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Decision

Matter of: Veteran Technology Integrators, LLC

File: B-415716.3

Date: June 20, 2018

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DIGEST

Protest challenging the agency's exclusion of protester's proposal from the competition is sustained where the agency's basis for excluding the protester's proposal was unreasonable.

DECISION

Veteran Technology Integrators, LLC, (VTI) of Arlington, Virginia, protests the decision by the Department of the Air Force to exclude its proposal from competition under request for proposals (RFP) No. FA8771-17-R-1000 for information technology (IT) services.¹ The protester maintains that the agency unreasonably excluded its proposal from competition when it had in its possession all of the information necessary to evaluate VTI's proposal.

We sustain the protest.

BACKGROUND

The RFP, known as the Small Business Enterprise Application Solutions (SBEAS) solicitation, was issued on September 28, 2017, pursuant to the procedures of Federal

¹ VTI is a joint venture between Mainstay Information Solutions and Technatomy Corporation. Protest at 1.

Acquisition Regulation (FAR) part 15, and contemplated the award of 40 multiple award, indefinite-delivery, indefinite-quantity (IDIQ) contracts. Agency Report (AR), Tab 7, RFP at 162.² The scope of the SBEAS RFP included a “comprehensive suite of IT services and IT solutions to support IT systems and software development in a variety of environments and infrastructures.” Id. at 130. Additional IT services in the solicitation included, but were not limited to, “documentation, operations, deployment, cybersecurity, configuration management, training, commercial off-the-shelf (COTS) product management and utilization, technology refresh, data and information services, information display services and business analysis for IT programs.” Id. at 130. Proposals were to be evaluated based on the technical experience and past performance factors. Id. The past performance factor was made up of the following three subfactors in descending order of importance: life-cycle software services, cybersecurity, and information technology business analysis.³ Id. at 162. Award was to be made on a past performance tradeoff basis among technically acceptable offerors, using the three past performance subfactors. Id. at 162.

As relevant to this protest, section L of the solicitation instructed offerors that “[t]he proposal shall be clear, specific, and shall include sufficient detail for effective evaluation and for substantiating the validity of stated claims.” Id. at 142. Section L also stated that “[n]on-conformance with the instructions provided in this [instructions to offerors] ITO *may* result in an [o]fferor’s proposal being rejected from the competition.” Id. (emphasis omitted, italics included). The solicitation provided that offerors should submit their proposals in four volumes: capability maturity model integration (CMMI) documentation, technical experience, past performance, and contract documentation. Id. at 145.

Each offeror was to include, in its technical experience volume, a maximum of six contract references that addressed the criteria of the technical experience factor. Id. at 149. The technical experience factor was made up of ten criteria that were further broken down into sub-elements.⁴ Id. at 150-155. The solicitation provided that any contract references used in the technical experience volume of an offeror’s proposal, must also be included in its past performance volume. Id. at 150.

² Citations to the RFP are to the conformed copy provided by the agency. AR, Tab 7, RFP.

³ The solicitation stated that pursuant to “10 U.S.C. § 2305(a)(3)(C), as amended by Section 825 of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, the Government will not evaluate cost or price for the IDIQ contract. Cost or price to the Government will be considered in conjunction with the issuance of a task or delivery order under any contract awarded hereunder.” RFP at 162.

⁴ For example, the technical criterion for life cycle software services was comprised of the following sub-elements: developing implementation, re-engineering, data or system migration, and modernization. RFP at 150.

The RFP's instructions also directed offerors to complete a cross-reference matrix, which was attached to the solicitation. Id. at 146 and 179-183. An offeror was to include the same copy of the cross-reference matrix in both the technical experience volume and the past performance volume of its proposal. Id. The offeror's cross-reference matrix was required to demonstrate "traceability" between the offeror's contract references. The solicitation also required that each offeror's cross-reference matrix show "which contract references [were] used to satisfy each technical element and each past performance sub-factor." Id. at 146.

Section L of the RFP provided the following instruction regarding the contract references that the offerors were to submit with both the technical experience and past performance volumes of its proposals:

Multiple-award IDIQ: Multiple award IDIQ contract numbers are not allowed to be used as a reference however, an individual task order issued against the multiple-award IDIQ is allowed. Multiple task orders issued against a multiple-award IDIQ cannot be combined and counted as one contract reference.

Single-award IDIQ: Offerors using single-award IDIQ contract numbers as a contract reference shall include **BOTH** the IDIQ contract number **AND** the individual task order number(s) in order to verify and validate that the IDIQ being referenced is in fact a single-award IDIQ contract. A maximum of three (3) task orders issued against a single-award IDIQ can be combined and counted as one (1) contract reference to address the criteria. A method of quality assessment shall be obtainable to the Government (i.e. CPAR [contractor's performance assessment report]/PPQ [past performance questionnaire]) for each contract reference.

* * * * *

Joint Ventures (JV): For Offerors proposing as a JV, contract references submitted shall represent work performed by the approved JV, if available **AND** a minimum of one (1) contract reference shall be submitted, for Volumes II and III, by each member comprising the JV (see CFR 13 125.8(e)); offerors shall annotate the name of the JV member for these references on all documents (PPQ, CRM [cross reference-matrix], Technical Narratives and Past Performance Narratives). If a minimum of one contract reference is not submitted by each member comprising the JV for Volumes II and III, the Offeror will be considered non-compliant and not eligible for contract award.

Id. at 147-148 (emphasis in the original).

In addition to the cross-reference matrix, the technical experience volume was to include a self-scoring worksheet and technical narratives. Id. at 149. The technical narrative section was to describe the offeror's experience that supports the technical element points claimed on the offeror's self-scoring worksheet. The solicitation provided that there should be a technical narrative for each reference and that it should include the "project title, contract/project number (or equivalent) and period of performance at the beginning of the narrative." Id. at 149.

The past performance volume was to include the cross-reference matrix, described above, with the same references used in the technical experience volume, past performance narratives, and CPARS or PPQs.⁵ Id. at 155-156. The past performance narratives were to describe how the offeror's past performance supported the following past performance subfactors: life-cycle software services, cybersecurity, and information technology business analysis. Id. at 156-158. The RFP further provided that it was the offeror's responsibility to ensure that the government received "verifiable information to evaluate the quality of the past performance," and that to this end the contractor should submit a CPAR or a PPQ for each of its claimed references. Id. at 159.

The solicitation stated that the agency intended to evaluate proposals and make awards without discussions to the offerors deemed responsible, and whose proposals conformed to the solicitation's requirements and were judged, based on the evaluation factors, to represent the best value to the government.⁶ Id. at 163.

Section M of the solicitation set up a tiered evaluation process. Id. at 163-164. The first step of the evaluation was a Capability Maturity Model Integration (CMMI) appraisal, which required offerors to be certified at level 2 in CMMI.⁷ Id. If an offeror passed the CMMI appraisal as level 2 certified, the agency would then evaluate an offeror's technical experience (factor 1) using the self-scoring worksheet and technical narratives provide by the offeror. The offeror's claimed points from its self-scoring sheet were verified by the agency using the technical narratives. An offeror's proposal was considered acceptable if the offeror received 4,200 points. Id. at 165. The RFP provided that the agency would use the cross-reference matrix to verify that all contract

⁵ Offerors were permitted to include past performance references that were not also used in the technical experience volume, but all references provided as part of the technical experience volume were required to also be used as past performance references.

⁶ The agency estimated value for the SBEAS contract is a maximum of \$13.4 billion over the possible ten year ordering period of the contract. Contracting Officer Statement (COS) at 3.

⁷ CMMI is a process level improvement training and appraisal program that is administered by the CMMI Institute.

references in the technical experience factor were also submitted for the past performance factor.⁸ Id. at 164.

In the event that technical experience was evaluated as acceptable, then the agency would evaluate the offeror's past performance. Id. at 164. The agency, using the cross-reference matrix, would review the accompanying past performance narratives and evaluate each offeror's past performance references for recency, relevancy, and quality. Id. at 172.

VTI timely submitted its proposal in response to the solicitation. As part of its proposal, VTI provided a technical narrative and past performance narrative which included the following heading regarding the contract reference:

*USAF/Air Force Services Activity (AFSVA) Child Youth Programs
Business Modernization System (CYPBMS); F4199916D0014: JV Veteran
Technology Integrators, LLC., Mainstay Information Solutions; 8 Oct 2016-
7 Oct 2026*

AR, Tab 9, VTI's Proposal Volume II/Technical Experience at 32; Tab 12, VTI's Proposal Volume III/Past Performance at 18.

The contracting officer states that, while reviewing VTI's proposal, she emailed an agency point of contact for contract F4199916D0014 and asked the following:

Is it an IDIQ where task orders are issued? This is important because our ITO was specific that order numbers issued against an IDIQ have to be specified.

AR, Tab 16, Contracting Office's Inquiry to the Contract Specialist for F4199916D0014 (Feb. 27, 2018); COS at 6.

The contract specialist for contract F4199916D0014 responded with the following:

Yes, this is an IDIQ contract where we do issue task orders off of the basic contract. Thank you.

AR, Tab 16, Contract Specialist for F4199916D0014 Reply to Inquiry from Contracting Officer (Feb. 27, 2018).

On March 2, the agency notified VTI that, after an administrative review, a section of its proposal was "found to be non-compliant in accordance with (IAW) the following sections of the Instructions to Offerors (ITO)." AR, Tab 15, VTI Non-Compliance

⁸ The solicitation provided that the technical experience factor would receive an adjectival rating of acceptable or unacceptable. RFP at 164.

Memorandum for the Record (MFR) (Mar. 2, 2018). The agency's notification to VTI included the following:

Issue: As part of its proposal, Veteran Technology Integrators, LLC, which is a JV comprised of Mainstay Information Solutions, LLC and Technatomy Corporation, provided five (5) contract references to address the criteria provided in the SBEAS solicitation. Veteran Technology Integrators, LLC provided contract reference F4199916D0014 for Technical Narrative (TN) 2 and Past Performance Narrative (PPN) 2 in its proposal, which is a contract number for an IDIQ contract. Veteran Technology Integrators, LLC, failed, however, to provide an associated task order number for this reference. IAW the ITO, an individual task order issued against an IDIQ is an acceptable reference, but citing the IDIQ contract number alone does not comply with the ITO. Accordingly, the Government will not consider this reference in its evaluation of Veteran Technology Integrators, LLC's proposal.

AR, Tab 15, VTI Non-Compliance MFR (Mar. 2, 2018). The agency further stated that once the technical narrative/past performance narrative is removed then VTI is noncompliant with the RFP section which states that "[i]f a minimum of one contract reference is not submitted by each member comprising the JV for Volumes II and III, the Offeror will be considered non-compliant and not eligible for contract award." Id. citing Section L § 1.2.6.

On March 5, VTI filed an agency-level protest contesting the exclusion of its proposal from the competition, which was denied by the agency that same day. AR, Tab 17, VTI Agency-Level Protest (Mar. 5, 2018); Tab 18, Agency Response of VTI's Agency-Level Protest (Mar. 5, 2018). On March 12, VTI filed this protest with our Office.

DISCUSSION

VTI protests the agency's exclusion of its proposal from the competition, alleging that the agency unreasonably determined that it could not evaluate one of its contract references. VTI argues that it complied with the instructions set forth in the solicitation, which it alleges did not require it to provide a task order for a subcontract reference. The protester maintains that the agency's decision to exclude VTI's proposal from competition was based on its conclusion that a prime contract under which Mainstay performed as a subcontractor was an IDIQ contract and VTI did not include in its proposal a task order number in connection with the IDIQ, as required by the solicitation instructions. Protest at 8.

In reviewing a protest concerning an agency's evaluation of proposals, we do not independently review proposals; rather, we review the record to ensure that an agency's evaluation is reasonable and consistent with the terms of the solicitation, as well as applicable statutes and regulations. Intelligent Decisions Inc. et al., B-409686 et al., July 15, 2014, 2014 CPD ¶ 213 at 15-16. While we will not substitute our judgment for that of the agency, we will sustain a protest where the agency's conclusions are not

reasonably based. Id. For the reasons discussed below, we find the agency's exclusion of VTI's proposal to be unreasonable.

As recounted above, the contracting officer contacted an agency official regarding prime contract No. F4199916D0014, which she learned was an IDIQ contract, with [DELETED] as the prime contractor. After concluding that the [DELETED] prime contract was an IDIQ contract and that VTI did not provide a task order number under that IDIQ contract, the agency eliminated VTI's proposal for non-compliance with the solicitation's proposal instructions. The protester argues that it did not submit [DELETED]'s prime contract for evaluation, rather it submitted a subcontract performed by Mainstay under the prime contractor, [DELETED], for the experience and past performance evaluations.

The protester states that the subcontract between Mainstay and [DELETED] did not have a contract number. Protest at 10. The protester further notes that it was because there was no subcontract number associated with Mainstay's contract with [DELETED] that VTI provided the IDIQ contract number of the prime contractor—[DELETED]. Id. VTI maintains that it was permitted by the RFP to submit subcontracts as past performance experiences (RFP at 142), and that there was no solicitation requirement to provide a prime contractor's task order number where the offeror was providing a subcontract as the applicable contract reference. Comments at 5. The protester further states that the agency understood that the reference provided was based upon Mainstay's role as a subcontractor under that reference. Comments at 10, citing COS at 7; Memorandum of Law (MOL) at 12.

The protester further argues that the agency disregarded the contact information that VTI provided in its proposal and the PPQ for its subcontract with [DELETED] which included the name and contact information for the prime contractor. The protester notes that the following information was included in VTI's proposal in its cross-reference matrixes:

Technical Narrative 2
F4199916D0014: JV Veteran Technology Integrators, LLC., Mainstay Information Solutions
Mr. B/ USAF Air Force Services Agency (AFSVA)
Child Youth Programs Business Modernization System (CYPBMS)
08 Oct 2016 – 07 Oct 2026
xxx-xxx-xxxx
mrb@[DELETED].com

AR, Tab 10, VTI Proposal, Volume II-Cross-Reference Matrix at 4; Tab 13, VTI Proposal, Volume III-Cross-Reference Matrix at 4.

The following information was in VTI's PPQ for the [DELETED] reference:

B. Customer Information (To be filled out by the Assessor)	
Name:	Mr. B
Title:	XXX
Agency or Customer:	[DELETED] (dba [DELETED])
Phone Number:	xxx-xxx-xxxx
E-mail:	mrb@[DELETED].com

AR, Tab 19, VTI's PPQ at 1.

The agency responds that “[i]f VTI wanted to rely upon the contract between itself and the prime, [DELETED], then VTI should have listed the contract reference [number] for the subcontract and not the Government contract.” MOL at 13. The agency states that VTI could have also supplied a task order number and been compliant with the solicitation's instructions. COS at 8. The agency argues that, as a result of VTI including the underlying IDIQ number, it was unable to evaluate the reference provided by VTI because it was unable to determine what portion of the work under the IDIQ was performed by the offeror and whether the work performed was relevant to the work required by the solicitation. Id.

We find that the rationale proffered to support exclusion of VTI's proposal lacks a reasonable basis. The agency states that the submission of Mainstay's subcontract reference under the prime contract with [DELETED] fails to comply with instructions because it utilized the underlying IDIQ number and lacked an identifying number, such as the task order or subcontract number. However, even if such an identifying number did exist, the number itself would not highlight for the agency the “portion of the work performed [by Mainstay].” COS at 8. For example, it is unclear what information the agency could have gleaned solely from the subcontract number about the type of work Mainstay completed under [DELETED]'s associated task order. The agency already understood that Mainstay was a subcontractor for this reference. The same can be said for providing a task order number, which would not indicate what portion of the task order work was covered by Mainstay's subcontract with [DELETED]. Yet, according to the agency, providing the task order number instead of the underlying IDIQ number would have been acceptable to the agency and allowed the agency to evaluate the reference. COS at 8-9 (“VTI did not provide either a task order number or a subcontract number, and thus made it impossible for the agency to evaluate its performance on this contract.”).

As noted above, VTI's cross-reference matrix included specific references to elements of the technical factor and the past performance subfactors that were relevant regarding the performance of Mainstay's subcontract. The proposal also included both technical and past performance narratives which described work performed under the referenced subcontract and how it applied to each portion of the technical or past performance

requirement for which it was being used. Therefore, the agency had, as part of VTI's technical and past performance proposal volumes, descriptive information regarding the type of work performed by Mainstay that it could have used to evaluate VTI's technical and past performance information. The agency, however, failed to look further than the IDIQ number to determine whether or not it could evaluate the offeror's reference. As a result, the agency eliminated VTI from the competition because, as a JV, VTI did not have references from each JV member as this was the sole reference provided for Mainstay.

Based on the foregoing, we find that the Air Force's rationale for the exclusion of VTI's proposal from further evaluation lacked a reasonable basis, and therefore we sustain the protest on this basis.⁹

RECOMMENDATION

We recommend that the agency, consistent with our decision, evaluate VTI's proposal. In addition, we recommend that VTI be reimbursed its costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). VTI should submit its certified claim, detailing the time expended and costs incurred, directly to the contracting agency with 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Thomas H. Armstrong
General Counsel

⁹ The protester further argued that the agency's decision not to seek clarifications was unreasonable. Based on our determination regarding the agency's exclusion of VTI's proposal, we need not address this issue.