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Decision

Matter of: Dynamix Consulting Corporation, Inc

File: B-409501

Date: May 1, 2014

Kevin P. Joyce, Esq., and Eric S. Crusius, Esq., Centre Law Group, LLC, for the protester.

Charles L. Webster III, Esq., Department of the Army, Corps of Engineers, for the agency.

Gary R. Allen, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's price evaluation is denied where protester's arguments are not supported by the record.

DECISION

Dynamix Consulting Corporation, Inc., of Diamond Bar, California, protests the award of a contract to Mr. Al Dyer, of Corsicana, Texas, under request for proposals (RFP) No. W9126G-14-R-0011, issued by the Department of the Army, Corps of Engineers for park cleaning services at Navarro Mills Lake, Texas. Dynamix asserts that the agency improperly evaluated price proposals.

We deny the protest.

The RFP, issued on December 4, 2013 as a small business set-aside, contemplated the award of a fixed-price indefinite-delivery, indefinite-quantity (ID/IQ) contract with a 1-year base period and two 1-year option periods, and a total estimated value of between \$500,000 and \$1,000,000. RFP at 11. The RFP sought to procure cleaning, mowing, and water-testing services at Navarro Mills Lake, Texas, through the issuance of task orders under the contract. *Id.* at 12. Offerors were instructed to submit unit line item pricing through various "bid schedules" for Task Order 0001 (from February through April 2014) and the base and options years of the ID/IQ contract. *Id.* at 6-10, 151-53. The base and option year pricing schedules assumed a quantity of one for each line item, whereas the

task order pricing schedule contained larger estimated quantities for each line item. Id.

The RFP provided that the government would award a contract to the offeror whose offer was the most advantageous to the government, considering “Task Order Price Only” and past performance, with task order pricing weighted more important than price. Id. at 147. The RFP also provided that offers would be evaluated “for award purposes by adding the total price for all options to the total price of the base requirement.” Id.

The agency received 11 offers by the proposal due date. Both Dynamix and Al Dyer were rated very good for past performance. With respect to price, Al Dyer’s price for Task Order 0001 was \$41,046, which was lower than Dynamix’s price of \$43,993.¹ AR, Tab 7, Acceptance Memorandum, at 5. The agency considered this task order pricing, but also evaluated unit pricing for the base and option years of the ID/IQ contract to determine if the offerors’ prices were fair, reasonable, and balanced. Id. at 6-7. With regard to unit pricing, in some instances, Al Dyer proposed higher unit rates, and in other instances, Dynamix proposed higher unit rates. Compare AR, Tab 5, Dynamix Pricing, at 10-12 with AR, Tab 6, Al Dyer Pricing, at 2-10. The agency noted that the sum total of Al Dyer’s unit prices for the base and option years was \$498.00, which was higher than Dynamix’s sum total of unit prices of \$480.19.² AR, Tab 7, Acceptance Memorandum, at 7. When expected quantities for the life the contract were applied to specific unit prices, the agency found that Al Dyer’s price was in fact \$46,225.53 lower than Dynamix’s total price over the life of the contract. Id.

Based on this analysis, the agency selected Al Dyer for award, and this protest followed. In its protest, Dynamix contends that the agency deviated from the RFP and produced a misleading result with its price evaluation.

The evaluation of an offeror’s proposal is a matter within the agency’s discretion. Networking & Eng’g Techs., Inc., B-405062.4 et al., Sept. 4, 2013, 2013 CPD ¶ 219 at 9. 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. Id.

¹ Both proposed prices were below the government independent estimate of \$78,120. AR, Tab 7, Acceptance Memorandum, at 6.

² Al Dyers proposed zero escalation for the option years, whereas Dynamix proposed escalation. AR, Tab 7, Acceptance Memorandum, at 2-4.

Here, the protester complains that the agency awarded the contract based only on the price for Task Order 0001, without considering the total price for the base and option years. Protest at 3; Comments at 2-4. The record belies this contention. As discussed above, the agency considered both the Task Order 0001 pricing, as well as unit pricing for the base and option years, and also the overall value of the contract based on expected quantities. The agency did not make award solely on the basis of Task Order 0001 pricing, as the protester complains. To the extent that the protester contends that there is a conflict between the language in the solicitation that required the evaluation of “Task Order Price Only” and the language stating that award would be based on the total price including all options, this argument is untimely, as it raises a patent ambiguity that should have been asserted prior to proposal submission.³ 4 C.F.R. § 21.2(a)(1) (2014); see Env’tl Sys. Research Inst., Inc., B-408847.2, Jan. 17, 2014, 2014 CPD ¶ 53 at 5.

The protest is denied.

Susan A. Poling
General Counsel

³ Dynamix also argues that in the event that the agency had found the firm’s past performance to be lacking, the agency should have referred the matter to the Small Business Administration. We did not develop this protest ground because we found it to be speculative. In any event, the protester’s past performance was rated very good and was not a discriminator in the award decision.