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Decision

Matter of: C2G Ltd. Company

File: B-415938.2

Date: June 26, 2018

Katherine S. Nucci, Esq., and Scott F. Lane, Esq., Thompson Coburn LLP, for the protester.

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DIGEST

Protest that agency misevaluated protester's and awardee's past performance and made an unreasonable source selection decision is denied where evaluation reasonably rated both firms' past performance as satisfactory confidence, and tradeoff between past performance and price reasonably resulted in selection of awardee's lower-priced proposal as the best value.

DECISION

C2G Ltd. Company, of Goose Creek, South Carolina, a small business, protests the award of a contract to ProLog, Inc., of Virginia Beach, Virginia, also a small business, under request for proposals (RFP) No. HTC711-17-R-CC04, issued by the United States Transportation Command (the agency), for gateway passenger support services at the Baltimore/Washington International Thurgood Marshall Airport (BWI), in Maryland. The protester contends that the agency misevaluated both firms' past performance, and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

Issued on August 31, 2017, the RFP sought proposals from service-disabled veteran-owned small businesses (SDVOSB) to provide commercial passenger-related services at BWI airport for military service members arriving or departing the airport in support of the Defense Transportation System. The contractor was required to provide

operationally critical support services to the military for an estimated arrival and departure of 578 aircraft, 100,136 passengers, and 319,561 short tons of cargo annually.

The RFP stated that proposals would be evaluated under three factors: technical, price, and past performance. Technical proposals were to be assessed on an acceptable/unacceptable basis, price proposals would be evaluated for fairness and reasonableness, and past performance would be evaluated on the basis of recency, relevance, and quality. RFP at 41-42.

The RFP directed offerors to send out past performance questionnaires that would be returned directly to the agency. Id. at 39. It also instructed as follows:

If a subcontractor will perform major or critical aspects of the requirement, provide complete information as to the arrangement, including specific details on which requirements of the Performance Work Statement the subcontractor will be performing. In lieu of the number of questionnaires identified in paragraph (a) above, the offeror shall submit one to two questionnaires for their most relevant contracts within the last three years and one to two questionnaires for each subcontractor performing major or critical aspects of the work.

If more than two questionnaires are received from any one party, the Government will only evaluate the first two that are received.

Id. at 40.¹

The RFP stated that the relevance of past performance would result in adjectival ratings of very relevant, relevant, somewhat relevant, or not relevant. Considering relevance and the reported performance on recent past performance, the agency would then assign confidence ratings of substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. Id. at 42-43. The RFP also advised offerors that “[p]ast performance of the prime offeror will be considered more highly in assigning the overall past performance confidence assessment than that of subcontractors that will perform major or critical aspects of the requirement.” Id. at 43.

The RFP then specified that the contract would be awarded to the firm whose proposal provided the best value, as determined by a tradeoff between past performance and total evaluated price, where past performance was significantly more important than price.

¹ The instruction draws on Federal Acquisition Regulation § 15.305(a)(2)(iii), which provides that the past performance evaluation should “take into account past performance information regarding . . . subcontractors that will perform major or critical aspects of the requirement when such information is relevant to the instant acquisition.”

Seven offerors, including C2G and ProLog, submitted proposals. After an initial evaluation, the agency held discussions with all offerors and requested final proposal revisions (FPR). After evaluating the FPRs, the agency's source selection authority (SSA) selected ProLog's proposal for award. C2G then filed a protest with our Office. C2G also filed a size protest with the contracting officer to challenge ProLog's small business status on the basis that ProLog was affiliated with its subcontractor, and therefore did not qualify for award under the SDVOSB set-aside criteria.

The agency subsequently informed our Office that the agency would reevaluate the proposals and make a new source selection decision, which resulted in our Office dismissing C2G's protest as academic.² After the corrective action was completed, the ratings and total evaluated prices for the four acceptable offerors were as follows:

	Technical	Past Performance	Total Price
ProLog	Acceptable	Satisfactory Confidence	\$9.15 million
C2G	Acceptable	Satisfactory Confidence	\$14.4 million
Offeror A	Acceptable	Satisfactory Confidence	\$12.1 million
Offeror B	Acceptable	Satisfactory Confidence	\$13.4 million

Agency Report (AR) Tab 38, Source Selection Decision Document, at 6.

The SSA made a past performance-price tradeoff, and selected ProLog's lower-priced proposal as the best value. Id. at 7. This second protest then followed.

PROTEST

C2G challenges the evaluation of past performance and the resulting contract award to ProLog, arguing that when the agency rated both firms as satisfactory confidence under the past performance factor, it misevaluated C2G unfavorably, and misevaluated ProLog too favorably. Specifically, C2G first argues that its past performance record included performing the same services for the agency in other locations, but the agency unreasonably found that past performance was less relevant. At the same time, C2G argues that the agency overlooked ProLog's lack of relevant past performance, and improperly gave it credit for the past performance of its large business subcontractor (the incumbent contractor). As a result, C2G argues, the agency made an unreasonable source selection decision in awarding the contract to ProLog. We consider C2G's main arguments below, and conclude that C2G's arguments do not provide a basis to sustain the protest.³

² The Small Business Administration (SBA) denied C2G's challenge to ProLog's small business status. Protester's Comments, exh. A, SBA Size Determination Decision of ProLog, Inc., SBA Case. No. 02-2018-037 (Jan. 12, 2018).

³ Although we only discuss C2G's main arguments, we have reviewed all of C2G's arguments and conclude that none provides a basis to sustain the protest.

First, with respect to the evaluation of C2G's own past performance as satisfactory confidence, the firm argues that it had highly relevant past performance showing successful performance under a contract for essentially the same services for the same agency. Despite this, C2G argues, the agency improperly downgraded the firm's past performance rating because its other two references, while successful, did not involve the same services and were thus less relevant. Protest at 12-13. C2G argues that its most relevant reference, by itself, should have merited a substantial confidence rating, but the agency unreasonably penalized C2G for submitting two additional past performance references, simply because they were less relevant. Protester's Comments at 7-8. C2G argues that this method of evaluating past performance was thus arbitrary and unreasonable.

In response, the agency argues that the evaluation of C2G's past performance was reasonable and consistent with the solicitation, and that the protest amounts to nothing more than disagreement with the agency's evaluation judgment. AR at 9-10. In reviewing C2G's past performance references, the agency noted that although one reference involved essentially the same type of services, and thus showed analogous scope and complexity, the contract had a lower value and lower volume of passengers and cargo than the RFP requirement. Id. at 10. The agency deemed the contract somewhat relevant on the basis of this difference in magnitude. Id. at 11; AR Tab 36, Past Performance Reevaluation of C2G, at 1. For the other two C2G reference contracts, the agency found one to correspond to the RFP, making it very relevant, while the other showed significant differences in scope, magnitude and complexity from the RFP requirement, making it somewhat relevant. AR at 11-12. In assessing the reported quality of C2G's performance, the agency reviewed ratings that ranged from satisfactory to exceptional. Id. at 12. As a whole, the evaluators determined the firm's references showed differences in magnitude and complexity from the RFP, as well as a "disparity in the magnitude of passenger processing," so there was a reasonable expectation that C2G could perform the RFP requirement successfully, but not a high expectation, so a past performance rating of satisfactory confidence was appropriate. Id.; AR Tab 36, Past Performance Reevaluation of C2G, at 2.

The evaluation of past performance is a matter of agency discretion, and we will review the evaluation only to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable statutes and regulations. Guam Shipyard, B-311321, B-311321.2, June 9, 2008, 2008 CPD ¶ 124 at 3. This discretion includes the agency's determination of the relevance of an offeror's performance history and the weight to be assigned to a subcontractor's past performance. MILVETS Sys. Tech., Inc., B-411721.2, B-411721.3, Jan. 14, 2016, 2016 CPD ¶ 42 at 10-11. Accordingly, a protester's disagreement with the agency's evaluation judgment determining the relative merit of past performance between competing offerors, without more, is not sufficient to establish that the evaluation was unreasonable. McConnell Group, Inc., B-405377, Oct. 21, 2011, 2011 CPD ¶ 225 at 4.

The contemporaneous record demonstrates that the agency reasonably evaluated C2G's past performance. The agency evaluation recognized that C2G's past performance showed it had performed similar services in other locations, and the record

also supports the agency's observation that those services involved lower passenger and cargo volumes, and the quality of the firm's performance was described merely as satisfactory in some areas. AR Tab 36, Past Performance Evaluation of C2G, at 1-2. The record does not show that the agency's satisfactory confidence assessment of C2G's past performance record was unreasonable, so we deny this ground of protest.

Next, C2G argues that the agency also misevaluated ProLog's past performance as satisfactory confidence. C2G argues that ProLog has only somewhat relevant past performance, and that the agency improperly credited ProLog with the past performance record of the incumbent contractor, Louis Berger Aircraft Services, Inc. (LBAS), which ProLog proposed as a subcontractor.⁴ Protester's Comments at 5-6. C2G argues that ProLog has acknowledged that LBAS will not provide any managerial functions or full-time gate agents, and thus will presumably provide only part-time gate agents. C2G argues that LBAS did not meet the standard in the RFP of performing "major or critical aspects," which the RFP required for a subcontractor's past performance to be considered in the evaluation. Id. at 13. Additionally, C2G notes that ProLog's claims that LBAS will be a "major or critical" subcontractor are inconsistent with its successful defense against the SBA size challenges, where ProLog argues that it was not affiliated with LBAS because all "primary and vital" functions would be performed exclusively by ProLog. Id.; Protester's Supp. Comments at 4-5.

In response, the agency argues that the RFP permitted each offeror to make the determination of whether a subcontractor met the RFP standard of performing major or critical aspects of the requirement. Supp. AR at 6. As a result, by submitting LBAS's past performance for evaluation, ProLog demonstrated its determination that LBAS would perform major or critical aspects. Id. While the agency argues that its evaluation reasonably assessed the relevance and quality of LBAS's past performance, it explains that it was unnecessary for the agency to assess whether ProLog's subcontractor would perform "major or critical aspects" of the RFP. Id.

We have recognized that agencies have relied on offerors' evaluation of aspects of their proposals. E.g., Software Eng'g Servs. Corp., B-415694.2, Feb. 16, 2018, 2018 CPD ¶ 97 at 4. To the extent that C2G contends that the agency should not have accepted ProLog's view that LBAS's role involved major or critical aspects of the requirement, C2G has not shown that the agency acceptance of ProLog's judgment was unreasonable. C2G contends LBAS's role in supporting performance was only to provide part-time gate agents, and that the agency does not appear to dispute this point factually. Supp. Comments at 5 n.5. C2G also argues that ProLog failed to provide details about which elements of the RFP would be performed by LBAS, and which by

⁴ C2G also challenges the evaluation of the past performance of Offerors A and B on the same allegedly improper basis, arguing that the evaluation of their respective past performance showed little or no relevant performance, and instead relied on the performance of their large business subcontractors. E.g., Protester's Comments at 5 n.4.

C2G. Id. at 5. Even so, C2G's arguments do not show why LBAS's role of providing gate agents (which represented 44 percent⁵ of the requirement) could not reasonably be assessed as a "major or critical" element of performance of this RFP. The RFP requires the contractor to provide commercial services supporting passengers arriving at and departing from BWI airport, so the role of gate agents clearly could be considered a major or critical element of performance. In short, C2G has not provided a factual basis to sustain its challenges to the evaluation of ProLog's past performance.⁶

Finally, although C2G challenges the selection of ProLog's proposal as the best value, Protester's Comments at 14-15, that challenge is based on the allegedly unreasonable past performance evaluation that we deny, as explained above. The contemporaneous record shows that the SSA considered whether each offeror, including C2G, had a past performance record that could justify paying its associated premium over ProLog's evaluated price, and reasonably concluded that ProLog's proposal provided the best value. AR Tab 38, Source Selection Decision Document, at 7-8.

The protest is denied.

Thomas H. Armstrong
General Counsel

⁵ As C2G notes, in ProLog's arguments before the SBA, the firm demonstrated that its own personnel would perform 56 percent of the requirement, including all management functions. Id. at 3.

⁶ C2G expressly acknowledges that the SBA standard for assessing affiliation between an offeror and a subcontractor is different than the RFP standard for the consideration of subcontractor past performance, Supp. Comments at 3-4, but it nevertheless argues that the two standards are "equivalent." Protester's Comments at 13. We disagree that the two standards are directly related as C2G suggests. The fact that ProLog demonstrated to the SBA that as the prime contractor it would perform all "primary and vital" functions does not undermine the conclusion that LBAS will perform major or critical aspects of the requirement as a subcontractor.