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Decision

Matter of: Interactive Government Holdings, Inc.

File: B-414071; B-414071.2

Date: February 2, 2017

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Antonio R. Franco, Esq., Megan C. Connor, Esq., and Peter B. Ford, Esq., Piliero Mazza PLLC, for ADC Management Services, Inc., an intervenor.
Maj. Julie Glascott, and Scott N. Flesch, Esq., Department of the Army, for the agency.
Lois Hanshaw, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of protester's and awardee's proposals is denied where the record reflects that the evaluation was reasonable and consistent with terms of the solicitation.
 2. Protest that an agency improperly failed to perform a price realism analysis is denied where the record shows that the protester was not prejudiced by any such error.
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DECISION

Interactive Government Holdings, Inc. (Interactive), of Springfield, Virginia, protests the award of a contract to ADC Management Services, Inc. (ADC), of Lakewood, Colorado, under request for proposals (RFP) No. W9133L-16-R-0030, issued by the Department of the Army, National Guard Bureau, for non-personal support services for the Air National Guard (ANG) Yellow Ribbon Reintegration Program (YRRP). Interactive challenges various aspects of the agency's evaluation of proposals and its source selection decision.

We deny the protest.

BACKGROUND

The National Defense Authorization Act for Fiscal Year 2008 mandated the establishment of the YRRP, which is a national combat-veteran reintegration program

that provides National Guard and Reserve members, and their families, with a wide range of information to facilitate access to services supporting their health and well-being.¹ These services are provided throughout the deployment cycles, such as pre-deployment, deployment, demobilization, and post-deployment-reconstitution. The performance work statement (PWS) sought a contractor to provide support services for the YRRP at 91 ANG wings located throughout the 54 states and territories, to assist in supporting well-being activities and events. RFP, PWS at 74, 86-88.

The RFP, issued on July 22, 2016, as a set-aside for small, disadvantaged businesses under section 8(a) of the Small Business Act, contemplated the award of a fixed-price contract for a base period of eight months and four one-year option periods. RFP at 1, 3, PWS at 59. The RFP stated that it would utilize the source selection procedures under Federal Acquisition Regulation (FAR) subpart 15.3 for contracting by negotiation, and that proposals would be evaluated using the criteria in FAR provision 52.212-2, "Evaluation—Commercial Items." Id. at 18. The contract was to be awarded to the responsible offeror whose proposal was most advantageous to the government based on four evaluation factors, listed in descending order of importance: (1) management approach, (2) technical approach, (3) past performance, and (4) price.² Id. at 27. The RFP stated that all non-price factors, when combined, were significantly more important than price. Id.

As relevant to the management approach factor, offerors were required to address four areas by describing the offeror's: (1) approach to staffing for 54 states and territories; (2) proposed personnel's qualifications; (3) payroll processes for personnel in 54 states and territories; and (4) proposed subcontracting approach. Id. at 28. The RFP stated that proposals would be assigned an adjectival technical/management risk rating of outstanding, good, acceptable, marginal, or unacceptable.³ Id. at 28-29.

¹ Pub. L. No. 110-181, § 582, 122 Stat. 3, 122 (Jan. 28, 2008). The RFP lists the types of information as including such things as resources, referrals, entitlements, benefits, and proactive outreach opportunities available to the members and their families. RFP, PWS at 59.

² The RFP contemplated the submission of four volumes: (1) general; (2) mission capability, which was to address the requirements of the management approach and technical approach factors; (3) past performance; and (4) price. RFP at 20, 22.

³ As relevant here, an outstanding rating reflects a proposal that meets requirements and indicates an exceptional approach and understanding of requirements. Id. at 28. An acceptable rating reflects a proposal that meets requirements and indicates an adequate approach and understanding of the requirements. Id. at 29.

The past performance volume required offerors to provide recent and relevant performance information.⁴ Id. at 22. The RFP stated that the evaluation would focus on and target performance that is relevant to the effort as it directly relates to the work contemplated by the RFP. Id. The recent and relevant past performance was to be submitted for the offeror and all subcontractors, teaming partners, and/or joint venture partners proposed to perform 49% or more of the proposed contract effort based on the total proposed price. Id. An offeror would receive a relevancy rating based on the recency and relevancy of its referenced past efforts, and a performance confidence rating based on how well it had performed on its referenced contracts.⁵ Id. at 29.

For the price evaluation, the RFP required offerors to provide a unit price for the requirements under every contract line item (CLIN) and option CLIN. Id. at 24. The RFP advised that price would be evaluated for reasonableness, realism, balance, and completeness by using the price analysis techniques in FAR 15.404-1(b). Id. at 31. The RFP stated that an unrealistically low priced proposal would be viewed as increasing the risk of unsuccessful contract performance. Id.

Fourteen offerors submitted proposals, which were evaluated by a source selection evaluation board (SSEB). For the management and technical approach factors, the SSEB assigned adjectival ratings based on a proposal's strengths, weaknesses, deficiencies, and whether the proposal met the requirements of the elements of these factors. Agency Report (AR), Tab 12, SSEB Final Report, at 2-4. As relevant here, the SSEB evaluated Interactive's proposal under the management approach factor as acceptable. This rating reflected that the evaluators assessed Interactive's proposal a weakness for its response to providing staffing for all 54 states and territories. Id. at 10. In this regard, the SSEB stated that because Interactive "does not state where the regional leads would be located and what YRSS [yellow ribbon support specialist] they would be replacing[,] the government views this as a potential weakness if [the regional leads] were placed in wings/states that have a higher [operations] [t]empo."⁶ Id.

⁴ Recent performance would include an effort that was either ongoing or performed within the three years preceding the RFP issuance date, and relevant performance was similar to the RFP requirements in nature of work, size, and complexity. Id. at 29.

⁵ Relevancy would be rated very relevant, relevant, somewhat relevant, or not relevant. Id. at 30. Here, a very relevant rating represents a proposal with present/past performance effort involving essentially the same scope, magnitude of effort, and complexities as the RFP; a relevant rating represents a proposal with efforts of a similar scope. Id. Performance confidence would be rated as substantial, satisfactory, limited, or no confidence. Id. As relevant here, substantial confidence represents a proposal in which the government has a high expectation that the offeror would successfully perform the effort. Id.

⁶ The term "regional leads" is not identified in the RFP and instead appears to reflect terminology used by the protester to describe a position within its proposed staffing approach.

For the price evaluation, the agency determined that all prices were reasonable, realistic, complete, and balanced. AR, Tab 16, Pricing Negotiation Memorandum, at 8-9. The proposals were given the following final ratings:

	Management Approach	Technical Approach	Past Performance	Price
ADC	Outstanding	Good	Very Relevant/ Substantial Confidence	\$22,734,826
Offeror A	Acceptable	Outstanding	Very Relevant/ Substantial Confidence	\$29,494,311
Offeror B	Acceptable	Acceptable	Very Relevant/ Substantial Confidence	\$35,385,766
Interactive	Acceptable	Acceptable	Relevant/Substantial Confidence	\$42,040,874
Independent Government Cost Estimate (IGCE)⁷				\$25,414,174

Id. at 6; AR, Tab 17, SSDD, at 3.

The contracting officer, acting as the source selection authority (SSA), concluded that a technical/price tradeoff was not required to determine that ADC's proposal represented the best value to the government because ADC's proposal was superior to all other offers in terms of both price and non-price factors. AR, Tab 17, SSDD, at 31-32. In making this determination, the SSA reviewed the SSEB's ratings and conducted an independent assessment of the relative strengths and weaknesses of each proposal. Id. at 4.

After the agency notified Interactive of award, Interactive requested and received a debriefing. On October 26, Interactive filed this protest with our Office.

DISCUSSION

Interactive challenges the agency's evaluation of Interactive's and ADC's past performance and price proposals, and of Interactive's proposal under the management and technical approach factors. Interactive also contends that the agency disparately evaluated Interactive's and ADC's proposals under the management and technical approach factors and that the agency's best-value decision was flawed.⁸ While our

⁷ The record shows that IGCE used to evaluate proposals was \$25,414,174. AR, Tab 16, Pricing Negotiation Memorandum, at 8-9; AR, Tab 17, Source Selection Decision Document (SSDD), at 30.

⁸ Interactive initially raised various challenges to the agency's evaluation of ADC's proposal under the technical and management factors. Protest at 10, 11. In its comments, the protester abandoned these challenges. Additionally, to the extent the
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decision here does not specifically discuss each of the protester's various arguments, we have considered all of Interactive's contentions and find none furnishes a basis to sustain the protest. We discuss a few representative examples below.

Interactive's Management Approach

Interactive contends that it should have received a higher rating under the management approach. In this regard, Interactive argues that the weakness assessed by the agency reflects a lack of understanding or appreciation of Interactive's flexibility and approach to staffing. Protest at 8. The agency states that it assessed a weakness to Interactive's proposal for this factor because it interpreted the protester's proposed approach of providing [DELETED] YRSS (yellow ribbon support specialists) and [DELETED] regional leads--to fulfill the RFP requirement to provide support services for the YRRP at 91 wings--to indicate that the [DELETED] proposed regional leads would also be performing the tasks required of the YRSS. Legal Memorandum at 20. The agency asserts that the protester's failure to state where the regional leads would be placed created concerns that regional leads may not be able to successfully carry out their dual duties if they were stationed at wings with a high operations tempo. *Id.* In response, the protester asserts that the agency "makes far too much of the absence of specific information in [Interactive's] proposal" about where regional leads were to be stationed and that the RFP did not give offerors the authority to choose the wing/state where regional leads would be assigned. Comments at 11.

In reviewing an agency's evaluation, we do not conduct a new evaluation or substitute our judgment for the agency's, but, instead, examine the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria. See InfoPro, Inc., B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 11. A protester's disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. DynCorp Int'l LLC; Fluor SOSi Diplomatic Support Servs., LLC; Kellogg Brown & Root Servs., Inc., B-408554.5 et al., Dec. 9, 2013, 2014 CPD ¶ 6 at 12.

The RFP required offerors to describe their staffing approach to providing support services at 91 ANG wings located throughout the 54 states and territories. RFP, PWS at 74, 86-88; RFP at 28. In short, the RFP required an offeror, not the agency, to

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protester generally challenges the adequacy of the agency's contemporaneous record, we find no basis to sustain the protest. While we accord greater weight to an agency's contemporaneous record of its procurement action than to arguments and documentation prepared in response to protest contentions, we do not limit our review to contemporaneous evidence, but consider all the information provided, including the parties' arguments, explanations, and documentation prepared in response to protest contentions. Affolter Contracting Co., Inc., B-410878, B-410878.2, Mar. 4, 2015, 2015 CPD ¶ 101 at 8 n.7.

choose how it would provide staffing to meet the support service requirements. Accordingly, to the extent the protester argues that it had no authority to decide where to place regional leads, we find no merit to this argument. We also find no merit to the protester's argument that the agency "makes far too much" of information missing from Interactive's proposal, since it is an offeror's responsibility to submit a well-written proposal with adequately-detailed information, or risk an unfavorable evaluation. See SRA Int'l, Inc., B-407709.5, B-407709.6, Dec. 3, 2013, 2013 CPD ¶ 281 at 9 n.15. Other than disagreeing with the agency's conclusions, the protester has offered no facts to show that the agency's concern regarding regional leads was unfounded and that its evaluation of Interactive's management approach was unreasonable. We therefore deny this ground of protest.

Past Performance

The protester raises various challenges to the agency's evaluation of Interactive's and ADC's past performance references. For example, Interactive contends that the agency's relevancy evaluation failed to give adequate consideration to Interactive's most favorable past performance reference, which involved the same program (YRRP), services, and nationwide scope, and was performed at a greater magnitude of effort than this RFP contemplated. Protest at 12. Additionally, Interactive asserts that ADC's rating should have been lower because two out of three of ADC's references were performed by a subcontractor who would perform 49% of the work for this requirement. Comments at 10.

The agency explains that Interactive's three references were found to be relevant because they were similar to, but not the same as, the effort and complexities contemplated by the RFP. Legal Memorandum at 32. Specifically, the agency contends that Interactive's references were more related to employer programs and services--rather than wellness promotion, resilience, and life skills--and provided services at the management level rather than managing and providing services to individuals. Contracting Officer (CO) Statement at 12; Supp. CO Statement at 4. As relevant to the reference highlighted by the protester, the agency states that the contract provided employer support services, and the magnitude was significantly smaller than this solicitation. Supp. CO Statement at 4. With regard to ADC, the agency explains that ADC's references were determined to be very relevant based on tasks that were the same as, or equivalent to, the RFP's requirements, such as directly providing supervision and assistance services to service members and families. CO Statement at 12. The agency also states that ADC's efforts reached a substantial number of service members and their families. Id.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. Ameritac, Inc., B-413611, B-413611.2, Nov. 28, 2016, 2016 CPD ¶ 354 at 3. The evaluation of experience and past performance, by its very nature, is subjective; we will not substitute our judgment

for reasonably based evaluation ratings. Mare Solutions, Inc., B-413238, B-413238.2, Sept. 14, 2016, 2016 CPD ¶ 259 at 6-7. A protester's disagreement with an agency's past performance evaluation provides no basis to question the reasonableness of the evaluator's judgment. Al-Razaq Computing Servs., B-410491, B-410491.2, Jan. 7, 2015, 2015 CPD ¶ 28 at 12.

On this record, we find the evaluation reasonably reflects the offerors' past performance and was consistent with the RFP's terms, and thus have no basis to question the agency's evaluation. For example, the record shows that in the contract highlighted by the protester, Interactive was "routinely required to interact with [g]eneral [o]fficers, senior State and [Department of Defense] civilians, as well as [s]tate Department of Labor and Veterans Affairs executives" and "work in close coordination and cooperation with resident Guard [and] Reserve leadership and partnering employers, and employment assistant agencies." AR, Tab 9c, Protester's Past Performance Volume, at 7-8. With regard to the awardee, ADC's references show that it identified a contract in which it provided "a seven (7) person management team that directs, oversees, trains, supervises, and performs quality control for 58 [Army National Guard] Psychological Health Coordinators (PCHs) in 37 states and two (2) territories." AR, Tab 5d, Awardee's Past Performance Volume, at 5. Additionally, for each reference, ADC's proposal specifically highlighted tasks that related to promoting resilience and life skills. Id. at 6, 9, 12. On these facts, we find the agency's evaluation unobjectionable.⁹

Price Realism

Finally, Interactive alleges various challenges to the agency's price realism analysis. For example, Interactive alleges that the agency's price realism evaluation failed to follow the RFP requirement to consider the realism of an offeror's price in the context of its proposed technical approach, and failed to recognize that ADC's price was so low that it represented a lack of understanding of the requirement. Protest at 6; Comments at 2.

Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. Paragon Sys., Inc.; SecTek, Inc., B-409066.2, B-409066.3, June 4, 2014, 2014 CPD ¶ 169 at 9.

⁹ We find unavailing the protester's assertions that the evaluation was flawed because the agency did not distinguish between efforts performed by the awardee itself, and the awardee's subcontractor who would perform 49% of the work, given that the RFP specifically stated that an offeror's relevancy rating would consider the performance of the offeror, and its major and critical subcontractors. See RFP at 30.

Here, even if the agency erred in its price realism evaluation--a conclusion that we do not reach here--Interactive has not shown that this would result in competitive prejudice to the protester. In this regard, the record shows that Offeror A's and Offeror B's proposals were higher-rated under the non-price factors than Interactive's. The record also shows that these two proposals--Offeror A's \$29.5 million proposal and Offeror B's \$35.4 million proposal--were priced lower than Interactive's \$42.0 million proposal by \$12.5 and \$6.6 million, respectively. Significantly, Interactive has not challenged the realism of these prices--which were higher than the \$25.4 million IGCE by \$7.1 and \$13 million, respectively.¹⁰ Thus, even were we to conclude that the selection of ADC was improper because the agency failed to adequately analyze ADC's \$22.7 million price for realism, Interactive has not shown a reasonable likelihood that it would have been awarded the contract, rather than Offeror A or Offeror B. Accordingly, because the protester has not shown how it was prejudiced, we conclude that its price realism arguments provide no basis to sustain the protest.

The protest is denied.

Susan A. Poling
General Counsel

¹⁰ Interactive has provided no meaningful challenge to any aspect of the agency's evaluation of these intervening offers. Additionally, to the extent the protester challenges the IGCE used by the agency, for example, because it relied on the Department of Labor (DOL) Service Contract Act (SCA) wage determination, rather than GS-equivalent (General Service) rates, see Comments at 4, we find no merit to these challenges since the protester has presented no legal basis to support its arguments. We note, in this regard, that the RFP incorporated FAR clause 52.222-41, Service Contract Labor Standards. See RFP at 54. This clause provides that the contract is subject to the SCA and that each service employee employed in the performance of the contract must be paid not less than the minimum wages and fringe benefits determined by DOL in an attached wage determination. Further, the agency states that it notified offerors, in response to questions prior to the submission date for proposals, that the contract would be subject to a wage determination, which was provided to offerors, and no offerors challenged the terms of the solicitation prior to the submission date for proposals. Supp. CO Statement at 1. Based on our review of the record, we find no basis to challenge the IGE used by the agency.