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Decision

Matter of: Star Contract Services, LLC

File: B-409424

Date: April 23, 2014

Lawrence J. Sklute, Esq., Sklute & Associates, for the protester.
Gerald H. Werfel, Esq., Pompan, Murray & Werfel, P.L.C., for Alianza Building Services, Inc., the intervenor.
Rachel G. Borden, Esq., and Lori R. Larson, Esq., Department of the Treasury, 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 that an agency's consideration of the awardee's experience and past performance was unreasonably based upon the experience and past performance of the awardee's teaming partners is denied where the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria.
 2. Protest that the awardee's price was unrealistically low is denied where the agency reasonably found the awardee's price to be realistic.
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DECISION

Star Contract Services, LLC (SCS), of Hyattsville, Maryland, protests the award of a contract to Alianza Building Services, Inc., of Gaithersburg, Maryland, under request for proposals (RFP) No. TIRNO-14-R-00004, issued by the Department of the Treasury, Internal Revenue Service (IRS), for custodial and janitorial services for the IRS Main Building Headquarters, in Washington, D.C. SCS challenges the evaluation of the awardee's proposal.

We deny the protest.

BACKGROUND

The RFP, issued as a section 8(a) set-aside, contemplated the award of a fixed-price contract for specified custodial and janitorial services for a base year and

4 option years. Offerors were informed that award would be made on a lowest-priced, technically-acceptable basis considering the following factors: experience, past performance, and price. RFP § M-3. With respect to the experience and past performance factors, the RFP required offerors to provide two examples of recent, relevant work. With respect to price, offerors were informed that the agency would evaluate prices for both reasonableness and realism. Id.

Fifteen offerors, including Alianza and SCS, submitted proposals. An agency technical evaluation panel (TEP) evaluated offerors' nonprice proposals, while the contracting officer and a contract specialist evaluated the price submissions. The proposals of Alianza and SCS--the two lowest-priced offerors--were evaluated as follows:

	Alianza	SCS
Experience	Acceptable	Acceptable
Past Performance	Acceptable	Acceptable
Price ¹	\$8,313,601	\$8,999,976

Agency Report (AR), Tab 30, TEB Report, at 2-3; Tab 31, Source Selection Decision, at 6. Alianza's acceptable ratings under the experience and past performance factors were based upon two recent, relevant projects performed by Alianza's teaming partners (one project by each partner). AR, Tab 30, TEB Report, at 2-3.

Award was made to Alianza as the lowest-priced, technically-acceptable offeror, AR, Tab 31, Source Selection Decision, at 6-7, and this protest followed.

DISCUSSION

SCS challenges the IRS's evaluation of Alianza's proposal under the experience, past performance, and price factors. The protester contends that Alianza's proposal was technically unacceptable, and contract award should have been made to SCS. We have fully considered all of the protester's issues and arguments regarding the agency's evaluation and, although we do not address them all, find none provide a basis on which to sustain the protest.

¹ The IRS subsequently realized that its evaluated price for each offeror had taken into account only the basic custodial services contract line item (CLIN) rather than all CLINs. Contracting Officer's Statement, Mar. 7, 2014, at 1-3. The agency determined that the Alianza and SCS prices for all CLINs were \$9,082,479 and \$9,837,706, respectively. Id.

Experience and Past Performance Evaluation

SCS challenges the IRS's evaluation of Alianza's experience and past performance. The protester complains that the determination of Alianza's acceptability was based on the experience and past performance of Alianza's teaming partners and not Alianza itself. SCS argues that the references submitted by Alianza's teaming partners should not have been considered because of the vague and/or limited roles that these entities would have in performing the awarded contract.

In reviewing protests of an agency's evaluation, our Office does not reevaluate quotations, rather, we review the evaluation to determine if it was reasonable, consistent with the solicitation's evaluation scheme and procurement statutes and regulations, and adequately documented. Savvee Consulting, Inc., B-408416.3, Mar. 5, 2014, 2014 CPD ¶ 164 at 7. A protester's disagreement with the agency's judgments does not establish that the agency acted unreasonably. Encompass Group LLC, B-310940.3, Mar. 17, 2009, 2009 CPD ¶ 60 at 3.

Here, offerors were required to submit two examples of recent, relevant experience for consideration under the experience and past performance factors. RFP § L-12. In this regard, the RFP stated that "[t]he Government will review the recent experience of the Offeror, including subcontractors and Joint Ventures, on projects submitted in response to this solicitation." RFP § M-2. In its proposal, Alianza identified two experience/past performance references performed by its teaming partners. The first was the incumbent contract, and the second was a recent janitorial/custodial services contract performed at the Department of Justice headquarters building. AR, Tab 21, Alianza Proposal, 1st Teaming Partner Reference Sheet; Tab 22, Alianza Proposal, 2nd Teaming Partner Reference Sheet. Alianza stated in its proposal that it would perform 51 percent of the contract work and that the two teaming partners would perform 49 percent of the work (24.5 percent by each teaming partner). AR, Tab 20, Alianza Proposal, at 1.

Although not required, Alianza also provided teaming agreements for each of its partners. With respect to the 1st teaming partner, the teaming agreement stated that "Alianza . . . intends to subcontract 24.5% of the IRS contract effort to [the 1st Teaming Partner] as follows: [the 1st Teaming Partner] will be responsible for providing all labor, supplies and equipment for project and periodic services." AR, Tab 20, Alianza Proposal, encl. 1, 1st Teaming Agreement, at 6. The 2nd teaming agreement stated "Alianza . . . intends to subcontract 24.5% of the IRS contract effort to [the 2nd Teaming Partner] . . . as follows: [the 2nd Teaming Partner] will be responsible for providing all labor, equipment and supplies for debris removal and snow removal; [and the 2nd Teaming Partner] will be responsible for replacing all contract equipment as necessary and providing preventative maintenance." Id., encl. 2, 2nd Teaming Agreement, at 6.

The TEP evaluated Alianza's experience references and found each demonstrated recent experience that was of similar size and complexity to the requirements here, thereby warranting the assignment of an acceptable rating. AR, Tab 30, TEP Report, at 2. Based on the performance information obtained, the agency evaluators also found Alianza's past performance to be acceptable. *Id.* at 3. The contracting officer, the source selection authority for this procurement, accepted the TEP's evaluation. AR, Tab 31, Source Selection Decision, at 4-5.

SCS contends that the agency should not have accepted the experience and past performance of Alianza's teaming partners. With respect to Alianza's 1st teaming partner, SCS complains that the 1st teaming agreement does not specify the particular tasks that the teaming partner will perform, thereby making it impossible to discern whether that partner role will be critical to successful performance. With respect to the 2nd teaming partner, SCS alleges the teaming agreement indicates that the 2nd partner would only be performing minor tasks that amount to a small percentage of the work effort, thereby establishing that this partner's proposed role did not significantly bear on the likelihood of successful performance.²

The agency responds that the evaluators understood from Alianza's proposal that each of the teaming partners would perform 24.5 percent of the contract effort, to include performance of the basic custodial services CLIN. The 1st teaming agreement specifically states that the teaming partner would perform 24.5 percent of the contract effort and would be responsible for project and periodic services. The agency reasonably found that this indicated that the teaming partner would perform some portion of all specified tasks. We find nothing to support the protester's suggestion that the teaming agreement indicated that the 1st teaming partner's role would be limited to only minor CLINs and would not include basic custodial services.³

With respect to the 2nd teaming agreement, the contracting officer states that:

Exhibit A of Alianza's teaming agreement with [the 2nd Teaming Partner] stated that [the 2nd Teaming Partner] would perform 24.5% of the work on the contract. The bullet points below this statement listed specific work that [the 2nd Teaming Partner] would perform.

² The work specifically referenced in the 2nd teaming agreement--debris removal, snow removal and contract equipment functions--appear to comprise about 5 percent of the total contract effort. *See* AR, Tab 25, Alianza Proposal, section B; Tab 27, Alianza Proposal, attach. 8, Cost/Price Worksheets.

³ In fact, we find it is not possible--as the protester suggests--for the 1st teaming partner to perform 24.5 percent of the total effort without also performing a portion of the basic custodial services CLIN.

I understood this document to state that [the 2nd Teaming Partner] would perform 24.5% of the contract. Therefore I determined that the work [the 2nd Teaming Partner] would perform was not limited to the specific work described in the document, and that [the 2nd Teaming Partner] would also perform work under [the basic custodial services CLIN] in order to reach the 24.5% amount.

I was not concerned about a failure to list each aspect of work to be performed by [the 2nd Teaming Partner] in the bullet points because . . . I understood that [the 2nd Teaming Partner] would be doing 24.5% of the work based on the specific number stated in the teaming agreement.

Contracting Officer's Statement, Apr. 18, 2014, at 1.

We find the IRS's consideration of the 2nd teaming partner's experience/past performance was reasonable. Although the only work specifically identified in the teaming agreement comprised less than 24.5 percent of the effort promised, the teaming agreement, and Alianza's proposal, committed to the assignment of 24.5 percent of the effort to the teaming partner. We thus find that the contracting officer reasonably found that the teaming partner would perform 24.5 percent of the total effort, and its role would include--but not be limited to--the specific tasks set forth in the teaming agreement.

In sum, as the agency reasonably found that Alianza's team members would perform almost half of the total effort and the RFP provided for the consideration of references from teaming partners, we find the agency's consideration of the experience and past performance of Alianza's teaming partners to be reasonable.

Price Evaluation

SCS also protests that the agency failed to evaluate Alianza's price in accordance with the solicitation. The protester alleges, among other things, that Alianza's price was unrealistically low and reflected an inadequate understanding of the complexities of performing the solicitation requirements.

The RFP instructed offerors to submit, as part of their price proposals, a cost/price worksheet which contained a breakdown of the offeror's labor hours (by labor category), labor rates, overhead, other direct costs (e.g., equipment), general and administrative expenses, and profit. RFP § L-12; attach. 8, Cost/Price Worksheet. The RFP also established that the agency would "conduct a price analysis of overall prices, and then perform a realism analysis for the purpose of measuring each Offeror's understanding of the requirements and to assess the risk inherent in an Offeror's proposal." RFP § M-3. Additionally, "[t]otal prices submitted by the Offeror that are determined to be more than 25% above or below the Independent

Government Estimate [IGE] or more than 25% above or below the average of all the price proposals received in response to the solicitation will be considered to be unreasonably high or unrealistically low and will not be considered for award.” Id.

Where an RFP contemplates the award of a fixed-price contract, the agency generally is not required to analyze the realism of offerors’ proposed prices; this is because a fixed-price (as opposed to a cost-reimbursement) contract places the risk and responsibility for contract costs and ensuing profit or loss on the contractor.⁴ Triad Logistics Servs. Corp., B-407842.2, Apr. 22, 2013, 2013 CPD ¶ 106 at 4. However, an agency may, as the agency did here, provide for the use of a price realism analysis for the limited purpose of assessing offerors’ understanding of the solicitation’s requirements or the risk inherent in offerors’ proposals. Consolidated Eng’g Servs., Inc., B-279565.5, Mar. 19, 1999, 99-1 CPD ¶ 76 at 10; see FAR § 15.404-1(d)(3). The nature and extent of a price realism analysis are generally within the sound exercise of the agency’s discretion, and our review of such an evaluation is limited to determining whether it was reasonable and consistent with the solicitation’s evaluation criteria. American Techs., Inc., B-401445, Aug. 28, 2009, 2009 CPD ¶ 178 at 2.

We find the agency’s evaluation of Alianza’s price proposal to be unobjectionable. As a preliminary matter, the IRS appropriately found Alianza’s price to be reasonable, inasmuch as it was the lowest-priced proposal received.⁵ AR, Tab 31, Source Selection Decision, at 6-7. The record also establishes the agency reasonably used various price analysis techniques to assess the realism of Alianza’s price, by comparing the awardee’s prices to: (1) other offerors’ prices; (2) the IGE; and (3) the incumbent contract price. The agency found that Alianza’s price, while lower than that of other offerors, was within 25 percent of the price average.⁶ Contracting Officer’s Statement, Feb. 21, 2014, at 8. The agency also found that Alianza’s price for basic custodial services was \$8,313,601, while the corresponding IGE was \$8,179,889, a difference of \$133,713 (about 2 percent). Contracting Officer’s Statement, Feb. 27, 2014, at 1. The IRS also found that

⁴ While an agency is required to determine that the cost to the government is reasonable before making contract award, Federal Acquisition Regulation (FAR) § 15.402(a), price reasonableness concerns whether an offeror’s price is unreasonably high. The Matthews Group, Inc. t/a TMG Constr. Corp., B-408003.3, B-408004.3, Mar. 21, 2014, 2014 CPD ¶ 253 at 8.

⁵ Although this was initially limited to the basic custodial services CLIN, the IRS subsequently determined that Alianza’s price remained lowest overall for all CLINs. Contracting Officer’s Statement, Mar. 7, 2014, at 1-3.

⁶ Further, the difference between Alianza’s price and the second-lowest (SCS) price was \$686,374 (about 7.6 percent). AR, Feb. 21, 2014, at 5.

Alianza's price (all CLINs) was \$9,082,479, while the incumbent contract price was \$9,359,691.⁷ Contracting Officer's Statement, Mar. 7, 2014, at 2-3. Finally, the agency compared Alianza's labor hours and rates--as set forth in the offeror's cost/price worksheets--to those contained in the IGE. Contracting Officer Representative's Statement, Feb. 27, 2014, at 2. Based on the assessment of labor hours, labor rates, and price, the IRS reasonably concluded that Alianza's price was realistic.

SCS does not contend that Alianza's proposed labor hours and labor rates were unrealistic, nor does the protester dispute that Alianza's price was less than 25 percent below both the IGE and price average. Rather, SCS argues that no contemporaneous documentation supports the agency's price realism evaluation, and the comparison of Alianza's price to the IGE concerned only the basic custodial services CLIN rather than all CLINs.

We find no merit to the protester's complaint that the record does not support the agency's price evaluation. Here, the declarations provided by the agency detail the price realism analyses performed by the agency, filling in previously unrecorded details and supporting the reasonableness of the agency's evaluation. While we generally give little weight to reevaluations and judgments prepared in the heat of the adversarial process, Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, post-protest explanations that provide a detailed rationale for contemporaneous conclusions simply fill in previously unrecorded details, and will generally be considered in our review of the rationality of selection decisions. NWT, Inc.; PharmChem Labs., Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16.

There is also no merit to SCS's argument that the price realism evaluation was unreasonable because the comparison of Alianza's price to the IGE only involved the basic custodial services CLIN. As a preliminary matter, the record reflects the IGE included only the basic custodial services work. Consequently, the only valid comparison of offerors' prices to the IGE that could be made was limited to the basic custodial services CLIN. Additionally, the basic custodial services CLIN represents over 90 percent of the offerors' total prices, with many of the other CLINs being on an "as needed" basis. Lastly, the agency's comparison of Alianza's price to the IGE was but one part of an analysis that also included comparing the awardee's price to that of other offerors and to the incumbent contract (as well as analyzing labor hours and rates). In sum, SCS's protest does no more than express

⁷ The incumbent contract price was also based on a slightly larger scope of work. Contracting Officer's Statement, Feb. 21, 2014, at 8-9.

disagreement with the nature and extent of the agency's price realism analysis, which does not provide a basis on which to sustain a protest.

The protest is denied.

Susan A. Poling
General Counsel