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Decision

Matter of: Pro-Sphere Tek, Inc.

File: B-410898.11

Date: July 1, 2016

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DIGEST

1. Challenge alleging that the agency's evaluation of proposals was inconsistent with the solicitation is denied where the evaluation was reasonable and consistent with the criteria set forth in the solicitation's evaluation factors for award.
2. Agency's conclusions that the offerors' proposals were "essentially equivalent" under multiple evaluation factors is not unreasonable where the underlying evaluation reflects that the proposals, although not identical, were closely balanced in multiple respects.

DECISION

Pro-Sphere Tek, Inc. (ProSphere), of Alexandria, Virginia, protests its nonselection for a contract award in connection with request for proposals (RFP) No. VA-118-15-

R-0558, issued by the Department of Veterans Affairs (VA) for information technology (IT) services. ProSphere challenges the agency's evaluation of proposals and source selection decisions.

We deny the protest.

BACKGROUND

The RFP, referred to as the Transformation Twenty-One Total Technology Next Generation procurement (T4NG), was issued on November 19, 2014, for the purpose of obtaining total IT solutions encompassing all IT services required by the VA. Contracting Officer's Statement of Facts (COSF) at 1. The RFP anticipated award of up to 20 indefinite-delivery/indefinite-quantity (IDIQ), multiple award task order contracts with a 5-year base period and one 5-year option period.¹ Id. The RFP provided that task orders under the awarded contracts would be issued on fixed-price, time-and-materials, and cost-reimbursement bases, and established a maximum total value for all orders of \$22.3 billion for the base and option period. RFP at 4-11.

The RFP established that award would be made on a best-value basis considering price and the following five non-price evaluation factors: (1) technical; (2) past performance; (3) veterans involvement; (4) veterans employment; and (5) small business participation commitment (SBPC). RFP at 120-21. The technical factor was further divided into two subfactors, sample tasks and management. Id. at 121.

For the purpose of making the best-value award decisions, the RFP established the relative importance of the various factors and subfactors. Id. at 120. In this regard, the technical factor was significantly more important than past performance, which was slightly more important than veterans involvement, which was slightly more important than veterans employment, which was slightly more important than SBPC, which was slightly more important than price. Id. Under the most important factor, technical, the RFP indicated that the sample tasks subfactor was more important than the management subfactor. Id.

As relevant here, concerning the past performance factor, the RFP required offerors to submit up to three instances for the prime contractor, and up to two instances for

¹ The RFP advised that of the 20 anticipated awards, 4 awards were reserved for service-disabled veteran-owned small businesses (SDVOSBs), 4 additional awards for SDVOSBs or veteran-owned small businesses (VOSBs), and 4 awards for small businesses generally. RFP at 120-21. Large businesses were eligible to compete for eight unreserved awards. The RFP also provided that the VA reserved the right to make additional awards--reserved and/or unrestricted--if such awards were determined to be in the best interests of the government for any reason. Id. at 121.

up to three major subcontractors, of federal, state, or commercial contracts performed within the past three years which are relevant to the efforts under the T4NG solicitation. The RFP provided that “[a]reas of relevance include contracts/subcontracts the Offeror has been awarded and are greater than \$1,000,000 and which provide any of the IT services similar to those required under . . . the T4NG [performance work statement (PWS)]. RFP at 114.

Concerning the agency’s past performance evaluation approach, the RFP provided that “[t]he Past Performance evaluation will assess the relative risks associated with an Offeror’s likelihood of success in fulfilling the Solicitation’s requirements.” Id. at 122. Specifically, the RFP advised that the agency would “conduct a performance risk assessment based on the quality, relevancy and recency of the Offeror’s past performance, as it relates to the probability of successful accomplishment of the required effort,” and would “review aspects of technical quality, schedule and performance.” Id. at 122-123.

Concerning the SBPC factor, the RFP provided that:

The proposal will be evaluated to determine the extent to which the Offeror demonstrates a commitment to meeting or exceeding the following Small Business Goals: SDVOSB: 10% of the total contract value; VOSB: 12% of the total contract value; Small Disadvantaged Business (SDB) (including Section 8(a)): 5% of the total contract value; Women-Owned Small Business: 5% of the total contract value; Historically Underutilized Business Zone (HUB Zone) Small Business: 3% of the total contract value. Any inability to meet the Government’s subcontracting goal(s) for this procurement must be supported by an adequate explanation as to why that goal(s) cannot be met.

RFP at 123. The RFP further provided that:

The proposal will also be evaluated to determine whether the Offeror has met the overall Small Business Participation Requirement for this procurement which is 35% of the total contract value. The Offeror must meet the Small Business Participation Requirement in order to be found acceptable under this factor.

Id. at 124.

The VA received timely proposals from 142 offerors. After an initial evaluation, the agency created a competitive range of 39 offerors, and conducted discussions. COSF at 2. Subsequent to an evaluation of final proposal revisions (FPR), the

agency selected 21 proposals for award: 8 unrestricted, 6 total SDVOSB/VOSB set-asides, 4 small business set-asides, and 3 additional unrestricted awards. Agency Report (AR), Tab 7, Unsuccessful Offeror Letter, at 2-3. ProSphere was not among the awarded offerors. Id.

As relevant, the agency's source selection decision document (SSDD) included two attachments which contained detailed tradeoff analyses between ProSphere and very similarly rated awardees: Ellumen, Inc. and Favor Tech Consulting, LLC. AR, Tab 15, SSDD, Attachment 27 (Ellumen Tradeoff); Attachment 32 (Favor Tech Tradeoff). The overall evaluation factor ratings and prices of these firms were as follows:

	ProSphere	Ellumen	Favor Tech
Technical	Acceptable	Acceptable	Acceptable
Sample Tasks	Acceptable	Acceptable	Acceptable
S. Task 1	Good	Acceptable	Acceptable
S. Task 2	Acceptable	Good	Acceptable
S. Task 3	Acceptable	Acceptable	Good
Management	Good	Good	Good
Past Performance	Low Risk	Low Risk	Low Risk
Veterans Involvement	Full Credit	Some Credit	Full Credit
Veterans Employment²	[DELETED]; [DELETED]	6 veterans; 8.96 percent	7 veterans; 14.58 percent
SBPC	Outstanding	Outstanding	Outstanding
Price	\$17.160 B	\$13.904 B	\$14.843 B

AR, Tab 16, Unsuccessful Offeror Letter, at 2-3.

With respect to the tradeoff decisions between these offerors, generally, the source selection authority (SSA) concluded that the proposals were essentially equivalent under the most important factor--technical, as well as under the past performance and SBPC factors. Although the SSA acknowledged that ProSphere was superior to Ellumen in the veterans involvement and veterans employment factors, and superior to Favor Tech in the veterans employment factor, the SSA concluded in each case that the superiority of ProSphere's proposal did not warrant the payment of the significant price premium associated with selecting ProSphere for award.

² Under the veterans employment factor, the RFP established that the agency would evaluate the extent to which offerors employed veterans. RFP at 123. Accordingly, the RFP instructed offerors to identify the total number of veterans employed at the time of proposal submission, as well as the percentage of their workforce comprised of veterans. Id. at 115-16.

Accordingly, the agency concluded that Ellumen and Favor Tech represented the best value to the government in comparison to ProSphere, and made awards to those other firms.

ProSphere received an unsuccessful offeror letter on March 7, 2016. The unsuccessful offeror letter advised ProSphere of its own evaluation ratings and the ratings of all awardees. ProSphere also timely requested a debriefing, which it received on March 14. This protest followed.

DISCUSSION

ProSphere contends that the agency's evaluation was inconsistent with the terms of the RFP concerning the past performance factor and SBPC factor. ProSphere also contends that the SSDD reflects an inadequate qualitative assessment of the proposals, and that the agency's tradeoffs relied instead on an improper mechanical comparison of adjectival ratings.³ The agency responds that the evaluation and the SSDD were consistent with the evaluation and award criteria in the RFP, and that the tradeoffs between ProSphere and other firms were based on analyses which included review of the underlying strengths and weaknesses of each proposal. We agree with the agency.

Past Performance Evaluation

ProSphere first alleges that the past performance evaluation departed from the terms of the RFP by assessing relevance on a relevant/not relevant basis, rather than on a comparative basis considering varying degrees of relevance. In this regard, ProSphere asserts that because the RFP did not advise offerors that relevance would be employed as a threshold only, the agency was required to consider the comparative level of relevance for each offeror's past performance references. ProSphere contends that, as an offeror that worked on the predecessor

³ We discuss ProSphere's primary protest allegations in this decision. To the extent allegations raised by ProSphere are not discussed in this decision, we have reviewed the protest record and conclude that none of ProSphere's challenges provide a basis to sustain the protest. For example, ProSphere's challenges to the agency's technical evaluation are based primarily on ProSphere's review of the perceived merits of its own proposal, and disagreement with the agency's evaluation. A protester's disagreement with the agency's evaluation does not demonstrate that the evaluation is unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7. Additionally, we conclude that ProSphere's challenge to the agency's evaluation of its management proposal essentially represents an attempt to insert a corporate experience evaluation requirement where none exists in the RFP.

contract, its past performance references were highly similar to the PWS and should have been evaluated as “more relevant” than the past performance of other offerors.

Where a solicitation requires the evaluation of offerors’ past performance, we will examine an agency’s evaluation to ensure that it was reasonable and consistent with the solicitation’s evaluation criteria, since determining the relative merits of offerors’ past performance information is primarily a matter within the contracting agency’s discretion. Hanley Indus., Inc., B-295318, Feb. 2, 2005, 2005 CPD ¶ 20 at 4. Here, we conclude that the agency’s evaluation of past performance relevance was consistent with the criteria set forth in the RFP.

While ProSphere is correct that the RFP in this case did not provide that past performance relevance would be considered only as a threshold matter, it equally did not advise that the agency would consider various degrees of relevance on a comparative basis or that “more relevant” past performance would be accorded more weight or evaluated more favorably. Compare Epsilon Systems Solutions, Inc., B-409720, B-409720.2, July 21, 2014, 2014 CPD ¶ 230 at 3, 10 (solicitation expressly advised that greater consideration would be given to more relevant contracts), with CPS Prof'l Servs., LLC, B-409811, B-409811.2, Aug. 13, 2014, 2014 CPD ¶ 260 at 2 (solicitation advised that high quality performance of past tasks that are relevant to the current requirement may be rated higher than performance of tasks with poor quality or of less relevance), with DynCorp Int'l, LLC, B-412451, B-412451.2, Feb 16, 2016, 2016 CPD ¶ 75 at 16 (solicitation advised that the evaluation would consider the recency and relevancy of the current/past performance and assess a single performance confidence rating, and that only recent/relevant data would be utilized in assessing the performance confidence rating). Rather, in this case, the RFP evaluation criteria provided that the agency would “conduct a performance risk assessment based on the quality, relevancy and recency of the Offeror’s past performance, as it relates to the probability of successful accomplishment of the required effort,” and would “review aspects of technical quality, schedule and performance.” RFP at 122-123.

On the basis of our review of the record, it is apparent that the agency evaluated past performance references by assessing whether the references were recent (within three years) and relevant (over \$1 million; any IT services similar to the PWS), and by reviewing the quality of the reference considering aspects of “technical quality, schedule and performance.” Id. at 123. Then, on the basis of these three assessments, the agency assigned each offeror an overall performance risk rating. We see nothing inconsistent between this evaluation approach and the RFP evaluation criteria set forth above. The T4NG RFP simply did not require the agency to conduct the type of comparative relevance analysis desired by the

protester.⁴ An agency is not required to further differentiate between the past performance ratings based on a more refined assessment of the relative relevance of the offeror's prior contracts, unless specifically required by the RFP. See DynCorp Int'l, LLC, supra; University Research Co., LLC, B-294358.6, B-294358.7, Apr. 20, 2005, 2005 CPD ¶ 83 at 18.

SBPC Evaluation

ProSphere next alleges that the agency erred by failing to assign higher ratings to firms whose proposals more greatly exceeded the overall small business commitment requirement of the SBPC factor, which ProSphere asserts was required by the terms of the RFP. In this connection, ProSphere argues that it was unreasonable and inconsistent with the terms of the RFP for the agency to assign it an outstanding SBPC rating for proposing to use small businesses for [DELETED] percent of the work, while also assigning outstanding ratings to firms whose proposals only marginally exceeded the SBPC factor's requirement of 35 percent overall small business commitment.

In reviewing an agency's technical evaluation, we consider whether it was reasonable and consistent with the solicitation's evaluation criteria. Systems Research Laboratories, Inc., B-246242.2, Apr. 21, 1992, 92-1 CPD ¶ 375. Here, we see nothing unreasonable in the agency's evaluation approach, and no inconsistency between the evaluation and the terms of the RFP.

The RFP provided that under the SBPC factor the agency would "determine the extent to which the Offeror demonstrates a commitment to meeting or exceeding" the small business goals for SDVOSB, VOSB, SDB, woman-owned, and HUBZone small businesses. RFP at 123 (underlined added). For overall small business commitment, however, the RFP provided that the agency would evaluate only "whether the Offeror has met the overall Small Business Participation Requirement for this procurement which is 35% of the total contract value." Id. at 124 (underline added).

In turn, the evaluation record shows that the agency assigned strengths under the SBPC factor where proposals committed to exceed small business goals for SDVOSB, VOSB, SDB, woman-owned, and HUBZone small businesses, and that these strengths supported the adjectival ratings assigned to the various proposals.

⁴ To the extent ProSphere's argument is that the RFP should have provided for a "comparative" evaluation of relevance, or established more stringent relevancy criteria, such an argument is a challenge to the terms of the RFP, and is untimely. Our Bid Protest Regulations require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals be filed before that time. 4 C.F.R. § 21.2(a)(1).

Concerning overall small business commitment, as specifically provided by the RFP, the agency assessed only whether the 35 percent threshold had been met. We cannot conclude that this evaluation approach was in any way inconsistent with the evaluation criteria set forth in the RFP, which specifically advised that the agency would evaluate “whether the Offeror has met the overall Small Business Participation Requirement.” RFP at 124 (underlined added).

Tradeoff Analyses

ProSphere contends that the SSDD reflects an inadequate qualitative assessment of the proposals, and that the tradeoffs between proposals relied on an improperly mechanical comparison of adjectival ratings. ProSphere specifically objects to the SSA’s determinations that the proposals were “essentially equivalent” under various factors, and asserts that the SSA failed to look beyond the adjectival ratings in these areas. As set forth above, the SSDD reflects the SSA’s conclusion that ProSphere’s proposal was essentially equivalent to the proposals of both Ellumen and Favor Tech under the technical, past performance and SBPC factors.⁵ The agency responds that the SSDD was consistent with the RFP, thoroughly documented, and demonstrates that tradeoffs were made on the basis of individual analyses that included review of the underlying strengths and weaknesses of each proposal.

Where solicitations provide for award on a “best-value” basis, it is the function of the SSA to perform a price/technical tradeoff, that is, to determine whether one proposal’s technical superiority is worth the higher price; the extent to which one is sacrificed for the other is governed only by the test of rationality and consistency with the stated evaluation criteria. Remington Arms Co., Inc., B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 15; Chenega Technical Prods., LLC, B-295451.5, June 22, 2005, 2005 CPD ¶ 123 at 8. Where a price/technical tradeoff is to be made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs, including the benefits associated with additional costs. Federal Acquisition Regulation (FAR) § 15.308; The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific cost or price value difference when selecting a higher-priced, higher-rated proposal for award. FAR § 15.308; Advanced Fed. Servs. Corp., B-298662, Nov. 15, 2006,

⁵ With respect to the SBPC factor, ProSphere’s argument is based on the allegation that its higher level of overall small business commitment should have been considered on a comparative basis, and more favorably rated in comparison to other offeror’s lower commitments. As addressed above, the RFP did not require comparative analysis of overall small business commitment, but only a determination that the offeror had met the 35 percent requirement.

2006 CPD ¶ 174 at 5. Additionally, in analyzing competing proposals, a source selection official may rely on evaluation reports provided by technical evaluators. See General Dynamics C4 Sys., Inc., B-406965, B-406965.2, Oct. 9, 2012, 2012 CPD ¶ 285; Diemaster Tool, Inc., B-241239, B-241239.2, Jan. 30, 1991, 91-1 CPD ¶ 89 at 6.

On our review of the record, we see no errors in the challenged tradeoff analyses. Rather, the record demonstrates that the tradeoff decisions were reasonably supported by the underlying strengths and weaknesses of each proposal as presented to the SSA in a detailed briefing provided by the agency's source selection evaluation board (SSEB), and that the SSDD adequately documented the SSA's conclusions including the rationale for tradeoffs made.

Concerning the technical factor, the SSDD shows that where the evaluation identified areas of meaningful difference, the SSA documented underlying strengths and weaknesses of the proposals that supported the existence of one proposal's advantage. In other areas, the SSA noted that "[a]fter reviewing and considering the underlying strengths and weaknesses I have determined that both Offerors . . . were essentially equal." AR, Tab 15, SSDD, Attachment 27 (Ellumen Tradeoff) at 2; Attachment 32 (Favor Tech Tradeoff) at 2. While the SSDD did not elaborate on the equivalence of the various underlying strengths and weaknesses in areas that were determined "essentially equal," the SSDD provides that the assessments were made after comparing the underlying evaluation results detailed in the SSEB briefing and with the input of the source selection advisory council.

In turn, review of the SSEB briefing materials demonstrates that the SSA's conclusions were not unreasonable. For example, with respect to the tradeoff between ProSphere and Ellumen, the SSEB briefing reflects that, as documented in the SSDD, each offeror received an acceptable rating for the technical factor overall; acceptable ratings for two of three sample tasks; and good ratings for the third sample task and for management. AR, Tab 14, SSEB Briefing, at 25, 31. More importantly, the SSEB briefing further shows that the two offerors had a similar mix of underlying strengths and weaknesses. Specifically, ProSphere's technical factor evaluation results consisted of 11 strengths, 5 weaknesses, and 1 significant weakness, while Ellumen's evaluation results consisted of 11 strengths and 7 weaknesses. Id.

In addition, close comparison of the strengths and weaknesses themselves reveals significant similarity between the proposals. For example, under sample task 3, both offerors received strengths for "Security" and "Deployment," and a weakness for "Maintain." Id. Further, the proposals' advantages and disadvantages in other areas under sample task 3 were offsetting: where ProSphere received a strength for "Project Management" and a weakness for "Network/Telehealth Analysis," Ellumen received a strength for "Network/Telehealth Analysis," and a weakness for "Project Management." Id. The remaining evaluation results were also closely

balanced, with Ellumen’s proposal slightly stronger under sample tasks 1 and 2, and ProSphere’s proposal slightly stronger under the management subfactor. Id.

While ProSphere objects to the SSA’s determination of equivalence under the technical factor and argues that its proposal should have been found superior, we see nothing unreasonable in the SSA’s conclusion that the respective strengths and weaknesses indicated that, overall, the proposals were essentially equal for the technical factor. A finding that proposals are essentially equivalent means that overall there is no meaningful difference in what the proposals have to offer—it does not mean that the proposals are identical in every respect; one may be superior to the other in a variety of areas. Northern Virginia Serv. Corp., B-258036.2, B-258036.3, Jan. 23, 1995, 95-1 CPD ¶ 36 at 9. ProSphere’s disagreement with the SSA’s judgment in this matter does not demonstrate that the tradeoff analysis was unreasonable.⁶ Ben-Mar Enters., Inc., supra.

Next, the SSEB briefing materials also support the SSA’s determination that the offerors were essentially equivalent under the past performance factor. In this area, ProSphere asserts that its own past performance was uniquely positive, where its low risk rating was based on a record of 13 past performance references with 17 associated questionnaires, and 290 past performance information retrieval system (PIRS) records--none of which reflected adverse information. Protest at 25-26. ProSphere also notes that of 68 responses recorded in its 17 questionnaires, 64 responses identified ProSphere’s past performance as “exceptional.” Id. at 26. On the basis of this past performance record, ProSphere contends that proposal should have been considered superior, even in comparison to other “low risk” proposals.

We see no basis to conclude that the SSA’s “essentially equivalent” determinations were unreasonable. Where a solicitation requires the evaluation of offerors’ past performance, we will examine an agency’s evaluation to ensure that it was reasonable and consistent with the solicitation’s evaluation criteria, since determining the relative merits of offerors’ past performance information is primarily a matter within the contracting agency’s discretion. Hanley Indus., Inc., supra, at 4. The evaluation of past performance, by its very nature, is subjective, and we will not substitute our judgment for reasonably based evaluation ratings. Presidio Networked Solutions, Inc., et al., B-408128.33 et al., Oct. 31, 2014, 2014 CPD ¶ 316 at 14; American Env’tl. Servs., Inc., B-406952.2, B-406952.3, Oct. 11, 2012, 2013 CPD ¶ 90 at 5.

⁶ Although not discussed in full in this decision, we have also reviewed the tradeoff analysis between ProSphere and Favor Tech under the technical factor, and see no basis to conclude that the SSA’s determination of technical equivalence was unreasonable.

Here, concerning Ellumen and Favor Tech, our review of the record demonstrates that neither offerors' past performance contained adverse past performance information on either past performance questionnaires or PPIRS records, and that both offeror's past performance questionnaires indicated a clear majority of "exceptional" responses. Accordingly, the record demonstrates that these offerors' records of past performance were, on balance, highly similar to ProSphere's record of past performance.

ProSphere also asserts that the unreasonableness of the past performance evaluation is demonstrated by the SSA's conclusion that ProSphere was essentially equivalent to another offeror, Halfaker & Associates, LLC, whose past performance evaluation contained five adverse past performance records. Comments at 15. The underlying record shows that Halfaker's past performance evaluation was based on 16 questionnaires with 64 responses, 57 of which rated Halfaker's performance as "exceptional" or "very good," with no adverse responses. AR, Tab 23, Halfaker Past Performance Evaluation, at 2. Halfaker's PPIRS records also indicated no adverse past performance, however, PPIRS records relating to Halfaker's primary subcontractors revealed 5 adverse records out of 583 recent, relevant PPIRS records reviewed. Id. at 2-3.

We conclude that the SSA's conclusion that ProSphere and Halfaker were essentially equal was within the SSA's discretion, and not unreasonable. The SSEB briefing slides show that the adverse PPIRS records relating to Halfaker's subcontractors were captured as weaknesses in the briefing, and were therefore reviewed by the SSA. AR, Tab 14, SSEB Briefing, at 43. Accordingly, the SSA was aware of the small number of adverse PPIRS records when conducting the tradeoff analysis, but based on the overwhelmingly positive past performance of each offeror, concluded that there was "little doubt" that either offeror could successfully complete the contract effort. As discussed above, a finding that proposals are essentially equivalent means that overall there is no meaningful difference in what the proposals have to offer--it does not mean that the proposals are identical in every respect. Northern Virginia Serv. Corp., supra; see also, Dorado Servs., Inc., B-401930.3, June 7, 2010, 2010 CPD ¶ 134 at 5. Where the record demonstrates that the SSA was aware of the relative advantages and disadvantages of each proposal, reasonable determinations that proposals are essentially equivalent are well within the SSA's discretion. See Lynxnet, LLC, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 13-14.

The protest is denied.

Susan A. Poling
General Counsel