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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: InfoZen, Inc.

File: B-408234; B-408234.3; B-408234.5

Date: July 23, 2013

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Michael R. Charness, Esq., Amanda J. Dietrick, Esq., and Jenny J. Yang, Esq., Vinson & Elkins LLP, for BAE Systems Information Solutions Inc.; and David W. Burgett, Esq., C. Peter Dungan, Esq., and Emily M.Q. Schriver, Esq., Hogan Lovells US LLP, for IBM Corporation, the intervenors.
Christian F.P. Jordan, Esq., Department of Homeland Security, for the agency.
Louis A. Chiarella, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of protester's small business participation quotation is denied where agency reasonably understood protester's proposed target goal to be a nonbinding aspiration, rather than a firm commitment, to exceed stated requirements.

2. Protest challenging the agency's evaluation of the protester's technical quotation is denied where the evaluation was reasonable and consistent with the stated evaluation criteria and adequately documented.

3. Protest challenging the propriety of the agency's price/technical tradeoff decision is denied where the source selection authority's weighting of the evaluation criteria was consistent with the solicitation, and the tradeoff determination was adequately documented.

DECISION

InfoZen, Inc., of Rockville, Maryland, protests the establishment of blanket purchase agreements (BPA) with BAE Systems Information Solutions Inc. of Herndon, Virginia, Soft Tech Consulting of Chantilly, Virginia, and IBM Corporation of Bethesda, Maryland, under request for quotations (RFQ) No. HSTS03-12-Q-CIO487, issued by the Department of Homeland Security, Transportation Security

Administration (TSA), for operational applications support and information services (OASIS II). InfoZen challenges the agency's evaluation of its quotation and selection decision.

We deny the protest.

BACKGROUND

The RFQ, issued under the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation subpart 8.4, sought quotations from vendors holding FSS contracts under Schedule 70, information technology (IT) professional services. The solicitation contemplated the establishment of two or three BPAs, under which the agency would issue fixed-price and time-and-materials task orders. RFQ at 2. In general terms, the performance work statement (PWS) required the OASIS II contractors to provide to TSA, as needed, "full service, enterprise-focused applications development capabilities where IT services are delivered through state-of-the-art, service-enabled IT software systems and dynamic computing environments." RFQ at 4.

Vendors were informed that the BPAs would be established on a best value basis, considering the following evaluation factors, generally in descending order of importance: (1) small business participation, (2) technical approach, (3) business approach, (4) past performance, and (5) price.[1] RFQ at 103-04. The solicitation also established that the nonprice factors were "individually and when combined . . . significantly more important than . . . [p]rice." RFQ at 104.

Thirteen vendors, including InfoZen, submitted quotations which were adjectivally rated by the agency's technical evaluation team (TET) as outstanding, good, acceptable, or unacceptable for the small business participation, technical approach, and business approach factors; and acceptable or unacceptable for the past performance factor.[2] The quotations of InfoZen and the vendors that received BPAs were evaluated as follows:

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[1] The technical approach and business approach factors were of equal importance. RFQ at 104. The technical approach factor in turn consisted of four elements: (1) technical methodology, (2) experience, (3) efficiencies, and (4) knowledge transfer methodology – technical (these were not, however, denoted as evaluation subfactors). RFQ at 105-06. Similarly, the business approach factor consisted of five elements: (1) understanding and support of TSA's IT strategic plan, (2) ability to achieve results, (3) delivery capabilities, (4) domain knowledge, and (5) knowledge transfer methodology – business. RFQ at 106-08.

[2] The solicitation established that vendors' prices were to be evaluated for reasonableness, but not adjectivally rated. RFQ at 109-10.

	InfoZen	BAE	Soft Tech	IBM
Small Business Participation	Acceptable	Good	Outstanding	Outstanding
Technical Approach	Acceptable	Good	Good	Acceptable
Business Approach	Acceptable	Good	Acceptable	Outstanding
Past Performance	Acceptable	Acceptable	Acceptable	Acceptable
Evaluated Price	$28,112,166	$25,770,685	$28,520,859	$33,147,404

Agency Report (AR), Tab 35, Price/Non-Price Tradeoff Analysis, at 13-44.

The TET's adjectival ratings were supported by narrative discussion that identified each vendor's respective strengths and weaknesses under each evaluation factor. See, e.g., AR, Tab 27, InfoZen Consensus Evaluation Report for Technical Approach Factor, at 1-10; Tab 28, InfoZen Consensus Evaluation Report for Business Approach, at 1-14. Following the consensus evaluations, the evaluators compared the merits of the vendors' quotations, based on their respective strengths and weaknesses. See AR, Tab 35, Price/Non-Price Tradeoff Analysis. The evaluators found that BAE's quotation was superior to that of InfoZen insofar as it was both higher technically-rated and lower priced. Id. at 13-17. Additionally, the evaluators found the higher-priced quotations of Soft Tech and IBM were superior to InfoZen's, because in each instance Soft Tech's and IBM's technical advantages outweighed InfoZen's lower-price. Id. at 36-40, 44-48.

The evaluators' findings and recommendations were provided to the agency's source selection authority (SSA), who accepted the evaluators' judgments and determined that the quotations of BAE, Soft Tech, and IBM represented the best value to the government. AR, Tab 38, Source Selection Decision, at 1-2. After providing InfoZen with a brief explanation of the agency's award decision, this protest followed.

DISCUSSION

InfoZen raises various challenges to the agency's evaluation of its quotation under the small business participation, technical approach, and business approach factors. InfoZen also contends that the agency's subsequent best value determination was unreasonable.[3] We have considered all the various issues and arguments raised by

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[3] InfoZen also alleges that the RFQ was misleading because it failed to inform vendors how much of the 15-page, technical approach submission should be (continued...)

InfoZen, although we only address InfoZen's primary arguments, and find that none provide a basis on which to sustain the protest.

Small Business Participation Factor

InfoZen argues that its quotation should have received a better rating than acceptable under the small business participation factor. Specifically, the protester contends that the agency failed to reasonably consider that InfoZen's quotation identified a small business subcontracting "target" goal that exceeded the RFQ's minimum goal. Supp. Protest at 10-13. InfoZen also argues that the agency did not evaluate in accordance with the solicitation's stated evaluation scheme where the evaluators focused exclusively on the amount of small business participation rather than considering all aspects of the vendor's small business participation plan. 2nd Supp. Protest at 17-18.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations. InnovaTech, Inc., B-402415, Apr. 8, 2010, 2010 CPD ¶ 94 at 4; OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's disagreement with the agency's judgment or its belief that its quotation deserved a higher technical rating is not sufficient to establish that the agency acted unreasonably. Encompass Group LLC, B-310940.3, Mar. 17, 2009, 2009 CPD ¶ 60 at 3; Advanced Tech. Sys., Inc., B-298854, B-298854.2, Dec. 29, 2006, 2007 CPD ¶ 22 at 8-9.

The RFQ instructed vendors to submit small business subcontracting plans, demonstrating the extent of their proposed small business participation. RFQ at 96. Among other things, vendors were to address their total goals and subcontracting percentage goals for small business, small disadvantaged business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, and historically underutilized business (HUB) Zone small business concerns. Id. Likewise, the solicitation established that the agency would evaluate the extent to which vendors' submissions would meet or exceed TSA's total small

(...continued)
allocated to specific elements (vendors were instead provided the discretion to decide how to best allocate the page space provided). Protest at 18-19. We dismiss this protest issue as untimely, as apparent solicitation defects are required to be raised prior to the solicitation's closing date. See 4 C.F.R. § 21.2(a)(1) (2013). Likewise, to the extent InfoZen alleges that the RFQ's technical approach page limit was insufficient to adequately address all requirements, it should have raised the issue prior to, not after, the submission of quotations. See id.

business subcontracting goal of 40 percent as well as various small business subcategory goals, so as to promote diverse small business participation. Id. at 104-05.

With respect to small business participation, InfoZen informed the agency that "[b]ased on our past utilization of small businesses and exceeding TSA's goal, we target 45 [percent], and establish a minimum of 40 [percent], of the total OASIS II subcontracting dollars to small businesses." AR, Tab 24, InfoZen Quotation, Vol. I, Small Business Participation, at 1. InfoZen also submitted a table indicating that it would meet TSA's various small business subcategory goals, and that its total percentage of small business subcontracting would be "40 [percent] (Minimum)" and "45 [percent] (Target)." Id. The TET evaluated InfoZen's small business participation submission and determined that it met, but did not exceed, all of TSA's small business goals, including the overall subcontracting goal of 40 [percent]. AR, Tab 25, InfoZen Consensus Evaluation Report for Small Business Participation Factor, at 1-2. Based on this evaluation, the TET rated InfoZen's quotation as acceptable under this factor. Id.

The record shows that the agency's evaluation of InfoZen's quotation under the small business participation factor was reasonable. InfoZen's quotation indicated that the firm agreed to meet, and not exceed, TSA's total small business subcontracting goal as well as the various small business subcategory goals. Although InfoZen's quotation also stated that InfoZen established an overall 45 [percent] small business subcontracting "target", InfoZen provided nothing further in its submission regarding what it meant by the word "target" or any substantiation of its intent to exceed the RFQ's small business participation goals. It is a vendor's responsibility to submit a well-written quotation for the agency to evaluate, Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 10, and a vendor that fails to do so runs the risk that its quotation will be evaluated unfavorably. See Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6. In light of InfoZen's lack of supporting explanation, the TET reasonably interpreted InfoZen's "target" to be no more than a nonbinding aspiration. Quite simply, "[t]he only solid goal InfoZen quoted was 40 [percent]. 45 [percent] was considered to be a 'nice to have,' but not necessarily a guarantee." Contracting Officer's Statement, May 20, 2013, at 20.

We also find no merit in InfoZen's assertion that the agency's evaluation was, by allegedly focusing only on the amount of small business participation, inconsistent with the solicitation. The record shows that, in accordance with the solicitation, the TET analyzed both the quantitative and qualitative aspects of InfoZen's small business participation plan. AR, Tab 25, InfoZen Consensus Evaluation Report for Small Business Participation Factor, at 1-2. For example, the TET found that InfoZen's plan, consistent with the RFQ, provided for meaningful small business participation directly involved with the OASIS II technical requirements. Id. at 1. In short, the TET found that InfoZen's small business participation plan met all solicitation requirements here and thus warranted an acceptable rating.

Technical Approach Factor

InfoZen challenges the agency's evaluation of its quotation under the technical approach factor. Specifically, the protester objects to the two weaknesses identified in its quotation under this factor with respect to its knowledge transfer methodology and its failure to demonstrate knowledge and understanding in all PWS skill areas. Protest at 8-17. We have reviewed all of InfoZen's assertions regarding TSA's evaluation of its technical approach quotation and find no basis on which to sustain the protest.

With respect to the first weakness, the RFQ required vendors to address their proposed method of transitioning technical knowledge from the incumbent contractor upon issuance of individual task orders. RFQ at 98. The solicitation also established that the agency would evaluate how a vendor's knowledge transfer methodology reduced risk to the government without increasing cost or causing schedule delays. RFQ at 106. InfoZen's quotation with respect to this technical approach element consisted of the various areas of questions that the vendor would use to obtain a complete understanding of the task order, followed by a narrative discussion of its experience in various technical knowledge transfer methodologies (e.g., "Data structures and sharing – We have specific expertise in many of the data structures and data sharing methods that apply to OASIS II"). AR, Tab 26, InfoZen Quotation, Vol. II, Technical Approach, at 14.

The TET identified InfoZen's knowledge transfer methodology as a significant weakness, finding that,

> No end-to-end methodology was established by the [vendor]. Deliverable products and gateways between sections are not identified. There is no demonstration of a phased transition from learning through shadowing to independent production, there is no discussion of ongoing oversight of the transition process and feedback loops for any required corrective action. Overall this process presents a significant risk to [the] government of cost and schedule overruns. Due to finite timelines for completion of knowledge transfer, these overruns can lead to poor task execution, and endanger operational capabilities.

AR, Tab 27, InfoZen Consensus Evaluation Report for Technical Approach Factor, at 9.

The record shows that the agency's evaluation was reasonable and consistent with the stated evaluation criteria. As set forth above, the TET found that InfoZen's proposed knowledge transfer methodology contained no discussion of a phased transition from the incumbent contractor to the new firm, no discussion of oversight of the transition process or feedback loops for any required corrective action (which the protester does not dispute). As a result, the TET reasonably determined that InfoZen's described methodology presented a significant risk to the government of cost and schedule overruns. Although the protester believes that setting out a series of questions it would use and explaining its expertise adequately established a complete, end-to-end knowledge transfer methodology, this is nothing more than disagreement with the agency's judgment, which does not show it to be unreasonable.

With respect to the second assessed weakness (InfoZen's failure to demonstrate knowledge and understanding in all PWS skill areas), InfoZen similarly disagrees with the agency's evaluation judgment without showing it to be unreasonable. Specifically, the TET found that InfoZen's quotation failed to adequately address three of ten PWS requirements, because InfoZen failed to identify necessary skills to perform these requirements.[4] See AR, Tab 27, InfoZen Consensus Evaluation Report for Technical Approach Factor, at 4-6. Although InfoZen continues to argue that its quotation adequately addressed these PWS requirements, the protester does not direct us to any part of its quotation that identifies the skills necessary to perform these requirements.

Business Approach Factor

InfoZen contends that its quotation should have been rated as outstanding rather than acceptable under the business approach factor, where its quotation was assessed as having 13 strengths and no weaknesses. See 2nd Supp. Protest at 7-16. We need not address InfoZen's objection to the rating assigned to its

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[4] The record shows that the TET's award recommendation stated that InfoZen had been assessed a weakness for not demonstrating skills required in multiple PWS areas (thus constituting a performance risk), while BAE, IBM, and Soft Tech each met all requirements here and were, therefore, superior. AR, Tab 35, Price/Non-Price Tradeoff Analysis, at 14, 37, 45. The TET mistakenly stated, however, in its comparison of InfoZen's quotation to IBM's that InfoZen failed to identify skills in five PWS areas (rather than three). InfoZen does not demonstrate that it was prejudiced by this miscounting of the number of PWS skill areas, in which InfoZen's quotation failed to demonstrate knowledge and understanding. See 2nd Supp. Protest at 16-17. Quite simply, regardless of the total number of PWS skill areas in which the protester's quotation failed to demonstrate knowledge and understanding, in each instance InfoZen would have remained technically inferior to the awardees in this particular area, the technical methodology element, and the technical approach factor.

quotation, because the record shows that the TET in its award recommendation based its comparison upon the evaluated attributes in each quotation and not the assigned adjectival ratings.

In the final analysis, ratings, be they numerical, color, or adjectival, are merely a guide to, and not a substitute for, intelligent decision making in the procurement process. See OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4-5; Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 11. The germane consideration is whether the record shows that the agency fully considered the actual qualitative differences in vendors' quotations. See, e.g., Bernard Cap Co., Inc., B-297168, Nov. 8, 2005, 2005 CPD ¶ 204 at 6.

Here, for example, when comparing the BAE and InfoZen quotations under the business approach factor, the evaluators found that the identified strengths made BAE's quotation superior under the understanding and support of TSA's IT strategic plan and domain knowledge elements, while InfoZen's strengths were superior under the ability to achieve results and delivery capabilities elements (the vendors were deemed equal as to knowledge transfer methodology – business). AR, Tab 35, Price/Non-Price Tradeoff Analysis, at 15-16. The evaluators then concluded that BAE's strengths provided a greater advantage to the agency, and therefore made BAE's quotation superior to InfoZen's under the business approach factor.[5] Id. at 16. In fact, the record shows that the evaluators made no mention of InfoZen's business approach rating when determining the vendors' relative superiority.

Source Selection Decision

InfoZen protests that the SSA's selection decision was unreasonable, because the agency allegedly accorded too much weight to the small business participation plan factor. Specifically, InfoZen contends that it "gleaned" from the agency's memorandum of law that TSA deemed small business participation to be significantly more important, rather than just more important, than any other evaluation factor.[6] 2nd Supp. Protest at 18-22.

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[5] The TSA evaluators conducted similar head-to-head comparisons between the quotations of InfoZen and IBM, and InfoZen and Soft Tech. AR, Tab 35, Price/Non-Price Tradeoff Analysis at 38-39, 46-47. Again, in each instance, it was the identified strengths and not the adjectival ratings on which the agency relied when determining the relative superiority of vendors' quotations. Id.

[6] InfoZen also argues that to the extent the agency's interpretation here was reasonable, the RFQ contained a latent ambiguity which would have affected the vendor's quotation. 2nd Supp. Protest at 21.

We find this objection to be wholly without merit. As a preliminary matter, there is nothing in the contemporaneous record--e.g., the TET evaluation reports, the price/nonprice tradeoff analysis, or the SSA's award determination--that suggests the agency considered small business participation to be significantly more important than the technical approach and business approach factors. Rather, the record shows that the agency properly considered small business participation to be the most important evaluation factor, and significantly more important than price.[7] In sum, the agency found, as evidenced by the assigned ratings, that the BAE, IBM, and Soft Tech quotations were all superior to InfoZen as to small business participation, and took this into account as part of its source selection decision.[8] The TSA's proper recognition of a discriminator here between vendors' quotations simply does not support InfoZen's assertion that the agency improperly elevated the importance of this evaluation factor.

The protest is denied.

Susan A. Poling
General Counsel

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[7] In the context of the facts presented here, we note that InfoZen's assertion that the agency placed too much weight on the small business participation factor is completely contrary to its initial complaint. That is, the protester initially alleged that the agency had failed to place enough weight on the small business participation factor, see Protest at 19-21, rather than too much weight. The agency's legal memorandum then responded to InfoZen's initial complaint by describing how, in accordance with the RFQ, small business participation was considered to be the most important evaluation factor.

[8] In fact, IBM and Soft Tech had received ratings of outstanding, as compared to InfoZen's rating of acceptable, which was two levels lower.