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Decision

Matter of: Eagle Support Services Corporation

File: B-412577.2; B-412577.3

Date: July 19, 2017

J. Randolph MacPherson, Esq., Halloran & Sage, LLP, for the protester. Jonathan T. Williams, Esq., Ambika J. Biggs, Esq., Jacqueline K. Unger, Esq., and Sam S. Finnerty, Esq., PilieroMazza PLLC, for Criterion Corporation, the intervenor. Christopher S. Cole, Esq., and Alexis J. Bernstein, Esq., Department of the Air Force, for the agency. Noah B. Bleicher, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the technical acceptability of an awardee's quality control plan is denied where the record reflects that the plan included all required elements and was reasonably evaluated as acceptable.

DECISION

Eagle Support Services Corporation, a service-disabled veteran-owned small business (SDVOSB) of Huntsville, Alabama, protests the award of a contract to Criterion Corporation, an SDVOSB of Skandia, Mississippi, pursuant to request for proposals (RFP) No. FA6712-16-R-0001, which was issued by the Department of the Air Force, Air Force Reserve Command, for base operations and support services at the Pittsburgh Air Reserve Station in Pennsylvania. Eagle challenges the technical evaluation of Criterion's proposal and resulting award decision.

We deny the protest.

BACKGROUND

The Air Force issued the solicitation on October 15, 2015, as an SDVOSB set-aside. RFP at 1.¹ The RFP contemplated the award of a fixed-price contract with

¹ Citations in this decision are to the conformed RFP issued via amendment 8.

cost-reimbursable and labor-hour line items for an anticipated 60-day orientation period, a 12-month base period, and four option years. Id. at 85-87. The solicitation's performance work statement (PWS) outlined the various operations and support services to be provided at the air reserve station (ARS), including supply, vehicle operations and maintenance, traffic management, real property maintenance, fuels management, and airfield management services. PWS § A1.

The RFP provided that the contract would be awarded on a lowest-priced, technically acceptable (LPTA) basis, in accordance with Federal Acquisition Regulation (FAR) § 15.101-2. RFP at 154. In this respect, the RFP identified two technical subfactors: quality control plan and resource/personnel management. Id. at 155. Pursuant to the RFP, the agency first would analyze proposed prices and rank offers in order of total evaluated price (TEP). Id. at 154. Next, the agency would evaluate whether the lowest-priced proposal was technically acceptable. If so, award would be made to that offeror without further consideration of any of the other offers; if not, the agency would continue evaluating the lowest-priced proposals until one is evaluated as technically acceptable. Id.

Fifteen firms, including Criterion and Eagle, submitted proposals in response to the solicitation. Contracting Officer's Statement (COS) at 10. As provided by the RFP, the agency first analyzed the proposed prices and ranked the offers from lowest to highest TEP. Criterion's TEP of \$23,653,363 was the lowest; Eagle's \$24,966,387 TEP was the third lowest-priced.² Agency Report (AR), Tab 15, Source Selection Decision Document (SSDD), at 2. The agency next evaluated Criterion's technical proposal, which was rated acceptable. AR, Tab 7, Source Selection Evaluation Board (SSEB) Report, at 7-8.

On March 28, 2017, the Air Force awarded the contract to Criterion, the firm that submitted the lowest-priced, technically acceptable proposal. After requesting and receiving a debriefing, Eagle protested to our Office.

DISCUSSION

Eagle challenges the Air Force's evaluation of Criterion's proposal. Specifically, Eagle contends that Criterion's proposal should have been rated unacceptable under the quality control plan subfactor. As discussed herein, we find unobjectionable the Air Force's determination that Criterion's proposal was technically acceptable.³

² Despite offering the third lowest TEP, Eagle is an interested party to maintain its protest because the agency did not conduct a technical evaluation of any other offers besides Criterion's--including the proposal from the intervening offeror that submitted the second lowest-priced TEP. See 4 C.F.R. § 21.0(a)(1).

³ Eagle raised arguments that are in addition to, or variations of, the protest allegations discussed below. We have considered all of Eagle's arguments and find that none provides a basis to sustain the protest. In addition, Eagle initially objected to aspects of
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With respect to the quality control plan subfactor, the RFP instructed offerors to submit a quality control plan (QCP) that addressed how the offeror would establish and monitor performance metrics. RFP at 151. The QCP was to contain a metric for each performance threshold, as well as describe how the offeror would populate the data that comprised the performance metrics. Id. In addition, an offeror's QCP was to include "specifics as to the areas to be inspected on both a scheduled and unscheduled basis, frequency of inspections, the title and organization's placement of the inspectors, a description of the methods to be used for identifying and preventing defects in the quality of service performed and a description of the records to be kept to document inspections and corrective actions taken." Id. Pursuant to the solicitation, the agency would assess an offeror's QCP, including whether the QCP presented all the required information, to determine whether the offeror would provide oversight that ensured acceptable performance in accordance with the PWS and specific tasks listed in the PWS' service delivery summary. Id. at 155.

Criterion submitted a 44-page quality control plan that outlined the processes and controls the firm would use to manage, monitor, and measure performance. AR, Tab 18, Criterion Technical Proposal, at 14-57. Among other things, Criterion's QCP discussed program objectives, the quality control organization, methods to measure performance, inspection schedules and procedures, and customer satisfaction. Id. at 15-21. Organized by PWS service area, the awardee also included dozens of quality control inspection forms for each service delivery summary objective identified in the PWS. Each of these forms delineated numerous inspection elements, such as the service delivery summary objective and performance threshold, as well as the inspection frequency, method, and criteria. Id. at 23-57.

The record shows that nine different technical evaluators all rated Criterion's QCP acceptable. AR, Tab 16, Technical Evaluation Checklists, at 1-18. The SSEB reviewed the evaluators' worksheets and concluded as follows:

Criterion Corporation proposed in their QCP an approach for this contract . . . that is fully responsive to the Pittsburgh ARS [base operating support services] RFP and allows them to demonstrate compliance with the PWS requirements to the government without reliance on the [contracting officer's representative] checking that work has been done. The company's [quality control] system includes [DELETED].

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the evaluation of Criterion's proposal under the resource/personnel management subfactor, as well as asserted that the agency conducted an unequal evaluation of proposals. Protest at 7-10. However, in its comments on the agency's report on the protest, Eagle failed to meaningfully address the agency's response to these allegations. Accordingly, we consider the protester to have abandoned these arguments, and we do not address them further. See Organizational Strategies, Inc., B-406155, Feb. 17, 2012, 2012 CPD ¶ 100 at 3.

AR, Tab 7, SSEB Report, at 7. Based on the evaluation by the technical team, the SSEB rated Criterion acceptable under the quality control plan subfactor. Id.

Eagle complains that in rating Criterion's QCP acceptable, the agency ignored several "essential elements" of the evaluation criteria, including, for example, unscheduled inspections and information about the inspectors. Comments/Supp. Protest at 10-11. The agency counters that Criterion's proposal included sufficient information for the source selection team to determine that Criterion complied with the RFP requirements. Supp. Memorandum of Law (MOL) at 7.

An agency's evaluation of technical proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and identifying the best method of accommodating them. Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 5-6. In reviewing protests of an agency's evaluation, our Office does not reevaluate proposals; rather, we review the record to determine if the evaluation was reasonable, consistent with the solicitation's evaluation scheme, as well as procurement statutes and regulations, and adequately documented. TransAtlantic Lines, LLC, B-411242; B-411242.2, June 23, 2015, 2015 CPD ¶ 204 at 9.

Here, we find unobjectionable the agency's determination that Criterion submitted an acceptable quality control plan. First, the protester's contention that Criterion's QCP failed to address the areas to be inspected on an unscheduled basis is not supported by the record. Instead, the record shows that Criterion's QCP addressed unscheduled inspections. For instance, Criterion proposed that supervisors would conduct "[DELETED]" and "[DELETED]." AR, Tab 18, Criterion Technical Proposal, at 16. Under Criterion's proposal, supervisors would be responsible for their respective functional areas. Id. Thus, as the awardee highlights, Criterion proposed unscheduled inspections across every functional area. On this record, we find unavailing this aspect of the protester's objection to the acceptability of Criterion's QCP.

Next, we also see no merit to Eagle's argument that the awardee failed to propose a quality control office and that the awardee's QCP did not explain the title and organizational placement of the inspectors. See Comments/Supp. Protest at 11. In this respect, the RFP did not require that firms offer a dedicated quality control office, as the protester asserts. See RFP at 151. Regardless, the record reflects that Criterion identified its quality control organization, which consisted of a quality control representative, functional area quality control managers, supervisors, and workers. AR, Tab 18, Criterion Technical Proposal, at 15-16.

Moreover, Criterion explained the structure of its quality control organization and how it related to the rest of Criterion's organization. For instance, the awardee's QCP provided that the quality control representative would be [DELETED]. Id. at 15, 59. The QCP identified numerous quality control responsibilities for the quality control representative, including [DELETED]. Id. at 16. In addition, under Criterion's QCP, quality control managers would [DELETED]. Id. These quality control managers would be responsible for "[DELETED]," as set forth in the PWS (e.g., supply, vehicle

operations and maintenance, traffic management). Id. Quality control managers would also [DELETED] to meet “[DELETED].” Id. As noted above, the supervisors and workers would be responsible for [DELETED]. Id.

Thus, Criterion’s QCP provided that the inspectors would be the quality control representative, functional quality control managers, and supervisors, and the proposal sufficiently explained the placement of these inspectors relative to the rest of the organization. Eagle’s complaints in this regard reflect its disagreement with the agency’s conclusions but do not demonstrate an unreasonable evaluation. See, e.g., Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 5.

Lastly, Eagle protests that the source selection authority’s award decision did not reflect an independent assessment of whether Criterion’s proposal was acceptable. We find no merit to this protest ground. As an initial matter, we note that a source selection official may rely on evaluation reports provided by technical evaluators. HP Enters. Servs., LLC, B-408825, Dec. 23, 2013, 2014 CPD ¶ 13 at 7.

Here, the contracting officer served as the source selection authority (SSA) for the procurement, as well as a member of the source selection team. She was responsible for preparing the RFP, reviewing all proposals for responsiveness, and performing the price evaluation. Supp. COS at 4. In addition, she briefed the technical evaluators and maintains that she reviewed each of the completed evaluation worksheets, as well as Criterion’s response to an evaluation notice.⁴ Id. at 4-5. As part of the source selection

⁴ Eagle objects to the agency’s communications with Criterion, arguing that the agency improperly conducted discussions with only Criterion. Comments/Supp. Protest at 13-14. The agency responds that its evaluation notice merely sought clarification from Criterion about terminology used in the firm’s resource/management plan. Supp. MOL at 2-3. Here, we need not resolve whether the communications constituted discussions--as contemplated by the RFP--or were properly considered clarifications, because the protester has failed to establish how it was prejudiced by the agency’s exchange with Criterion. See RFP at 154. In this regard, competitive prejudice is an essential element of a viable protest, and where a protester fails to demonstrate prejudice, our Office will not sustain the protest. i4 Now Solutions, Inc., B-412369, Jan. 27, 2016, 2016 CPD ¶ 47 at 16 n.13. Since the record confirms that Criterion submitted the lowest-priced, technically acceptable offer, the agency never evaluated any other firms’ technical proposals. That is, Eagle’s proposal was never rejected as technically unacceptable such that the firm would have benefited from discussions. Thus, we fail to see, and the protester has not explained, how discussions with Eagle would have improved the firm’s competitive standing or otherwise altered the award determination. See IR Techs., B-414430 et al., June 6, 2017, 2017 CPD ¶ 162 at 13 (finding no prejudice where the agency had communications with the awardee but not the protester in an LPTA procurement because the protester could not improve its

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team, the SSA assisted in the preparation of the SSEB report, which she reviewed and signed. Id.; see AR, Tab 7, SSEB Report, at 10. The SSA also reports that she reviewed Criterion's technical proposal. Supp. COS at 5.

Further, as highlighted in the source selection decision document, the SSA noted that she accessed all available documents pertaining to the acquisition, from Criterion's proposal to the evaluation worksheets, as well as the SSEB report that she helped prepare. AR, Tab 15, SSDD, at 1. She wrote that she performed an "extensive review of the documentation" and ultimately concurred with the SSEB's conclusion that Criterion offered the lowest-priced, technically acceptable proposal. Id. at 1, 3. Given the SSA's considerable involvement in the procurement and her confirmation that she reviewed all materials available, and in light of the fact that Eagle has not established that the awardee's proposal was otherwise misevaluated, we find nothing objectionable about the SSA's determination to award the contract to Criterion.

The protest is denied.

Susan A. Poling
General Counsel

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technical acceptability rating and the protester did not state what it would have changed in its proposal even if provided the opportunity to do so).