5; Hamilton Sundstrand Power Sys., B-298757, Dec. 8, 2006, 2006 CPD ¶ 194 at 6. Here, the contemporaneous record supports the agency's evaluation of Crown Agents' proposal, and we address below a number of the protester's challenges to the agency's evaluation. Although we do not address every one of Crown Agents' arguments, we have considered all of them in our review of the record.

Under the technical approach factor, offerors were instructed that their proposals should provide a detailed narrative responding to all objectives and results set forth in the SOW and include a description of the issues and challenges to be addressed specific to the current South Sudanese context. RFP at 87. Crown Agents disagrees with the agency's assessments under this evaluation factor and directs us to a number of sections in its proposal that Crown Agents contends address this requirement. Protest at 8-10. Based on our review of the protester's proposal, we think that the evaluators had a reasonable basis for finding that it was insufficiently tailored to the specific context of South Sudan. We therefore have no basis to question the evaluators' relative assessments of the protester's proposal under the technical approach evaluation factor.

Crown Agents also challenges a number of assessed weaknesses under the management structure, key personnel and personnel/staff composition evaluation factor, for which Crown Agents' proposal received a consensus score of 29 out of 40 possible points. Under this factor, the agency evaluators noted that the overall quality and relevant qualifications of the protester's proposed key personnel were strong and credited the firm for this strength but noted that the proposed chief of party's experience on similar projects was limited and was largely in the agriculture sector. The evaluators were also concerned that the protester had not proposed sufficient advisors to perform the required tasks at the Central Bank of Sudan, and had not described how its subcontractors would be managed and/or how the divisions of labor would be delineated. TEC Report at 39. Although the protester disagrees with the agency's judgment that its proposed staffing plan was not clearly presented, we do not think that this disagreement with the agency's judgments demonstrates that the agency's evaluation was unreasonable. It is an offeror's obligation to submit an adequately written proposal and it runs the risk that the firm's proposal will be evaluated unfavorably when it fails to do so. CACI Techs.,

Inc., B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5; see also, Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5.

Finally, Crown Agents protests that the agency's evaluation of its proposal under the past performance factor was inadequately documented, complaining that some of the individual evaluation worksheets were either blank or partially completed under this evaluation factor. Protester's Comments at 5. Crown Agents' protest in this regard is without merit. Although an agency must document its evaluation judgments in sufficient detail to show that they are not arbitrary, there is no requirement that individual evaluator's notes or worksheets be memorialized, provided the agency's final evaluation documentation reasonably explains the basis for the agency's judgments. Global Eng'g and Constr., LLC, B-290288.3, B-290288.4, Apr. 3, 2003, 2003 CPD ¶ 180 at 3 n.3. Here, the contemporaneous evaluation record includes the written consensus scores for the TEC under each evaluation factor including past performance. Therefore, there is no merit to the protester's assertion that the agency's evaluation findings were inadequately documented.

The protest is denied.

Susan A. Poling
General Counsel