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Decision

Matter of: SS Medical, Inc.

File: B-409705.3

Date: April 17, 2015

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Tracy Downing, Esq., Department of Veterans Affairs, for the agency.

Frank Maguire, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest against the agency's evaluation of the offerors' proposals and the source selection decision is denied where the record furnishes no basis for questioning the reasonableness of the evaluation ratings and resulting award determination.

DECISION

SS Medical, Inc. (SSMI) of Bixby, Oklahoma, protests the Department of Veterans Affairs' (VA) award of a contract to Greene Respiratory Services, Inc. (Greene), of Milford, Ohio, under Request for Proposals (RFP) No. VA249-14-R-0173, for home oxygen services. SSMI challenges the evaluation of the offerors' technical proposals and asserts that the source selection decision was unreasonable.

We deny the protest.

BACKGROUND

The RFP, issued on March 11, 2014, as a total small business set-aside, provided for the award of six indefinite-delivery/indefinite-quantity (ID/IQ) contracts,¹ with a

¹ The VA planned to award one ID/IQ contract for each of the six Veterans Integrated Service Network 9 areas of consideration. RFP at 66. The protester here challenges the award of contracts for the following three areas of consideration:

(continued...)

1-year base period and four 1-year options, for the provision of home oxygen services to patients in Veterans Integrated Service Network 9 (VISN 9). RFP at 8, 66. Award was to be made for each area of consideration to the offeror whose proposal represented the best value to the government considering: (1) technical capability, (2) past performance, (3) socio-economic status, and (4) price. RFP at 59. All non-price factors, when combined, were significantly more important than price. Id. at 66.

With regard to the technical capability, the RFP advised that the agency would evaluate proposals under five subfactors: (1) technical approach; (2) organization and key personnel; (3) management plan and scheduling methodology; (4) quality control; and (5) safety and infection control plan. Id. at 59-60. As relevant here, the agency's evaluation of the organization and key personnel subfactor would consider offerors' related work experience within the last five years of similar scope, magnitude and complexity. Id. at 60. In this regard, offerors were instructed to describe their "work experience relating to providing Home Oxygen Services." Id.

The agency received 11 proposals, including those submitted by Greene and SSML, by the July 17 closing date. Contracting Officer's (CO) Statement at 2. The agency identified 25 strengths and 7 weaknesses in Greene's proposal, resulting in a technical capability rating of good. In evaluating SSML's proposal, the agency identified 21 strengths and 13 weaknesses, resulting in a technical capability rating of acceptable. Agency Report (AR), Tab Q, SSEB Report, at 13-14, 16. With regard to past performance, the agency evaluated Greene's past performance as exceptional/high confidence, while SSML's past performance was rated good/significant confidence. Id. at 13-14, 16-17. With regard to price, Greene's proposal offered a lower price than SSML's for the Louisville and Huntington areas of consideration. AR, Tab F, Source Selection Decision Document (SSDD), at 7-8. For the Lexington area, Greene's price was approximately 10% higher than SSML's. See id.; AR, Tab S, Source Selection Authority (SSA) Declaration, at 2.

The following chart summarizes the agency's evaluation of the proposals submitted by Greene and SSML:

(...continued)

Lexington, Kentucky; Louisville, Kentucky; and Huntington, West Virginia. Protest at 4.

Offeror	Technical Capability	Past Performance	Socio-economic	Lexington Price	Louisville Price	Huntington Price
Greene	Good	Exceptional/ High Confidence	No Credit	\$7,077,050	\$3,983,100	\$6,466,015
SSMI	Acceptable	Good/ Significant Confidence	No Credit	\$6,397,045	\$4,198,780	\$6,537,505

AR, Tab F, SSDD, at 7-8; Tab Q, SSEB Report, at 14, 16.

Based on this evaluation of proposals, the SSA concluded that Greene's proposal was the most advantageous for the Huntington, Lexington, and Louisville locations. AR, Tab F, SSDD, at 7-9; Tab S, SSA Declaration, at 2; CO Statement at 2. Award was made to Greene for all three locations, and this protest followed.

DISCUSSION

SSMI challenges the agency's evaluation of technical proposals because, the protester contends, the agency failed to credit the firm for its experience performing current VA contracts and the agency's assignment of strengths and weaknesses was inconsistent and unreasonable. The protester also asserts that the agency's tradeoff decision was unreasonable and undocumented. For the reasons discussed below, we find no basis to sustain the protest.

With regard to the agency's evaluation of SSMI's technical proposal, the protester first contends that the agency failed to properly credit the firm's experience under the organization and key personnel subfactor. As set forth above, the agency's evaluation of that subfactor was to include a consideration of offerors' experience providing home oxygen services. RFP at 60. SSMI notes that the SSEB Report contains the following statement: "Current VA Contracts at Louisiana and Jackson." AR, Tab Q, SSEB Report, at 16. SSMI contends that this statement demonstrates that the agency unreasonably failed to credit the firm with its experience providing home oxygen services under four VA contracts and three home medical equipment contracts, and instead credited the firm with experience under only two current contracts. Protester's Comments at 8.

In reviewing protests challenging an agency's evaluation of proposals, our Office does not independently evaluate proposals; rather, we review the agency's evaluation to ensure that it is reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. SOS Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2.

SSMI's protest furnishes no basis on which to question the evaluation results here. SSMI's argument focuses on a phrase in the SSEB report that notes the firm's

current contracts in Louisiana and Jackson. However, the SSEB report reflects that the agency did acknowledge and credit SSMI with all four of its current VA home oxygen service contracts. Specifically, the narrative for one of SSMI's technical capability strengths states "VISN 16 contracts . . . 4 total." AR, Tab Q, SSEB Report, at 16; see Tab S, SSA Declaration, at 2 ("the TEB considered the protester's . . . four contracts to be a strength, stating: 'VISN 16 Contracts (2) - 4 total'").

With regard to the remaining three contracts, the agency explains that these contracts were for home medical equipment rather than home oxygen supply, and were therefore not considered to be relevant to the procurement here. AR, Tab S, SSA Declaration, at 2; Tab G, SSMI Technical Proposal, at 5-6. Our review of the record provides no basis for concluding that the agency's evaluation in this regard was unreasonable. The RFP here specifically informed offerors that the agency's evaluation of experience under the organization and key personnel subfactor would consider "work experience relating to providing Home Oxygen Services." RFP at 60. The protester's proposal, in fact, characterized these three contracts it argues should have been considered relevant as "service/home medical equipment delivery," "delivery, setup and repair of home medical equipment," and "durable medical equipment delivery and removal," and did not specifically reference home oxygen services. AR, Tab G, SSMI Technical Proposal, at 6. Given the RFP's focus on experience with home oxygen service contracts, we find that the agency reasonably determined that SSMI's home medical equipment contract references were not relevant.

Next, SSMI asserts that the VA's evaluation of its proposal under the technical evaluation factor was unreasonable because of inconsistencies between strengths and weaknesses identified in the proposal. Specifically, the protester contends that there is an inconsistency in the evaluation in that the agency assigned it a strength for a "[g]ood plan on providing service to all counties," but also listed as a weakness the fact that SSMI had no "clear plan on how they expect to provide services to our area." Protester's Supp. Comments at 1-2; see AR, Tab Q, SSEB Report, at 16. The agency argues that the strength and weakness are not inconsistent because they relate to different VISN regions. Specifically, the SSA states that the strength for "good plan on providing service to all counties" related to VISN 16 contracts, while the weakness for "no clear plan on how they expect to provide services to our area" related to the VISN 9 contracts to be awarded here. AR, Tab S, SSA Declaration, at 1. Thus the agency contends that the strength and weakness are not inconsistent or contradictory because they relate to two different VISN regions. In any event, we note that this challenge reflects an asserted inconsistency between a single strength and single weakness found in SSMI's proposal. The protester does not demonstrate, and the record does not otherwise indicate, that this asserted inconsistency would have any effect on either SSMI's technical capability rating of acceptable (which was based on 21 strengths and 13 weaknesses), or the ultimate source selection decision. See Bannum, Inc., B-408838, Dec. 11, 2013, 2013 CPD

¶ 288 at 4 (prejudice is an element of every viable protest). Therefore, we find that this argument does not provide a basis on which to sustain the protest.

Finally, SSMI asserts that the SSA's tradeoff analysis was "devoid" of "any comparison between the actual proposal approaches submitted by the awardees and the proposal approach submitted by SS Medical." Protester's Comments at 10. In this regard, SSMI complains that "there is no evidence that the SSA ever independently evaluated any of the offerors' Technical factors." Protester's Supp. Comments at 4.

Although the selection official's judgment must be documented in sufficient detail to show it is not arbitrary, a failure to discuss every detail regarding the relative merit of the proposals in the selection decision document does not affect the validity of the decision where the record shows that the agency's award decision was reasonable. Carmon Constr., Inc., B-292387, B-292387.3, Sept. 5, 2003, 2003 CPD ¶ 158 at 4. Additionally, a source selection official may rely on evaluation reports provided by technical evaluators. Cajun Constructors, Inc., B-409685, July 15, 2014, 2014 CPD ¶ 212 at 8; see Pan Am World Servs., Inc., et al., B-231840 et al., Nov. 7, 1988, 88-2 CPD ¶ 446 at 22 (SSA not required to read the proposals and may rely upon evaluators' advice to make an integrated assessment of the proposals).

Based on the record here, we find the agency's source selection was adequately documented for each of the challenged contract awards. In this regard, although the SSDD itself is brief, the decision incorporated and referenced the findings in the SSEB's more detailed report. AR, Tab F, SSDD, at 4 ("full SSEB Consensus Evaluation Report is attached and may be referred to for the full Past Performance and Technical evaluation results of each offeror"). Further, the record reflects that Greene received higher ratings under both the technical capability and the past performance² factors, which were significantly more important than price.

With regard to the Lexington and Huntington locations, Greene's proposal was not only higher rated, but also lower priced. In these circumstances, no cost/technical trade-off was required in order to make award to the technically superior, lower priced offeror. See Segovia, Inc. d/b/a Inmarsat Gov't, B-408376, B-408376.2, Sept.

² Greene received a "high confidence rating" based on very relevant past performance and three past performance questionnaires, with two exceptional ratings and one very good rating. AR, Tab F, SSDD, at 7-8. Greene was also the incumbent at the Louisville location. AR, Tab Q, SSEB Report, at 13. In contrast, SSMI received only a significant confidence rating, based on very relevant past performance, but with two government past performance information retrieval system (PPIRS) ratings of only satisfactory, as well as one past performance questionnaire response of exceptional. Id.

3, 2013, 2013 CPD ¶ 203 at 10 (tradeoff not required when selecting highest-rated, lowest-priced proposal); Rotech Healthcare, Inc., B-410203, B-410203.3, Nov. 5, 2014, 2014 CPD ¶ 333 at 10. In these circumstances, SSMI has furnished no basis for challenging the resulting selection of Greene for these locations.

With regard to the Louisville location, we find that the SSA reasonably selected Greene's higher-priced, higher-rated proposal. As set forth above, the RFP stated that the non-price factors, when combined, were significantly more important than price. RFP at 59. Further, in selecting Greene's proposal, the SSA noted that Green's [deleted] experience "warranted the higher cost to the Government." AR, Tab F, SSDD, at 8. In these circumstances, we find that SSMI's protest furnishes no basis for questioning the SSA's determination that Greene's technical superiority warranted payment of the 10% price premium associated with Greene's proposal, such that it represented the best value for the Louisville location.

The protest is denied.

Susan A. Poling
General Counsel