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Decision

Matter of: MindPetal Software Solutions, Inc.

File: B-418016

Date: December 20, 2019

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Jonathan D. Shaffer, Esq., and Mary Pat Buckenmeyer, Smith Pachter McWhorter PLC, and Jonathan L. Spear, Esq., for Centennial Technologies, Inc.; Meghan F. Leemon, Esq., Jonathan T. Williams, Esq., Patrick K. Burns, Esq., and Emily J. Rouleau, Esq., Piliro Mazza PLLC, for iWorks Corporation, the intervenors.

Kehinde Stinson, Esq., and Michael S. Taylor, Esq., Department of Education, for the agency.

Uri R. Yoo, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the agency improperly assessed multiple deficiencies to the protester's proposal is denied where the agency reasonably concluded that the proposal did not substantively address a number of solicitation requirements.
 2. Protester is not an interested party to raise other challenges to the agency's evaluations and award decision where the agency reasonably found the protester's proposal to be technically unacceptable.
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DECISION

MindPetal Software Solutions, Inc., a small business concern of Vienna, Virginia, protests the award of contracts to Centennial Technologies, Inc., of Leesburg, Virginia, iWorks Corporation, of Reston, Virginia, and PPS InfoTech, LLC, of Rockville, Maryland, under request for proposals (RFP) No. 910031-19-R-0003, issued by the Department of Education, Office of Federal Student Aid (FSA), for enterprise middleware architecture and services. MindPetal contends that the agency misevaluated proposals and made an unreasonable best-value determination.

We deny the protest.

BACKGROUND

The solicitation was issued on April 15, 2019, as a small business set-aside, for solutions, services, and materials for FSA's applications and systems in three service areas: (1) integrated technical architecture (ITA); (2) enterprise service bus (ESB); and (3) cloud services. Agency Report (AR), Tab 2, RFP, at 1, 4. The RFP contemplated the award of one or more indefinite-quantity, indefinite-delivery contracts with a 10-year period of performance. Id. at 2. The RFP also contemplated, simultaneously with the award of the contracts, the issuance of two initial task orders--task order 0001 for ITA support and task order 0002 for ESB support--and provided performance work statements (PWS) for these task orders as attachments to the RFP. Id. at 17.

The RFP instructed offerors to submit proposals comprised of five volumes as follows: (1) relevant experience; (2) technical approach for sample task order 0003 for cloud services support; (3) technical approach for task order 0001 for ITA support; (4) technical approach for task order 0002 for ESB support; and (5) price proposal. RFP at 11-14. Under each of the technical approach volumes, the RFP instructed offerors to "submit narratives describing its technical approach" to meeting the RFP requirements for the particular area. Id. at 12-13. For example, under volume three, the RFP stated that the offeror "must submit narratives describing its technical approach to meeting the following requirements from Attachment 1, ITA Performance Work Statement" and listed sixteen sections of the PWS. Id. Likewise, under volume four, the RFP stated that the offeror "must submit narratives describing its technical approach to meeting the following PWS requirements from Attachment 2, ESB [PWS]" and specifically listed fifteen sections of that PWS. Id. at 13-14.

The RFP informed offerors that the agency would first evaluate proposals using a two-step down-select procedure. Id. at 16. Under the first down-select, the agency was to evaluate responsive proposals against the two go/no-go factors of experience and cloud support services technical approach. Id. Only proposals rated acceptable for the go/no-go factors would be further evaluated in the second down-select against price and the following three non-price factors: (1) ITA support technical approach; (2) ESB support technical approach; and (3) past performance. Id. The RFP advised offerors that proposals rated unacceptable for any of these three non-price factors would not be evaluated for price. Id. at 20. The RFP anticipated award to the offerors submitting proposals providing the best value to the government, considering price and the three non-price factors. Id. at 17. ITA support technical approach and ESB support technical approach were equally important, and each was more important than past performance and price; past performance was less important than price. Id. The RFP also reserved the agency's right to establish a competitive range following the evaluation. Id. at 16.

As relevant here, under each of the ITA support and ESB support technical approach factors, the RFP provided that the offerors' proposals would be evaluated "to determine the extent to which the Contractor's proposed technical approach meets" the ITA and ESB requirements set out in task orders 0001 and 0002, respectively. Id. at 19. The RFP further explained that the proposed technical approaches to meeting FSA's task

orders 0001 and 0002 requirements would be assessed on: (1) the extent to which the approach is viable to meeting FSA’s requirements; and (2) the extent to which the government benefits from approaches that either exceed FSA’s requirement or are in addition to but related to FSA’s requirement. Id.

The agency received proposals from seven offerors, including MindPetal, Centennial, iWorks, and PPS. Contracting Officer’s Statement at 4. The agency found the proposals of three offerors, other than MindPetal and the awardees, unacceptable under the first down-select and eliminated those offerors from the competition. Id. The agency then evaluated the remaining proposals under the second down-select factors as follows:

	MindPetal	Centennial	iWorks	PPS
ITA Support Technical Approach	Unacceptable	Acceptable	Very Good	Very Good
ESB Support Technical Approach	Unacceptable	Acceptable	Very Good	Very Good
Past Performance	Highly Satisfactory	Highly Satisfactory	Highly Satisfactory	Highly Satisfactory
Price	\$9,102,351	\$8,662,251	\$6,540,455	\$5,777,529

AR, Tab 8, Competitive Range Determination, at 1.

The agency used the ratings of outstanding, very good, acceptable, and unacceptable in its evaluation under the two technical approach factors. AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 6; AR, Tab 7, MindPetal Technical Evaluation--ESB Support, at 5. As relevant here, the agency described the rating of unacceptable as follows:

The overall merit of the Offeror’s proposal offers no overall value to the Government. The proposal offers one or more significant disadvantage(s) from one or a combination of assessed weaknesses, significant weaknesses, and/or deficiencies.

Also, the Contractor meets the criteria for one or more of the following:
 (1) The Offeror’s technical approach, not including labor, is not viable to meeting PWS requirements in Task Order 0001/Task Order 0002.
 (2) The Offeror’s labor approach, including level of effort (hours and labor categories) is not viable to meeting PWS requirements in Task Order 0001/Task Order 0002.

Id. (emphasis in original). The agency defined a deficiency as “aspects in the proposal that represent[:] (1) a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level; and (2) create a disadvantage(s)” and a weakness as “aspects in the proposal that increase[] the risk of

unsuccessful contract performance and create[] a disadvantage(s).” AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 1-2; AR, Tab 7, MindPetal Technical Evaluation--ESB Support, at 1.

The agency identified one weakness and eight deficiencies in MindPetal’s proposal for the ITA support technical approach factor and assigned a rating of unacceptable. AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 1-6. The agency explained that the deficiencies were based on MindPetal’s failure to “offer[] an actual approach for accomplishing the requirements as defined in multiple PWS sections.” Id. at 6. The agency also identified eight deficiencies in MindPetal’s proposal for ESB support technical approach and assigned a rating of unacceptable. AR, Tab 7, MindPetal Technical Evaluation--ESB Support, at 2-5.

The contracting officer reviewed the technical evaluations of offerors and made a competitive range determination, noting that MindPetal’s “total of sixteen deficiencies is a significant amount of deficiencies that cumulatively render the proposal grossly deficient; discussions will unlikely lead to a satisfactory proposal.” AR, Tab 8, Competitive Range Determination, at 2. As a result, the contracting officer excluded MindPetal’s proposal from the competitive range. Id.

The agency notified MindPetal of the decision to exclude it from further award consideration on September 11, 2019. After requesting and receiving a debriefing, MindPetal protested to our Office.

DISCUSSION

MindPetal challenges the agency’s assessment of multiple deficiencies in its technical proposal and argues that the agency improperly found its proposal unacceptable and ineligible for award. Protest at 7-14. The protester also asserts that the agency improperly found the proposal of Centennial, one of the three awardees,¹ to be acceptable, and also challenges the agency’s best-value tradeoff analysis. Id. at 15-16.

For the reasons discussed below, we conclude that the agency reasonably evaluated the protester’s proposal as technically unacceptable and excluded it from further consideration.² Since we find that the agency’s evaluation was reasonable in this

¹ In its initial protest, the protester also alleged that the agency improperly found iWorks’ proposal to be acceptable. Protest at 15. The protester, however, did not further discuss this contention in its comments responding to the agency report. See Memorandum of Law (MOL) at 6; see generally, Protester Comments. We therefore deem this issue abandoned. See Booz Allen Hamilton Inc., B-414283, B-414283.2, Apr. 27, 2017, 2017 CPD ¶ 159 at 5 n.9.

² Although we do not address each argument raised by the protester, we have considered all of them and find no basis to sustain the protest.

regard, MindPetal is not an interested party to raise its remaining challenges to the agency's evaluation and award decision. Bid Protest Regulations, 4 C.F.R. § 21.0(a); see SWR, Inc., B-284710.2, B-284710.3, Nov. 15, 2000, 2000 CPD ¶ 206 at 4 n.1 (where there is another acceptable proposal eligible for award, a protester is not an interested party where it would not be in line for award were its protest sustained).

Technical Evaluation

The protester alleges that the agency unreasonably found its proposal to be unacceptable under the ITA support factor, which rendered its proposal ineligible for further consideration for award under the terms of the RFP. Specifically, MindPetal challenges the deficiencies its proposal received, arguing that the agency either "applied an inappropriate, strict standard in its evaluation" of its proposal or overlooked information that was included in its proposal. Protest at 7. In this regard, the protester contends that its proposal adequately responded to the RFP's "broad requirements."³ Id. at 9. The agency asserts that its assessment of the deficiencies was reasonable because MindPetal's proposal failed to state how it would complete the work requested in the RFP, as outlined in the PWS requirements. MOL at 3. As discussed below, we conclude that the agency reasonably evaluated MindPetal's proposal under the ITA support factor, and therefore, was reasonable in finding MindPetal's proposal ineligible for award. We address a few representative examples below.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. 22nd Century Techs., Inc., B-413210, B-413210.2, Sept. 2, 2016, 2016 CPD ¶ 306 at 8. Rather, we will review the record only to assess whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Id. A protester's disagreement with an agency's judgment, without more, is insufficient to establish that an agency acted unreasonably. Watts-Obayashi, Joint Venture; Black Constr. Corp., B-409391 et al., Apr. 4, 2014, 2014 CPD ¶ 122 at 9. Moreover, it is an offeror's responsibility to submit an adequately written proposal that demonstrates the merits of its approach; an offeror runs the risk of having its proposal downgraded or rejected if the proposal is inadequately written. Dewberry Crawford Grp.; Partner 4 Recovery, B-415940.10 et al., July 2, 2018, 2018 CPD ¶ 297 at 13-14.

³ The protester also contends that the RFP did not provide enough information to allow an offeror to offer a tailored approach to meeting the agency's specific needs. Protest at 9. To the extent the protester is alleging that the RFP was insufficiently detailed or too vague for offerors to submit a proposal addressing the requirements, such argument is an untimely challenge to an alleged solicitation impropriety that should have been protested before the initial closing date for submission of proposals. 4 C.F.R. § 21.2(a)(1); see AmaTerra Env'tl. Inc., B-408290.2, Oct. 23, 2013, 2013 CPD ¶ 242 at 3 (protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed before that time).

As noted, the agency assigned eight deficiencies and one weakness to the protester's proposal under the ITA support technical approach factor. AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 1-6. All of the deficiencies were based on the failure of MindPetal's proposal to adequately explain or address its process for performing specific PWS requirements. The agency noted that MindPetal "often cite[d] what they have done at other agencies . . . without explicitly addressing FSA's requirements as stated in the RFP," and asked the evaluators "to draw inferences based on work they have done elsewhere and have them apply these experiences to FSA's requirements." Id. at 6.

For example, the agency assessed a deficiency for MindPetal's failure to provide an adequate response to PWS section C.2.1. AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 2. This portion of the solicitation required that offerors submit a narrative describing their technical approach to meeting the following PWS requirement:

C.2.1 Conduct Ad-Hoc New Technology Research

The Contractor shall support FSA's technical architecture planning, selection, and evaluation of new technologies and capabilities to ITA by providing recommendations and information when requested. For example[,] FSA may request:

- (1) Research on the virtualization of various environments.
- (2) Research, evaluation, and assessment strategies to support migration and deployment of ITA components in the cloud and provide Platform as a Service (PaaS) services in the cloud. The Contractor shall collaborate on the development and refinement of appropriate processes and revised Roles and Responsibilities (R&R) matrix between ITA, [Next Generation Data Center] and other cloud infrastructure providers, and FSA application teams.
- (3) Research, evaluate, and recommend strategies to implement a container platform and efficient DevSecOps processes.

RFP at 126.

In response to this PWS requirement, the protester's proposal stated that MindPetal's team [DELETED] and proceeded to describe the analysis of alternatives (AoA) research it performed for the Occupational Safety and Health Administration and the Food and Drug Administration. AR, Tab 3, MindPetal Proposal, v. III-- ITA Support, at 3. It also listed [DELETED]. Id.

The agency found that MindPetal's proposal provided "no information . . . on how the Contractor proposes to research (including virtualization of various environments), evaluate, assess, and recommend strategies for the requirement." AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 2. The agency noted that MindPetal "describe[d] how they performed [AoA] activities for other clients, yet did not say what would be done for FSA." Id. In assessing this deficiency, the agency concluded that,

because MindPetal “only referenced past experience and failed to provide sufficient information regarding how they would accomplish PWS C.2.1,” MindPetal presented a high risk of nonperformance. Id.

The protester argues that the agency’s assessment of this deficiency was unreasonable and that its proposal adequately responded to the RFP’s requirements. Protest at 9. The protester asserts that, because the requirement here was to conduct “ad-hoc” research and make a recommendation when requested, MindPetal was not required to propose specific approaches. Id. MindPetal contends that its proposal met the requirement by explaining “the steps it would follow in providing this support, including way[s] in which it would analyze new technologies” and demonstrating the viability of its approach through “other engagements . . . in which MindPetal successfully implemented this approach.” Id. The agency counters that the RFP instructed offerors to submit narratives on how they would meet specific PWS requirements and provided sufficiently detailed requirements for offerors to propose specific approaches, which MindPetal failed to do. MOL at 4.

On this record, we find that the agency reasonably assessed a deficiency to MindPetal’s proposal for its failure to adequately address this requirement. Here, the record shows that the protester’s technical approach discussed its experience performing AoA for other agencies and listed general steps it uses in performing AoA; however, as the agency noted, MindPetal’s proposal did not include information about its approach to meeting the specific requirements of the agency as described in the PWS. It is an offeror’s obligation to submit an adequately-written proposal for the agency to evaluate. Dewberry Crawford Grp.; Partner 4 Recovery, supra.

As another example, the agency assessed a deficiency to MindPetal’s proposal based on its failure to provide an adequate response to PWS section C.2.4. AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 3. This portion of the RFP required that offerors propose their technical approach to the following requirement in the PWS:

C.2.4 Support Ad-Hoc Architecture Planning

Provide information and recommendations to support FSA decision makers in architectural decisions when requested. Examples include the following:

- (1) Support developing sizing requirements for the physical and virtual environments.
- (2) Provide design specifications relating to ITA software for the physical and virtual machines that will house the various needed production and pre-production environments.

RFP at 126. In response to this requirement, MindPetal’s proposal stated the following:

FSA legacy applications will soon be going through a transformation as part of the Next Gen program, while at the same time FSA will be moving

to an [Amazon Web Services] cloud infrastructure. These changes may require ad-hoc and frequent updates to the ITA. Our team is fully committed to supporting FSA to meet these ad-hoc requirements. In addition, we will [DELETED]. This approach has proven itself on our [Department of Labor] contract and was very helpful in [DELETED].

AR, Tab 3, MindPetal Proposal, v. III-- ITA Support, at 5.

The agency found that MindPetal “did not indicate its approach providing design specifications or developing sizing requirements to support [] physical and virtual environments needed for production and non-production, which is the ITA PWS C.2.4 requirement.” AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 3.

Here, the protester responds that in its proposal MindPetal indicated it will provide this support “but agrees with Agency evaluation comments that it does not specify the proposed approach.” Protest at 10. The protester nonetheless contends that its proposal was sufficient because the requirements were for ad-hoc services “when requested” and “it is impossible for MindPetal at this stage to predict the solution it would recommend for each assignment.” Id.; Protester Comments at 5.

On this record, we find that the agency reasonably assessed a deficiency for the protester’s failure to propose a technical approach addressing the requirements of the PWS section C.2.4. While the requirement was for ad-hoc support, the RFP provided specific examples of the required support and, as the agency noted, MindPetal’s proposal simply did not address how it proposes to perform the requirements. See AR, Tab 6, MindPetal Technical Evaluation--ITA Support, at 3.

Based on this record, we find nothing unreasonable regarding the agency’s evaluation of MindPetal’s proposal under the ITS support factor. To the extent MindPetal contends that its proposal submission was adequate, the protester’s disagreement with the agency’s reasonable evaluation provides no basis to sustain the protest. Watts-Obayashi, Joint Venture; Black Constr. Corp., supra.

Remaining Challenges

MindPetal also challenges the agency’s evaluation of its proposal under the ESB support technical approach factor as unacceptable, arguing that the agency unreasonably identified “the same [d]eficiencies in this section of the MindPetal proposal that it did in the section of the MindPetal proposal addressing the ITA support requirements.” Protest at 14; Protester Comments at 8-9. As noted above, the solicitation stated that a proposal rated unacceptable for any of the three non-price factors--ITA support, ESB support, or past performance--would not be further evaluated for price. RFP at 20. Because we conclude that the agency reasonably rated MindPetal’s proposal unacceptable under the ITA support factor, we need not address MindPetal’s arguments concerning the agency’s evaluation of its proposal under the ESB support factor.

The protester also argues that the agency unreasonably found acceptable the proposal of Centennial, one of the three awardees, alleging that Centennial did not have experience with one of the technologies the agency identified in the RFP. Protest at 15; Protester Comments at 9-10. MindPetal also argues that the agency's best-value decision was flawed because the underlying evaluation was unreasonable. Protest at 15-16; Protester Comments at 10-11.

Under our Bid Protest Regulations, only interested parties may protest procurement actions by federal agencies. 4 C.F.R. § 21.1(a). That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. § 21.0(a)(1).

Based on the exclusion of the protester's proposal from the competitive range, we conclude that MindPetal is not an interested party for purposes of challenging the evaluation of other offers. See General Dynamics One Source, LLC, B-409869.3, B-409869.4, Sept. 8, 2014, 2014 CPD ¶ 270 at 10. MindPetal is also not an interested party to challenge the source selection decision. See Moreland Corp., B-291086, Oct. 8, 2002, 2002 CPD ¶ 197 at 4. Accordingly, we dismiss MindPetal's remaining allegations.

The protest is denied.

Thomas H. Armstrong
General Counsel