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Decision

Matter of: XLA Associates, Inc.

File: B-412333.2

Date: January 29, 2016

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R. Rene Dupuy, Esq., and Adriana Vieco, Esq., United States Agency for International Development, for the agency.

Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of protester's and awardee's proposals is denied where record supports the agency's evaluation and protest merely reflects disagreement with the agency's judgments.

2. Protest challenging agency's best-value determination based on alleged flaws in the evaluation of proposals is denied where record supports agency's evaluation.

DECISION

XLA Associates, Inc., of Vienna, Virginia, protests the U.S. Agency for International Development's (USAID) award of a contract to Macfadden & Associates, Inc., of Silver Spring, Maryland, pursuant to request for proposals (RFP) No. SOL-OAA-14-000062 to provide support services for USAID's Bureau of Democracy, Conflict, and Humanitarian Assistance (DCHA). XLA protests that the agency misevaluated Macfadden's proposal; misevaluated XLA's proposal; and made an unreasonable best-value determination.

We deny the protest.

BACKGROUND

Macfadden is the incumbent contractor for these requirements and, for several years, XLA was a subcontractor to Macfadden under that contract. During the period it performed as Macfadden's subcontractor, XLA provided certain recruiting services using its proprietary software/website, which it refers to as the GlobalCorp platform. Protest at 8-9. In March 2014, Macfadden opted not to renew XLA's subcontract, replacing XLA with small businesses. Protest at 9. Since then, the recruiting activities have apparently been performed without using XLA's GlobalCorp platform.

In August 2014, the agency published the solicitation at issue, seeking proposals to provide operational and administrative services supporting DCHA in coordinating USAID's international disaster response and humanitarian assistance, emergency and developmental food aid, conflict mitigation programs, and transition activities.¹ The solicitation stated that it was the agency's intent to award three indefinite-delivery, indefinite-quantity (IDIQ) contracts,² against which task orders will subsequently be issued.³ The RFP's statement of work (SOW) identified 6 tasks the contractor(s) will be required to perform: (1) administrative support for grants, cooperative agreements, and interagency agreements; (2) recruitment and administrative support for personal services contracts;⁴ (3) field program support;⁵ (4) administrative support for DCHA/Washington; (5) information support services; and (6) staff training and support. RFP at 25-38.

The solicitation provided that award would be made on a best-value basis and established the following evaluation factors: technical understanding/approach; staffing approach; management approach; corporate/institutional capability; past

¹ The agency states that DCHA's worldwide work "supports economic, social, and political development, and helps protect development gains from being rolled back by disasters and conflict, thereby furthering United States national security broadly defined." Agency Report (AR), Tab 17, RFP at 23.

² The agency stated that it anticipated making two awards to small businesses and one award on an unrestricted basis. RFP at 101. Neither Macfadden or XLA are small businesses and, thus, they were competing for the unrestricted award.

³ Task orders will be issued on either cost-reimbursement or fixed-price bases. RFP at 51-54.

⁴ The agency states that it currently maintains approximately 300 personal services contracts. RFP at 26.

⁵ The contractor must provide support to DCHA's overseas field teams. RFP at 30.

performance; use of small businesses; branding/marketing; and cost/price.⁶ RFP at 114-18. The solicitation identified various labor categories, for which each offeror was required to propose labor rates, and also contained a sample task for which each offeror was required to submit a cost matrix. Id. at 110-11.

On or before the October 15 closing date, proposals were submitted by 11 offerors.⁷ Thereafter, Macfadden’s and XLA’s proposals were evaluated as follows:⁸

	Macfadden	XLA
Technical Understanding/Approach	Outstanding	Marginal
Staffing Approach	Very Good	Marginal
Management Approach	Outstanding	Marginal
Corporate/Institutional Capability	Very Good	Marginal
Past Performance	Very Good	Very Good
Use of Small Businesses	Outstanding	Outstanding
Branding/Marking Plan	Pass	Pass
Evaluated Cost/Price	\$112,936,390	\$109,360,328

AR, Tab 24, TEC Report, at 10; Tab 25, Source Selection Decision Document, at 20.

The agency assigned Macfadden’s proposal an overall technical rating of very good and summarized the rating stating: “Overall, the offeror convincingly demonstrated a technical approach which will result in an outstanding, effective, efficient contract performance.” AR, Tab 25, Source Selection Decision Document, at 8. The agency assigned XLA’s proposal an overall technical rating of marginal, stating: “The offeror’s inability to demonstrate a comprehensive technical approach and methodology increases the risk of unsuccessful contract performance.” Id. at 9. Based on this evaluation, the agency concluded that Macfadden’s technically superior proposal was worth its slightly higher price, and selected Macfadden’s proposal for award. Id. at 21, 24. XLA’s protest followed.

⁶ The solicitation provided that the non-cost/price factors were listed in descending order of importance, and that the non-cost/price factors combined were significantly more important than cost/price. RFP at 114.

⁷ The other offerors’ proposals, and the agency’s evaluation thereof, are not relevant to XLA’s protest, and are not further discussed.

⁸ The agency employed an adjectival rating system under which proposals were rated as outstanding, very good, good, marginal or unacceptable under each of the non-cost/price evaluation factors (except branding/marketing, which was evaluated on a pass/fail basis). AR, Tab 24, Technical Evaluation Committee (TEC) Report, at 7-12.

DISCUSSION

XLA protests that the agency misevaluated Macfadden's proposal, misevaluated XLA's proposal, and made an unreasonable best-value determination. However, much of XLA's protest reflects two recurring themes: (1) because Macfadden's proposal did not rely on XLA's recruiting software/website (the GlobalCorp platform), it was unreasonable for the agency to evaluate Macfadden's proposal as technically superior to XLA's; and (2) Macfadden's decision not to renew XLA's prior subcontract, and its subsequent replacement of XLA with other subcontractors, constituted "subcontractor mismanagement" that should have led to lower evaluation ratings for Macfadden's proposal. As discussed below, XLA's complaints provide no basis to sustain its protest.

Evaluation of Macfadden's Proposal

XLA challenges the agency's evaluation of Macfadden's proposal under virtually every evaluation factor, frequently referring to the two themes identified above. For example, with regard to evaluation under the technical understanding/approach factor, XLA protests that because Macfadden was not proposing to use XLA's recruiting software/website, its technical approach was "inherently risky" and therefore, it was "arbitrary and unreasonable" for the agency to evaluate Macfadden's proposal as outstanding under this factor. Protest at 9-10.

With regard to evaluation of Macfadden's proposal under the management approach evaluation factor, XLA complains that, by "declining to renew XLA's subcontract [in 2014]," Macfadden "jeopardized DCHA's mission and needs," and maintains that Macfadden's subsequent replacement of XLA with other subcontractors reflects "gross subcontractor mismanagement."⁹ Protest at 11-13. On this basis, XLA asserts that the agency's evaluation of Macfadden's proposal as outstanding under the management approach factor reflects the agency's "arbitrar[y] and unreasonabl[e] disregard[] [for] Macfadden's inadequacies under this factor." Id. at 13. Similarly, with regard to the corporate/institutional capability evaluation factor, XLA asserts that Macfadden's "failure to effectively manage its subcontractors" under the prior contract "necessarily should have resulted in a low rating in this evaluation factor." Id. at 14.

With regard to cost/price, XLA asserts that the agency's evaluation of Macfadden's proposal was flawed because the agency failed to recognize that Macfadden's proposed reliance on recruiting tools other than GlobalCorp, along with Macfadden's alleged "pattern of hiring and firing subcontractors," should have

⁹ The first subcontractor replacing XLA had performance problems, and Macfadden replaced that subcontractor with another in June 2014.

caused the agency to conclude that “the costs of Macfadden’s mismanagement will continue to be passed on [to] the agency.” Id. at 16.

Finally, with regard to the past performance evaluation factor, XLA asserts that, in 2011, Macfadden allowed the security clearances [redacted] on a particular worksite to expire. Id. at 15; see Declaration of Macfadden President, Nov. 30, 2015, at 1. XLA asserts that this “failure” by Macfadden, along with Macfadden’s “inability to manage its relationships with subcontractors” should have been viewed by the agency as reflecting “unacceptable risk” in its evaluation of Macfadden’s past performance. Protest at 15.

At the outset, the agency responds that many of XLA’s assertions are inaccurate, and maintains that neither XLA’s dissatisfaction with Macfadden’s termination of XLA’s prior subcontractor relationship, nor Macfadden’s proposal of an alternative to XLA’s recruiting software/website, provides a basis to challenge the agency’s technical evaluation. In this regard, the agency notes that the solicitation’s technical understanding/approach evaluation factor did not require offerors to propose any particular recruiting tool(s)--and certainly did not require offerors to propose XLA’s GlobalCorp recruiting software/website. AR, Contracting Officer’s Statement, at 4-6. Rather, the solicitation provided for evaluation based on the extent to which an offeror proposed “fast and flexible technical solutions” that included the offeror’s proposed “approach, methodology, analytical techniques . . . and recommendations for sustaining and enhancing existing systems for performing Task 1 through Task 6.”¹⁰ RFP at 114.

In this regard, the agency states that Macfadden’s proposal: demonstrated an understanding that different DCHA offices require different recruitment tools; described the website that Macfadden will provide, which will be “fully-owned” by DCHA; and recognized that information gathered for DCHA belongs to DCHA. See AR, Tab 19, Macfadden Technical Proposal, at 6-11. The agency further states that Macfadden’s proposal was assigned multiple strengths and significant strengths regarding its proposed approach to performing the other 5 tasks--which XLA’s protest does not meaningfully address. See AR, Tab 24, TEC Report, at 29-37. On this record, the agency maintains that XLA’s complaints provide no basis to question the agency’s evaluation of Macfadden’s proposal as outstanding under the technical understanding/approach evaluation factor.

The agency similarly responds that it properly evaluated Macfadden’s proposal as outstanding under the management approach factor, and as very good under the corporate/institutional capability factor, noting that the solicitation provided for

¹⁰ The agency notes that the recruiting requirements, on which much of XLA’s protest focuses, constitute only 1 of the 6 required tasks (task 2), and that XLA’s protest largely ignores the other 5 tasks. AR, Contracting Officer’s Statement, at 6.

assessment of management methodology, reaction to client requirements, ability to mobilize staff, and corporate experience under those evaluation factors. RFP at 115-16. The agency states that Macfadden's proposal offered clearly defined lines of authority, and reflected a positive methodology for problem resolution--which Macfadden demonstrated by promptly replacing the poorly-performing subcontractor after Macfadden's relationship with XLA was terminated. Again, the agency notes that Macfadden's proposal was assigned multiple strengths and significant strengths under these evaluation factors--which XLA's protest does not meaningfully address. See AR, Tab 24, TEC Report, at 40-43. On this record, the agency maintains that it reasonably evaluated Macfadden's proposal as outstanding under the management approach evaluation factor and very good under the corporate/institutional capability factor. For these same reasons, the agency also maintains that there was no basis to assess risk under the cost/price evaluation factor due to Macfadden's prior management of its subcontractors, or its proposed approach to performing recruiting activities.

Finally, the agency maintains that it reasonably evaluated Macfadden's proposal as very good under the past performance factor. Specifically, the agency states that none of XLA's past performance allegations were reflected in the past performance reports the agency obtained from the past performance information retrieval system (PPIRS), and that all of the PPIRS reports provided positive assessments. AR, Contracting Officer's Statement, at 10.

The evaluation of proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. In reviewing an agency's evaluation, we will not reevaluate proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with applicable statutes and regulations. An offeror's disagreement with the agency, without more, does not render the evaluation unreasonable. Encorp-Samcrete Joint Venture, B-284171, B-284171.2, Mar. 2, 2000, 2000 CPD ¶ 55 at 4.

Here, based on our review of the record and the agency's responses to XLA's allegations, we find no merit in XLA's assertions that the agency's evaluation of Macfadden's proposal should have been lower due to Macfadden's termination of its prior relationship with XLA, or its proposal of a recruiting approach that did not rely on the GlobalCorp software/website. That is, neither XLA's dissatisfaction with its replacement under the predecessor contract nor its perception that Macfadden could not have submitted a superior technical proposal without relying on XLA's recruiting software/website provides a basis for sustaining its protest. Further, as the agency notes, XLA's protest fails to meaningfully address most of the strengths and significant strengths assigned to Macfadden's proposal, attempts to improperly elevate the significance of the recruiting portion of the contract requirements, and merely reflects XLA's disagreement with the agency's judgments regarding Macfadden's proposed approach to performing the contract requirements.

Following receipt and review of the agency report, XLA filed comments that raised additional allegations, including the assertion that one of the five key personnel proposed by Macfadden (the supervisory information specialist/ISU [information support unit] manager) failed to meet the solicitation's minimum qualification requirements. XLA Comments on AR, Nov. 30, 2015, at 4-10. Specifically, XLA notes that the solicitation established education and experience requirements for five key personnel positions¹¹ and provided that a supervisory information specialist/ISU manager with a Master of Arts degree must have 12 years of relevant experience. See RFP at 19. XLA asserts that Macfadden's proposed supervisory information specialist/ISU manager had less than 12 years of experience.

The agency responds that the resume submitted for Macfadden's proposed supervisory information specialist/ISU manager reflected relevant experience totaling more than 13 years. Supp. AR, Dec. 17, 2015, at 4; see AR, Tab 19, Macfadden Technical Proposal, at A-8, A-9. Noting that the solicitation required that experience be "related to the work being performed," RFP at 19, the agency first refers to the solicitation's position description for the supervisory information specialist/ISU manager, which stated that the person filling this position will:

Provide diverse informational support services . . . includ[ing] research and production of various information products, including fact sheets describing situations in a country . . . [and will] [c]ollect, synthesize, and analyze information pertaining to humanitarian emergencies and response efforts, and draw upon that information to draft, edit, appropriately format, and disseminate a wide range of internal and external information products in Washington, D.C., and overseas.

RFP at 16.

The solicitation added that, as the ISU manager, the individual filling this position will also:

[be] required to attend meetings in Washington, D.C., and in disaster zones, and collaborate closely with information counterparts from other U.S. Government agencies, the United Nations, and non-governmental organizations.

Id.

¹¹ The five key positions are: project manager, supervisory grant/agreement specialist, senior recruiter, senior contract specialist, and supervisory information specialist/ISU manager. RFP at 55. With regard to these positions, offerors were required to propose named individuals, and submit resumes and letters of intent. RFP at 106.

The agency notes that the resume submitted for Macfadden's proposed supervisory information specialist/ISU manager lists various positions the individual previously held, along with applicable dates, and describes activities performed under each prior position that are related to the work to be performed for this solicitation. The aggregate experience reflected in the resume totals more than 13 years.¹²

Here, based on our review of the description of past activities, and a comparison of those activities to the solicitation's description of the work required for this position, we do not find unreasonable the agency's determination that the experience of Macfadden's proposed key personnel met the solicitation's experience requirements. Accordingly, XLA's protest challenging the agency's evaluation of Macfadden's proposal in this regard is denied.

In summary, we find no basis to sustain the protest based on any of XLA's allegations regarding the agency's evaluation of Macfadden's proposal.¹³

Evaluation of XLA's Proposal

Next, XLA protests the agency's evaluation of XLA's own proposal. As noted above, XLA's proposal was rated marginal, with multiple weaknesses, significant weakness, and deficiencies, under each of the four most-important evaluation factors: technical understanding/approach; staffing approach; management approach; and corporate/institutional capability.¹⁴ XLA protests virtually every evaluated weakness, significant weakness, and deficiency. We have reviewed all of

¹² XLA complains that the resume double-counted a 5-month period. While XLA is correct, this error is not prejudicial since, even after correction of the error, the resume reflects a total period of experience in excess of 12 years.

¹³ In filing and pursuing this protest, XLA has presented various challenges to the agency's evaluation that are in addition to, or variations of, those discussed above, including: the assertion that Macfadden's proposal should have been downgraded for proposing a former employee of The Louis Berger Group; challenges to Macfadden's non-key personnel; additional assertions regarding Macfadden's alleged failures and/or misconduct under the prior contract; and allegations of unequal evaluation. We have considered all of these assertions and find no basis to sustain the protest.

¹⁴ The agency defined a marginal rating as: "[T]he proposal marginally meets the standard for minimal but acceptable performance. The offeror may complete the assigned tasks; however, there is at least a moderate risk that the offeror will not be successful. There are significant weakness(es). There may be a deficiency or deficiencies." AR, Tab 24, TEC Report, at 8.

XLA's allegations and find no basis to sustain its protest. Below, we discuss some examples of the agency's evaluation.

First, in rating XLA's proposal marginal under the most important evaluation factor, technical understanding/approach, the agency considered the extent to which XLA offered "fast and flexible technical solutions" that included the offeror's proposed "approach, methodology, analytical techniques . . . and recommendations for sustaining and enhancing existing systems for performing Task 1 through Task 6." RFP at 114. In multiple instances, the agency concluded that XLA's proposal was flawed in this regard. For example, with regard to task 1 (administrative support of grants, cooperative agreements, and interagency agreements), the solicitation advised offerors that a large part of DCHA's disaster and humanitarian assistance is implemented through grants. RFP at 25. In responding to the task 1 requirements, XLA's proposal referred to its "expert knowledge" regarding those requirements, and referenced its specific experience with grants awarded by USAID's Global Health (GH) Bureau. AR, Tab 21, XLA Technical Proposal, at 3-4.

The agency assigned a deficiency to XLA's proposal based on its failure to understand the difference between GH grants and DCHA grants, stating: "GH [Global Health] grants are development grants [and are] not similar to DCHA's emergency response grants." AR, Tab 24, TEC Report, at 53. The agency explains that there are different regulatory requirements regarding the two types of grants, and further explains that "unlike GH development grants, DCHA's [emergency response] grants require an obligation document to be ready for signature within a timeframe of 48 hours." AR, Contracting Officer's Statement, at 12.

It is an offeror's responsibility to submit a proposal that responds to, and demonstrates a clear understanding of, the solicitation requirements; where a proposal fails to do so, the offeror runs the risk that the procuring agency will evaluate its proposal unfavorably. See, e.g., United Contracting, LLC, B-408279, June 25, 2013, 2013 CPD ¶ 150 at 3; International Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7. As noted above, the evaluation of proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. In reviewing an agency's evaluation, we will not reevaluate proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with applicable statutes and regulations. Finally, an offeror's disagreement with the agency, without more, does not render the evaluation unreasonable. Encorp-Samcrete Joint Venture, supra.

Here, nothing in XLA's protest submissions provides a basis for our Office to find the agency's negative assessment of XLA's proposal unreasonable. Indeed, XLA acknowledges in its protest that "GH development grants are not identical to DCHA emergency response grants," yet asserts, without elaboration, that "there are

similarities . . . that can be leveraged.” Protest at 19. Similarly, in its comments responding to the agency report, XLA attempts to downplay the significance of the agency’s concern, maintaining that “[the] GH example is only a part of XLA’s fast and flexible solution.” XLA Comments on AR, Nov. 20, 2015, at 16. On this record, XLA’s protest challenging the agency’s negative assessment of its proposal under the technical understanding/approach evaluation factor is without merit.

As another example, the agency rated XLA’s proposal marginal under the staffing approach evaluation factor, which provided that proposals would be evaluated based on the “viability of . . . [an offeror’s] approach to hiring, retaining and replacing appropriately cleared personnel.” See RFP at 115. The agency assigned a significant weakness to XLA’s proposal on the basis that XLA had proposed a [redacted] Staffing Methodology” that was “confusing and unclear.” AR, Tab 24, TEC Report, at 56; see AR, Tab 21, XLA Technical Proposal, at 20. Specifically, the agency referenced a table in XLA’s proposal that purported to summarize the methodology, see AR, Tab 21, XLA Technical Proposal, exh. 2-1, but concluded that the table and accompanying narrative merely provided a [redacted]. In this context, the agency concluded that the proposal failed to provide adequate detail regarding how XLA would make staff available “for an international disaster response and 24/7 worldwide operations,” and further noted that the proposed staffing approach was “overly reliant on [redacted].” AR, TEC Report, at 56.

An offeror is responsible for submitting a well-written proposal that allows for a meaningful review by the procuring agency. Hallmark Capital Grp., LLC, B-408661.3 et al., Mar. 31, 2014, 2014 CPD ¶ 115 at 9. Further, as noted above, an offeror’s disagreement with the agency does not render the evaluation unreasonable. Encorp-Samcrete Joint Venture, supra.

Here, nothing in XLA’s protest submissions provides a basis for our Office to question the reasonableness of the agency’s negative assessment. Indeed, XLA makes no attempt to meaningfully clarify its “[redacted] Staffing Methodology,” choosing instead to express disagreement with the agency’s assessment that XLA is overly reliant on [redacted]. In arguing that XLA is not overly reliant, XLA’s assertions simply reflect its disagreement with the agency’s judgment. On this record we reject XLA’s assertion that the agency’s evaluation of its proposal under the staffing approach evaluation factor was unreasonable.

In summary, while our decision here does not discuss all of XLA’s multiple challenges to the agency’s evaluation of XLA’s proposal, we have reviewed all of XLA’s complaints in this regard and find no merit in them. XLA’s protest challenging the agency’s evaluation of its proposal is denied.

Best-Value Determination

Finally, XLA protests that the agency's errors in "unreasonably and irrationally evaluating Macfadden more favorably than XLA . . . rendered the Agency's best-value decision materially flawed." Protest at 32. XLA asserts that, but for the agency's evaluation errors, the contract would have been awarded to XLA on the basis of its lower evaluated cost/price.

As discussed above, we have rejected XLA's multiple allegations regarding the agency's evaluation of XLA's and Macfadden's proposals. Based on the substantial technical superiority of Macfadden's proposal, we find nothing unreasonable in the agency's determination to award to Macfadden notwithstanding its slightly higher cost/price. Accordingly, XLA's protest challenging the agency's best-value determination is denied.

The protest is denied.

Susan A. Poling
General Counsel