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Decision

Matter of: Booz Allen Hamilton, Inc.

File: B-409272; B-409272.2; B-409272.3; B-409272.4

Date: February 25, 2014

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Ashley M. Bender, Esq., and Lori R. Larson, Esq., Internal Revenue Service, for the agency.

Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency erred in failing to downgrade awardee's technical proposal as a result of cost realism analysis is denied where the agency reasonably evaluated awardee's proposal and determined that an upward adjustment should be made to the proposed cost on account of unrealistically low labor rates, but that no downgrade of technical scores was necessary where the awardee's labor mix and technical approach were realistic and its low labor rates did not evidence a lack of understanding of the requirements.

2. Protest that agency engaged in disparate treatment by assigning an exceptional strength to awardee's proposal but not to protester's proposal is denied where the record shows there were qualitative differences between the two proposals.

DECISION

Booz Allen Hamilton, Inc. (BAH), of McLean, Virginia protests the Department of the Treasury, Internal Revenue Service's, issuance of a task order to Accenture Federal Services LLC, of Arlington, Virginia, under request for proposals (RFP) No. 4054,

for information technology and financial management support services.¹ BAH challenges the evaluation of proposals.

We deny the protest.

BACKGROUND

The RFP, issued on July 2, 2013, provided for the issuance of a fixed-price and cost-plus-fixed-fee task order, for a one-year base period with four option years, to support the Department of the Treasury's information technology and financial management programs, projects and budget activities with technical, acquisition, security, financial, project management, program management, enterprise architecture, enterprise development, and enterprise support services. Award was to be made on a "best value" basis considering cost/price and the following non-cost/price factors (in descending order of importance): technical approach, management approach, past performance, and past experience. The non-cost/price factors, when combined, were more important than cost/price.

With regard to cost/price, the solicitation provided that the agency would evaluate cost/price proposals to determine whether they were fair and reasonable, reflected a clear understanding of the requirements, and were consistent with the offeror's technical proposal. The RFP further provided that the price evaluation "may" also include an evaluation of the offeror's price for the purpose of assessing the risk inherent in the offeror's approach. Agency Report (AR), Tab 11, RFP, at 11. In this regard, the solicitation stated that proposals could be rated unacceptable or receive a lower evaluation, if they were: (1) unrealistic in terms of either technical or cost; (2) indicative of a failure to comprehend the complexity and risks associated with the solicitation requirements; (3) reflective of a lack of competence; or (4) indicated an inherent performance or cost risk weakness in the approach. Id. at 10-11.

The agency received four proposals, including those of BAH and Accenture, by the closing time. The agency's technical evaluation panel (TEP) assigned Accenture's proposal four exceptional strengths and three strengths under the technical approach factor; two exceptional strengths and four strengths under the management approach factor; two exceptional strengths and three strengths under the past performance factor; and one exceptional strength and four strengths under

¹ The RFP was issued under the agency's Total Information Processing Support Services (TIPSS-4) indefinite delivery/indefinite quantity (ID/IQ) contract schedule. The estimated value of the task order was \$48,825,932. Contracting Officer's Statement (COS) at 2. As a result, this procurement falls within our jurisdiction to hear protests related to the issuance of task orders under multiple-award ID/IQ contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

the past experience factor. AR, Tab 70, Final TEP Report, at 7-8. In contrast, the TEP assigned BAH's proposal only one exceptional strength and four strengths under the technical approach factor; one exceptional strength and four strengths under the management approach factor; three strengths under the past performance factor; and four strengths under the past experience factor. Id. at 11.

With regard to cost, the cost/price team found Accenture's proposed cost/price of \$48.3 million to be unrealistic. Specifically, the cost/price team found that Accenture's labor rates were low in comparison to the rates proposed by other offerors. AR, Tab 57, Cost & Price Report, at 8-9. The Cost & Price Report also noted that the firm's forward pricing rates had not been agreed to by the Defense Contract Management Agency (DCMA), and that the Defense Contract Audit Agency (DCAA) had identified deficiencies in the firm's accounting and estimating systems. Id. at 10. As a result, the evaluators increased Accenture's cost by \$8,309,035 "for cost realism purposes" to arrive at the firm's total most probable cost estimate. Id. at 10. The resulting evaluated cost for Accenture (\$56.6 million), however, remained lower than BAH's (\$58.2 million).

The TEP and the cost/price team summarized the evaluation for the SSA as follows:

Vendor	Technical Approach	Management Approach	Past Performance	Past Experience	Proposed Cost/Price	Evaluated Cost/Price
Accenture	Excellent	Excellent	Excellent	Excellent	\$48.3 ²	\$56.6
BAH	Good	Excellent	Good	Excellent	\$58.2	\$58.2
Offeror 3	Good	Good	Good	Good	\$59.9	\$59.9
Offeror 4	Excellent	Excellent	Good	Good	\$65.7	\$65.7

AR, Tab 59, Source Selection Decision Document (SSDD), at 3-8.

The SSA determined that Accenture's proposal represented the "best value" to the government based on its overall superiority under the non-cost/price factors and its low cost/price. In reaching this decision, the SSA recognized that the cost/price team had concerns regarding the realism of Accenture's labor rates, which resulted in an upward adjustment in the evaluated cost/price. SSDD at 10. The SSA, however, concurred with the TEP's determination that Accenture's labor category mix and numbers, and overall technical approach, were realistic and appropriate. Id. The SSA also found that Accenture's proposal demonstrated a thorough understanding of the solicitation's requirements. Id. at 9. Upon learning of the resulting award to Accenture, BAH filed this protest with our Office.

² Cost/price is in millions of dollars.

DISCUSSION

BAH asserts that the agency should have downgraded Accenture's technical ratings as a result of the cost realism analysis. The protester also challenges the ratings assigned to its own proposal under the technical and past performance factors.

The evaluation of an offeror's proposal is a matter largely within the agency's discretion. Frontline Healthcare Workers Safety Found., Ltd., B-402380, Mar. 22, 2010, 2010 CPD ¶ 91 at 5. In reviewing a protest that challenges an agency's evaluation of proposals, our Office will not reevaluate proposals; rather, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Ocean Servs., LLC, B-406087, B-406087.2, Feb. 2, 2012, 2012 CPD ¶ 62 at 5. Here, we have reviewed all of BAH's arguments and find that none provide a basis for questioning the best value determination. We discuss several of the arguments below.

Risk in Accenture's Proposal

BAH contends that the agency unreasonably failed to consider the technical risk associated with Accenture's low proposed cost when evaluating Accenture's proposal under the technical approach and management approach factors. Specifically, the protester complains that, while the cost/price analysts found Accenture's cost to be unrealistic and made an upward adjustment in excess of approximately \$8 million to the firm's cost proposal, the technical evaluators did not downgrade Accenture's technical approach and management approach ratings.

The evaluation in this regard was unobjectionable. As noted by the agency, the cost/price team found that Accenture's labor rates, not its labor mix, were unrealistic. Specifically, the cost/price team found that Accenture's proposed direct labor rates for several labor categories were unrealistically low when compared with the rates for the same or similar categories in the other proposals, the internal government cost estimate, and under the agency's Total Information Processing Support Services TIPSS-4 ID/IQ contract. The cost/price analysts therefore adjusted upward Accenture's proposed rates for these categories, resulting in an average evaluated hourly rate of \$[DELETED] (without fee), only slightly less than BAH's comparable average rate of \$[DELETED].

The TEP, in turn, evaluated Accenture's proposal (including both its technical and cost/price proposals) to determine whether it reflected a clear understanding of the solicitation requirements, was consistent with the unique methods of performance described in the technical proposal, or indicated a failure to comprehend the complexity and risk associated with the solicitation requirements. Final TEP Report at 8; AR, Tab 69, SSA Statement, at 1-2. In this regard, during discussions, the agency questioned Accenture regarding its proposal to use a labor mix that

emphasized lower-cost personnel. After analyzing Accenture's proposal and its responses to discussion questions, the TEP concluded that Accenture's proposed labor mix and number of labor hours matched its technical solution and was realistic. SSA's Statement at 2. The TEP concluded that Accenture's lower proposed labor rates did not indicate a lack of understanding of the requirements of the performance work statement (PWS) or an inability to perform the required work. Id. In sum, the agency determined that while Accenture might need to pay more to obtain its proposed staff, there was no basis for questioning its proposed technical approach to performing the PWS. We find nothing in BAH's protest which provides a basis for questioning this determination.

BAH also contends that the agency failed to evaluate the cost risk associated with problems with Accenture's accounting and estimating systems. In this regard, BAH notes that DCAA and DCMA questioned the adequacy of several aspects of Accenture's accounting and estimating systems, including, for example, determining that Accenture's accounting system did not adequately describe its treatment of various costs; did not adequately provide cost information for the reconciliation of the general ledger to claimed direct costs by major cost element; and did not adequately describe its cost estimating development process. See, e.g., DCAA Audit Report No. 3141-2010C19100005, Aug. 21, 2012; DCAA Audit Report No. 3141-2012C110700001, May 4, 2012; DCAA Audit Report No. 3141-2012C2401002 (revised) Feb. 24, 2012. BAH asserts that the agency improperly failed to downgrade Accenture's proposal for the reported elements of noncompliance in Accenture's accounting and estimating systems.

This argument is without merit. As initial matter, we note that the acceptability of an offeror's accounting system concerns a matter of a prospective contractor's responsibility, not technical acceptability. See Sygnetics, Inc., B-404535.5, Aug. 25, 2011, 2011 CPD ¶ 164 at 4; McKissack+Delcan JV II, B-401973.2, B-401973.4 Jan. 13, 2010, 2010 CPD ¶ 28 at 6. In this regard, Federal Acquisition Regulation (FAR) § 9.104-1(e) provides that "[t]o be determined responsible, a prospective contractor must . . . [h]ave the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them." Likewise, FAR § 16.301-3(a)(1) requires that cost-reimbursement contracts may only be used when a "contractor's accounting system is adequate for determining costs applicable to the contractor or order." However, once an offeror has been determined to be responsible and is awarded a contract, as was Accenture with respect to the underlying TIPSS-4 ID/IQ contract, there is no requirement that an agency conduct an additional responsibility determination when issuing a task order under the ID/IQ contract, since a responsibility determination was already made at the time of award of the underlying ID/IQ contract. See Ceradyne, Inc., B-402281, Feb. 17, 2010, 2010 CPD ¶ 70 at 4 (delivery orders under an ID/IQ contract); ESCO Marine, Inc., B-401438, Sept. 4, 2009, 2009 CPD ¶ 234 at 12 (task orders under an ID/IQ contract); Advanced Tech. Sys., Inc., B-296493.6, Oct. 6, 2006, 2006 CPD ¶ 151 at 5 (orders under a Federal Supply Schedule contract).

In any event, our Office generally does not review an affirmative determination of responsibility by a contracting officer. 4 C.F.R. § 21.5(c) (2013); CapRock Gov't Solutions, Inc.; ARTEL, Inc.; Segovia, Inc., B-402490 et al., May 11, 2010, 2010 CPD ¶ 124 at 26; Navistar Defense, LLC; BAE Sys., Tactical Vehicle Sys. LP, B-401865 et al., Dec. 14, 2009, 2009 CPD ¶ 258 at 20. We will, however, review a challenge to an agency's affirmative responsibility determination where the protester presents specific evidence that the contracting officer may have ignored information that, by its nature, would be expected to have a strong bearing on whether the awardee should be found responsible. Compare Southwestern Bell Tel. Co., B-292476, Oct. 1, 2003, 2003 CPD ¶ 177 (contracting officer generally aware of allegations of misconduct by awardee and took no steps to consider the awardee's record of integrity and business ethics) with Verestar Gov't Servs. Group, B-291854, B-291854.2, Apr. 3, 2003, 2003 CPD ¶ 68 at 4-5 (contracting officer aware of adverse information concerning the awardee's integrity and considered it). Here, the record, which includes a discussion of the DCAA and DCMA findings with regard to Accenture's accounting and estimating systems, Cost & Price Report at 9-10, indicates that the agency was aware of the identified problems and considered that they "add some to the cost risk" associated with Accenture's proposal. Id.; see Contracting Officer Supplemental Statement at 2. BAH has made no showing these concerns were not adequately considered in the evaluation.

Technical Rating of BAH's Proposal

BAH also challenges the evaluation of its own proposal under the technical approach factor. First, the protester contends that under the solicitation's definitions of the adjectival ratings, BAH's proposal, which contained an exceptional strength and no weaknesses, was required to be rated "excellent" rather than "good."

We agree with the agency, however, that the protester misunderstands the solicitation's definition of adjectival ratings. In this regard, the solicitation described a rating of "excellent" as follows:

Low Risk-Technical Approach demonstrates [an] excellent understanding of requirements in that the Approach significantly exceeds performance or capability standards; has exceptional strengths that will significantly benefit the Government; and there are no weaknesses or deficiencies. The highest quality of contract performance is anticipated with little or no risk of unsuccessful contract performance.

RFP at 6.

Thus, the solicitation required more than just the presence of an exceptional strength and the absence of weaknesses to receive a rating of "excellent." Rather,

a proposal could only receive a rating of “excellent” if the agency determined that it offered a low risk technical approach that demonstrated an excellent understanding of requirements in that the approach significantly exceeded performance or capability standards. RFP at 6. Although BAH’s proposal received an exceptional strength due to the fact that the firm is the incumbent, and, therefore, there would be no need for an “extensive ramp-up period or knowledge transfer,” TEP Report at 11, the evaluators did not find that BAH’s approach significantly exceeded the solicitation performance or capability standards, or that BAH demonstrated an exceptional understanding of the requirements. CO Statement at 13. BAH has not shown this determination to be unreasonable, and thus we cannot find that the agency’s rating of “good” was unreasonable.

BAH also contends that the agency engaged in disparate treatment in the evaluation of the proposals submitted by Accenture and BAH. In this regard, the protester contends that its proposal offered many of the same strengths credited to Accenture’s proposal, and that the agency’s failure to similarly credit BAH’s proposal for these strengths demonstrates unequal treatment. For example, BAH contends that both the protester and the awardee proposed [DELETED] that would improve innovation, providing [DELETED] geared toward innovation, but that only Accenture was credited with a strength in this regard.

We find reasonable the agency’s explanation that there were sufficient qualitative differences between Accenture’s proposal and BAH’s proposal with regard to the approach to innovation to merit assigning a strength to Accenture’s proposal but not to BAH’s. In this regard, Accenture’s proposal specified that both the [DELETED] and the [DELETED] would report to the [DELETED]. In addition, Accenture’s proposal stated that both the [DELETED] and the [DELETED] would “[DELETED].” Id. Accenture also stated that the [DELETED] would [DELETED] for the agency. Id.

BAH’s proposal, in contrast, provided only the following description of its approach:

Through Booz Allen’s [DELETED] we will also provide Treasury with [DELETED] research [DELETED]. Our analysis will customize the latest industry research to Treasury’s [DELETED] requirements to ensure existing and new initiatives are being considered.

AR, Tab 13, BAH Technical Proposal, at 10-11.

Thus, while Accenture proposed an [DELETED]; indicated the [DELETED]’s role in relation to the rest of the [DELETED] team; explained that the [DELETED] would “[DELETED]” with the [DELETED] team; and provided that the [DELETED] would conduct [DELETED], BAH only proposed that its innovation [DELETED] would provide [DELETED] and did not otherwise describe a role for the [DELETED] role in the overall contract team structure and approach. In sum, the agency found that

Accenture proposed to go beyond BAH's apparent approach of simply providing [DELETED], and instead proposed that Accenture's [DELETED] would [DELETED]. Contracting Officer Supplemental Statement at 5. In these circumstances, we find that the agency's determination that there were qualitative differences that merited a strength for Accenture's proposal, but not for BAH's proposal, was a reasonable exercise of judgment.³

Source Selection Decision

The source selection decision recognized that Accenture's evaluated cost/price had been adjusted upward by the cost/price team as a result of the cost realism analysis. SSDD at 10. According to the protester, the source selection decision was unreasonable because it failed to recognize that the cost/price team had expressed concern that a \$[DELETED] first-year discount offered by Accenture needed to be clarified so as to be made fixed in amount rather than contingent. Cost/Price Report at 7. Thus, according to the protester, it was improper to credit Accenture with this discount, and Accenture's evaluated \$1.6 million cost/price advantage relative to BAH should have been reduced to approximately \$[DELETED]. However, we note that even if the discount was not taken into consideration, Accenture's evaluated cost/price would still have been over \$[DELETED] less than BAH's, and Accenture's technical proposal would still have been reasonably evaluated as superior to BAH's. In these circumstances, we find that this argument furnishes no basis on which to challenge the source selection.

The protest is denied.

Susan A. Poling
General Counsel

³ BAH also challenges the agency's evaluation of past performance, arguing that it should have received a rating of excellent, rather than good. Supplemental Protest at 17-18. However, our Office will not sustain a protest unless the protester demonstrates competitive prejudice--that is, but for the agency's actions, it would have a substantial chance of receiving the award. Velos, Inc.; OmniComm Sys., Inc.; PercipEnz Technologies, Inc., B-400500 et al., Nov. 28, 2008, 2010 CPD ¶ 3 at 12. Here, even if BAH had received a past performance rating of excellent, Accenture's proposal would still have been both higher-rated and lower-priced.