



Decision

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Matter of: Fintrac Inc.

File: B-414273; B-414273.2

Date: April 17, 2017

David E. Fletcher, Esq., Christopher J. Kimball, Esq., and Amy S. Josselyn, Esq., Cooley LLP, for the protester.

Daniel R. Forman, Esq., and Charles Baek, Esq., Crowell & Moring LLP, for Abt Associates, Inc., an intervenor.

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Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the evaluation of proposals is denied where record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

DECISION

Fintrac, Inc., of Washington, D.C., protests the award of a contract to Abt Associates, of Bethesda, Maryland, under request for proposals (RFP) No. 442-16-000006, issued by the Department of State, Agency for International Development (AID), for commercial horticultural development services in Cambodia. Fintrac argues that the agency misevaluated proposals and made an unreasonable source selection decision.

We deny the protest in part and dismiss it in part.

BACKGROUND

The RFP contemplates the award, on a best-value basis, of a cost-plus-fixed-fee type contract for a 5-year period of performance. RFP at 2, 18. Firms were advised that the agency would evaluate proposals considering cost and several non-cost factors. The RFP listed five non-cost factors as follows: technical requirements (deemed equal in importance to the remaining four non-cost evaluation factors combined); key personnel (deemed equal in importance to the remaining three non-cost evaluation factors

combined); institutional capacity (deemed equal in importance to the remaining two non-cost factors combined); management and staffing plan, and past performance (each deemed equal in importance).¹ RFP at 77. The RFP further specified that the non-cost evaluation factors combined were significantly more important than cost. In addition, the RFP provided that cost would be evaluated for realism and reasonableness. RFP at 79.

The agency received a number of proposals in response to the RFP and evaluated them under the cost and non-cost factors. The agency assigned the following ratings to the proposals of Fintrac and Abt and determined their respective evaluated costs as follows:

	Fintrac	Abt
Technical Requirements	Satisfactory	Very Good
Key Personnel	Satisfactory	Satisfactory
Institutional Capacity	Very Good	Very Good
Management and Staffing Plan	Satisfactory	Very Good
Past Performance	Very Good	Very Good
Overall Technical Rating	Satisfactory	Very Good
Overall Technical Ranking	Third/Fourth	First
Proposed Cost	\$17,898,761	\$17,599,953
Evaluated Cost	\$17,977,475	\$17,770,084

AR, exh. 10, Source Selection Memorandum, at 3-4, 22. Based on these evaluation results, the agency made award to Abt on the basis of initial proposals, finding that its proposal represented the best value to the government. The agency distinguished the Abt proposal from all of the other proposals based on what it characterized as a “demand-driven” approach to horticulture sector development. *Id.* at 22-23. In comparison, the agency characterizes Fintrac’s approach as focused on increasing agricultural production capacity (what the agency describes as a “supply-driven” approach) but lacking the strength of the “demand-driven” approach proposed by Abt.²

¹ In evaluating the non-cost factors, the record shows that the agency assigned adjectival ratings of exceptional, very good, satisfactory, marginal, unsatisfactory or (for past performance) neutral. Agency Report (AR) exh. 4, Source Selection Plan at 12-14.

² The agency notes generally that the predecessor contract (under which Fintrac was the incumbent) emphasized enhancement of production in the agricultural sector. In contrast, the agency explains that current requirement emphasizes enhancement of the entire horticultural “value chain” or market sector.

Id. at 25. After being advised of the agency's source selection decision and requesting and receiving a debriefing, Fintrac filed the instant protest.

PROTEST

Fintrac takes issue with the agency's evaluation of its technical proposal, as well as with the agency's evaluation of the awardee's technical and cost proposals. We note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. ManTech Advanced Systems International, Inc., B-413717, Dec. 16, 2016, 2016 CPD ¶ 370 at 3.

Evaluation of the Fintrac Proposal

The record shows that the agency identified strengths and weaknesses in evaluating the offerors' proposals. Fintrac takes issue with virtually every weakness identified by the agency in its proposal.³ We have carefully considered each of Fintrac's allegations and find no merit to any of them. We discuss two of the challenged weaknesses for illustrative purposes.

The record shows, for example, that the agency identified a weakness in the Fintrac proposal based on the firm's approach of creating only a limited number of jobs in connection with implementation of the program. The evaluators found as follows:

The offeror estimates 850 jobs created by the implementation of the activities over the life of the project. It is assumed that improving market linkages through additional private sector investment and market chain coordination would create jobs. Given the importance of sub-purpose 2 that focuses on strengthening the horticulture value chain system, their proposed target indicates limited effort in this area.

³ The record shows that the agency identified nine weaknesses in the Fintrac proposal under the technical requirements factor, four weaknesses under the key personnel factor and two weaknesses under the management and staffing plan factor. AR, exh. 8, Technical Evaluation Memorandum (TEM) at 92-98. Fintrac's initial protest took issue with each of the identified weaknesses. The agency provided a detailed response to each of Fintrac's challenges. In its comments, Fintrac continued to challenge the agency's evaluation findings under each of the weaknesses except one under the technical requirements factor relating to the way in which Fintrac expressed "incremental sales" in its proposal. Fintrac made no further mention of this aspect of its protest and we deem this issue abandoned. Batelco Telecomms. Co. B.S.C., B-412783, et al., May 31, 2016, 2016 CPD ¶ 155 at 4 n.5.

AR, exh. 8, TEM at 93. Fintrac challenges the assignment of this weakness, maintaining that, because many of the jobs that may be created through the program will be what it describes as family-related (that is, employment of a family member by another family member) or on-farm jobs, those jobs would not be counted, even though there is a positive impact on the individual or family. Fintrac also maintains that there is a scarcity of labor within the area where the contract is to be performed.

We find no merit to this allegation. The agency explains that the area of contract performance has a population of approximately 2.5 million people living in some 3,000 villages. It follows that creation of just 850 jobs in the area of performance translates to approximately one job for every 3,000 people or every 3.5 villages. The agency further notes that Fintrac's focus on "on-farm" jobs also demonstrates that its proposal does not adequately focus on the entire agribusiness or horticultural sector, which includes not only farms, but also collectors, aggregators and retailers of agricultural products. Contracting Officer's Declaration at 17.

The agency also notes that the protester is simply incorrect that family-related or on-farm jobs cannot be counted. In support of this conclusion, the agency directs our attention to the Feed the Future Indicator Handbook,⁴ which is specifically referenced in the RFP at 10, and which defines the term "number of full time equivalent jobs created with U.S. government assistance." The handbook provides, in relevant part, as follows:

This indicator counts all types of employment held during the reporting year in agriculture or rural-related enterprises (including paid on farm/fishery employment) that were created with USG [U.S. government] assistance. It counts existing jobs that were created in the current or in previous reporting years.

Feed the Future Indicator Handbook at 51.⁵

We conclude that the agency reasonably assigned this weakness, based not only on the comparatively low number of jobs Fintrac proposed to create relative to the population of the area of performance, but also based on the fact that Fintrac's explanation regarding how jobs created could or would be counted is inconsistent with program guidance. We therefore deny this aspect of Fintrac's protest.

⁴ Feed the Future is the overarching name of the program under which this contract is being awarded.

⁵ The Feed the Future Indicator Handbook can be found at: https://feedthefuture.gov/sites/default/files/resource/files/Feed_the_Future_Indicator_Handbook_25_July_2016.pdf.

As a second example, the record shows that the agency assigned a weakness to the Fintrac proposal under the key personnel factor based on negative feedback received about its proposed technical expert. Specifically, the evaluators found as follows:

One of the Technical Expert's references states that "he cannot address complex problems, but possibly [he could] do it, if he got more training[.]" [G]iven the complexity of the regulatory process in the enabling environment to ease private sector investment, this references [sic], it is critical to have a strong individual who knows the sector well and is able to handle the complexities in the sector. His inability to address complex issues presents a risk of unsuccessful implementation of the project.

AR, exh. 8, TEM at 96. Fintrac argues that the agency evaluators misquoted the statements of the technical expert's references and took them out of context.

An examination of the record shows that the evaluators accurately characterized the remarks of two of the technical expert's references. One reference stated:

However, I believe that further training on social entrepreneurship and higher level interaction and results based management and strategic planning is need for him. In addition, the training on program management would also help him in doing this role or task well.

AR, exh. 9A, References for Fintrac's Technical Expert, at 3. A second reference stated: "He has limited capacity in leading multi-tasks or complex program[s] that consist of larger team[s] and complex operational procedures and arrangement of organization or program." Id. at 6.

The record therefore shows that, although the evaluators inaccurately attributed the identified concerns to a single reference rather than to two separate references, there is nothing inaccurate in the description of the identified concerns. We therefore conclude that the agency reasonably assigned this weakness to the Fintrac proposal.

As the above examples illustrate, the protester's challenges to the agency's evaluation of its proposal largely are based either on its disagreement with the evaluators' findings, or the identification of insignificant inaccuracies that do not undermine the fundamental validity of those findings. In addition, as noted above, the record shows that the principal discriminator between the Fintrac and Abt proposals was Abt's "demand-driven" approach compared to Fintrac's "supply-driven" approach, a fundamental discriminator identified by the agency in its source selection, but not even mentioned as among the weaknesses specifically challenged by Fintrac.⁶ We therefore deny this aspect of Fintrac's protest.

⁶ We note that the agency specifically advised Fintrac of this fundamental discriminator in its debriefing letter to the protester. AR, exh. 12, Fintrac Debriefing Letter, at 2. In its
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Evaluation of the Abt Proposal

Fintrac maintains that the agency misevaluated the Abt technical and cost proposals. We dismiss these allegations because we conclude that Fintrac is not an interested party to maintain these challenges. Our Bid Protest Regulations define an "interested party" as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). Where the protester would not be in line for award even if it prevailed on its protest allegations, the protester is not interested to maintain its protest. PAE Aviation Technical Services LLC, B-413338, B-413338.2, Oct. 4, 2016, 2016 CPD ¶ 283 at 8-9.

As noted above, Fintrac was ranked third/fourth in the agency's technical evaluation. The record shows that another concern was ranked second technically--ahead of Fintrac--principally because its proposal was assigned a rating of very good under the key personnel factor (the second most important evaluation factor) compared to Fintrac, whose proposal received a rating of only satisfactory under the key personnel factor. AR, exh. 10. Source Selection Memorandum, at 3-4. The record also shows that the second-ranked proposal had a lower evaluated cost compared to both the awardee and Fintrac.⁷ Fintrac has not challenged any aspect of the evaluation of this higher-ranked, lower-cost offeror. It follows that, even if Fintrac's contentions concerning Abt's technical and cost proposals were true, the higher-ranked, lower-cost offeror would be in

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protest, Fintrac did not challenge this finding on the part of the agency. In its comments responding to the agency report, Fintrac suggested for the first time that the agency improperly credited Abt's--but not its--proposal with proposing a "demand-driven" approach. To the extent Fintrac's comments can be read as challenging the agency's conclusion that Abt, but not Fintrac, offered this advantage, the allegation is untimely, since it was not raised within 10 days of Fintrac's receipt of its debriefing letter advising it that this advantage was the basis for the agency's section decision. 4 C.F.R. § 21.2(a)(2).

⁷ The awardee had an evaluated cost of \$17,770,084, while the second-ranked offeror had an evaluated cost of just \$16,969,664. Fintrac's evaluated cost was \$17,977,475, the highest evaluated cost among all offerors. AR, exh. 10, Source Selection Memorandum, at 22-23.

line for award ahead of Fintrac. Accordingly, we conclude that Fintrac lacks the direct economic interest required to maintain these protest allegations. We therefore dismiss these contentions.

The protest is denied in part and dismissed in part.

Susan A. Poling
General Counsel