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Decision

Matter of: ZolonTech, Inc.

File: B-418213; B-418213.2

Date: January 23, 2020

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DIGEST

Protest challenging the agency's evaluation of the protester's and the awardee's proposals under the technical/management factor--including allegations that the agency unreasonably failed to assess several strengths in the protester's proposal--is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

ZolonTech, Inc., of Herndon, Virginia, protests the issuance of a task order to Federated IT, Inc., of Arlington, Virginia, under task order request for proposals (RFP) No. HHM402-19-R-0013, issued by the Defense Intelligence Agency (DIA) for a private cloud system. The protester challenges various aspects of the agency's evaluation of its and the awardee's proposals under the technical/management factor.

We deny the protest.

BACKGROUND

On June 11, 2019, the agency issued the RFP, pursuant to Federal Acquisition Regulation part 16, to holders of DIA Enhanced Solutions for the Information Technology Enterprise (E-SITE) indefinite-delivery, indefinite-quantity (IDIQ) contracts.

See Agency Report (AR), Tab 4.2, RFP.¹ The RFP seeks a contractor to support the Department of Defense Intelligence Information System Private Cloud (DPC) effort. Specifically, the objective of the DPC effort “is to implement a software-defined, commercially available off[-]the[-]shelf (COTS), and predominantly non-custom compiled unique hyper-converged private cloud operated as an on-premises infrastructure system.” RFP attach. A, Performance Work Statement (PWS), at 2. As the agency explains: “DIA is in the process of consolidating its global data centers along with adopting cloud offerings. In this regard, the subject DPC solicitation advances DIA’s community and cloud strategy.” Memorandum of Law (MOL), Nov. 19, 2019, at 2; see also RFP attach. A, PWS, at 2.

The RFP contemplates the issuance of a single hybrid task order with fixed-price, cost-plus-fixed-fee, and cost-reimbursable contract line item numbers for a base year, four 1-year option periods, and a possible 6-month extension. RFP attach. A, PWS, at 19; RFP, attach. G, Offeror Instructions and Evaluation Factors, at 10. The RFP notes that the total value of the task order was estimated to be in the range of \$115 million to \$125 million. RFP, attach. G, Offeror Instructions and Evaluation Factors, at 10.

The RFP provided for award on a best-value tradeoff basis, weighing two factors: technical/management and cost/price. RFP, attach. G, Offeror Instructions and Evaluation Factors, at 8. The RFP advised that the technical/management factor was significantly more important than cost/price and that award would not necessarily be made to the lowest-priced offer or a technically superior offer. Id. at 8.

The technical/management factor included three equally weighted subfactors.² For each subfactor, the RFP provided an introductory paragraph explaining that the agency would “evaluate the feasibility and achievability of the offeror’s demonstrated approach”; the RFP then listed and described several specific elements, or “attributes/ characteristics [that] will be considered[,]” under each subfactor. RFP, attach. G, Offeror Instructions and Evaluation Factors, at 9-10. With regard to subfactor 3 of the technical/management factor, system implementation, integration and accreditation, the RFP explained that the agency would consider the following elements: system delivery plan; integration and compliance with current infrastructure; and proposed staffing matrix.³ Id.

¹ The RFP included seven attachments and was amended four times.

² The three subfactors were: virtual desktop delivery and infrastructures; administrative self-service portal innovation; and system implementation, integration and accreditation. RFP, attach. G, Offeror Instructions and Evaluation Factors, at 9-10.

³ Specifically, the RFP provided the following:

Subfactor 3: System Implementation, Integration and Accreditation

The government will evaluate the feasibility and achievability of the offeror’s demonstrated approach to provide the solution. The following attributes/characteristics will be considered:

(continued...)

On or before the July 10 closing date, the agency received proposals from six offerors, including ZolonTech and Federated IT. Contracting Officer’s Statement (COS), Nov. 19, 2019, at 2. The source selection evaluation board (SSEB) evaluated ZolonTech’s and Federated IT’s proposals as follows:

	ZolonTech	Federated IT
Technical/Management⁴	Good	Good
Labor Price⁵	\$92,579,646	\$91,551,605

AR, Tab 11.1, Post-Award Notice, at 2; see also AR, Tab 9.2, ZolonTech SSEB Report, Sept. 14, 2019; AR, Tab 13.2, Federated IT SSEB Report, Sept. 14, 2019.

Of relevance here, under subfactor 3 of the technical/management factor, the SSEB evaluated ZolonTech’s proposal as “adequate” for each of the three elements listed in the RFP. In its report, the SSEB designated these three elements as: 3(a) system delivery plan; 3(b) integration and compliance with current infrastructure; and 3(c) proposed staffing matrix. The SSEB did not assign a separate designation for

(...continued)

- System Delivery Plan []: The extent to which the offeror’s high-level programmatic approach adheres to Agile methodologies, articulates the design maturity, delivers an accredited system inclusive of system-wide security vulnerability/risk mitigation in every deployment phase, and is fully capable of achieving technical acceptance in accordance with stated PWS requirements and milestones.
- Integration and Compliance with Current Infrastructure: The extent to which the offeror[’]s proposed hardware and software solution will successfully integrate with “enabling and integrating services” as defined [in the] PWS and in accordance with industry standards for listed technologies.
- Proposed Staffing [M]atrix: Suitability of the proposed staffing mix to execute the proposed technical approach.

RFP, attach. G, Offeror Instructions and Evaluation Factors, at 9-10.

⁴ Under the technical/management factor, proposals were assigned ratings of blue/outstanding, purple/good, green/acceptable, yellow/marginal, and red/unacceptable. RFP, attach. G, Offeror Instructions and Evaluation Factors, at 10. For simplicity, this decision omits the color code and refers only to the associated adjectival rating.

⁵ The agency represents that, notwithstanding its use of this label, the task order was issued based on this value as the total contract ceiling amount. AR, Tab 11.1, Post-Award Notice, Sept. 30, 2019, at 1.

the subfactor's introductory paragraph. AR, Tab 9.2, ZolonTech SSEB Report, at 2, 8-9.

The agency concluded that Federated IT's proposal represented the best overall value to the government based on the solicitation's evaluation criteria. See AR, Tab 11.1, Post-Award Notice, at 2. After the agency notified ZolonTech of the award and provided a debriefing, which included a copy of the SSEB report for ZolonTech's proposal, this protest followed.⁶

DISCUSSION

ZolonTech challenges several aspects of the agency's evaluation of its and the awardee's proposals under the technical/management factor. We have reviewed all of ZolonTech's arguments and discuss below several representative examples of ZolonTech's assertions, the agency's responses, and our conclusions. Based on our review, we find no basis to sustain ZolonTech's protest.⁷

Evaluation of ZolonTech's Proposal

ZolonTech primarily argues that the agency failed to follow the stated evaluation criteria by evaluating its proposal as "adequate" under subfactor 3 of the technical/management factor, system implementation, integration and accreditation. First, ZolonTech alleges that the agency failed to evaluate ZolonTech's proposal under the introductory paragraph for subfactor 3, based on what it describes as an "inconsistency" in the SSEB report. Protest at 7.

As noted above, under subfactor 3 of the technical/management factor, the RFP first provided an introductory paragraph stating that "[t]he government will evaluate the feasibility and achievability of the offeror's demonstrated approach to provide the solution[.]" RFP, attach. G, Offeror Instructions and Evaluation Factors, at 9. The RFP then described three specific elements that the agency would consider under this subfactor: system delivery plan; integration and compliance with current infrastructure; and proposed staffing matrix. *Id.* at 9-10. As stated above, the SSEB labeled these three subfactor 3 elements as 3(a), 3(b), and 3(c), respectively. AR, Tab 9.2, ZolonTech SSEB Report, at 2, 8-9.

⁶ This procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts, since the awarded value of the task order at issue exceeds \$25 million. 10 U.S.C. § 2304c(e)(1)(B).

⁷ In its various protest submissions, ZolonTech has raised arguments that are in addition to, or variations of, those specifically discussed below. We have considered all of ZolonTech's arguments and find no basis to sustain its protest. ZolonTech also raised, but subsequently withdrew, other arguments. Comments and Supp. Protest, Nov. 29, 2019, at 7; Supp. Comments, Dec. 16, 2019, at 1.

The record shows that the SSEB found that ZolonTech's proposal was "adequate" for all three elements. AR, Tab 9.2, ZolonTech SSEB Report, at 2, 8-9; AR, Tab 2.3, Second Declaration of SSEB Member, Nov. 19, 2019, at 3. In this regard, a member of the SSEB explains that the SSEB specifically did not separately rate or address the introductory paragraph of subfactor 3 because, in the SSEB's view, the "proposed technical implementation and approach for the 3 elements (bullets) of subfactor 3, when taken holistically, would provide sufficient detail to document the SSEB's evaluation of subfactor 3" so that "a separate finding for the introductory paragraph was not warranted."⁸ AR, Tab 2.3, Second Declaration of SSEB Member, at 5. The SSEB member further asserts that "[t]he SSEB did consider the feasibility and achievability of the offeror's solution with respect to subfactor 3 as documented in the three adequate findings for subfactor 3 described in the evaluation report." Id.; see also AR, Tab 9.2, ZolonTech SSEB Report, at 2, 8-9.

In reviewing protests challenging the evaluation of proposals in a task order competition, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the evaluation criteria. Booz Allen Hamilton, Inc.; Leidos Inc., B-410032.4 et al., Mar. 16, 2015, 2015 CPD ¶ 108 at 5. A protester's disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

On this record, we find no basis to object to the agency's evaluation of ZolonTech's proposal. The protester has not identified, nor do we find, any basis in the RFP to have required the evaluators to isolate the introductory paragraph of subfactor 3 as a separate and distinct factor. We also find no merit to the protester's argument that the omission of such a rating was "significant and highly prejudicial[.]" because it would "have resulted in multiple strengths for ZolonTech[.]" Protest at 7. While the protester disagrees with the agency's approach, it does not show why a separate evaluation of the "feasibility and achievability of [ZolonTech's] demonstrated approach to provide the solution" would result in a higher rating than the three elements on which the evaluation was to be based--each of which was assessed as merely adequate. See RFP, attach. G, Offeror Instructions and Evaluation Factors, at 9; AR, Tab 9.2, ZolonTech SSEB Report, at 2, 8-9. ZolonTech's disagreement with the agency's evaluation, without more, does not establish that it was unreasonable. Accordingly, this protest ground is denied.

⁸ In contrast, as explained by the SSEB member, the SSEB separately addressed the introductory paragraphs of the first and second subfactors under the technical/management factor, because it considered that those paragraphs "provided elements for evaluation separate from the elements in the bullets of subfactors 1 and 2 that warranted documentation." AR, Tab 2.3, Second Declaration of SSEB Member, at 5.

Next, ZolonTech contends that the agency unreasonably failed to assess seven strengths in its proposal under subfactor 3--six based on the subfactor's introductory paragraph as discussed above, and a seventh based on the subfactor's proposed staffing matrix element. Protest at 7-9; Comments and Supp. Protest at 2-5. The agency responded to each of ZolonTech's arguments, explaining why each of the alleged strengths in ZolonTech's proposal was not viewed by the agency as warranting a strength under the solicitation's evaluation criteria. MOL at 5-7; AR, Tab 2.3, Second Declaration of SSEB Member, at 5-9. We find the agency's explanations for its evaluation to be reasonable, and we note that an agency is not required to document every single aspect of its evaluation or explain why a proposal did not receive a strength for a particular feature. 22nd Century Techs., Inc., B-417336, B-417336.2, May 24, 2019, 2019 CPD ¶ 198 at 5; InnovaSystems Int'l, LLC, B-417215 et al., Apr. 3, 2019, 2019 CPD ¶ 159 at 10.

As a representative example, ZolonTech claims that it should have been assessed a strength under the introductory paragraph for subfactor 3 based simply on its assertion in its proposal that it has "over ten years of in-depth experience delivering complex data solutions to public and private sector customers." Protest at 8, citing AR, Tab 12.1, ZolonTech Technical Proposal, July 10, 2019, at 29. In response, the agency generally argues that the subfactor 3 evaluation criterion "does not provide for the assignment of multiple strengths on the basis of ZolonTech's past experience." MOL at 7. More specifically, the agency asserts that "[t]he SSEB considered the cited experience but [did] not view this experience as warranting a strength under the subfactor 3 evaluation criteri[on]." AR, Tab 2.3, Second Declaration of SSEB Member, at 8; see also MOL at 6-7.

We find no basis to question this aspect of the agency's evaluation of ZolonTech's proposal. Apart from its complaints about the agency's alleged failure to consider the introductory paragraph of subfactor 3--which, as discussed above, we reject--we note that ZolonTech fails to identify any specific element under subfactor 3 for which it should have received this alleged strength. Moreover, we are unpersuaded that this broad statement in ZolonTech's proposal necessarily merited the assessment of a strength.⁹

⁹ To the extent ZolonTech is arguing that because subfactor 3 "does relate to prior activity[.]" the RFP should have required assessing "prior experience" as a strength, Comments and Supp. Protest at 3-4, we find that the protester is raising an untimely challenge to the terms of the solicitation. 4 C.F.R. § 21.2(a)(1); see, e.g., ASRC Fed. Data Sols., LLC, B-417655 et al., Sept. 18, 2019, 2019 CPD ¶ 325 at 7 ("[i]t is well-settled that a party who has the opportunity to object to allegedly improper or patently ambiguous terms in a solicitation, but fails to do so prior to the time set for receipt of quotations, waives its ability to raise the same objection later"). The protester is, in essence, arguing that the RFP should have required the agency to assess prior experience as a strength under the technical/management factor; we do not find, however, that the RFP required such an assessment.

As another representative example, ZolonTech claims that its proposal should have received a strength under subfactor 3 for its proposed staffing mix and key personnel. Specifically, ZolonTech contends that “DIA failed to acknowledge and assign a strength for the fact that ZolonTech’s proposed [k]ey personnel far exceeded the PWS [labor categories in] . . . years of experience and education.” Protest at 9.

The RFP required offerors to submit a staffing matrix to include certain labor categories and, as noted above, provided that the agency would evaluate, under subfactor 3, the following: “Proposed Staffing [M]atrix: Suitability of the proposed staffing mix to execute the proposed technical approach.” RFP, attach. G, Offeror Instructions and Evaluation Factors, at 3-4, 10; see also RFP attach. A, PWS, at 20. The record shows that the SSEB documented its conclusions that, among other things, ZolonTech’s proposed staffing matrix was “adequate[,]” “in line with [the] PWS[,]” and “consistent with their proposed approach.” AR, Tab 9.2, ZolonTech SSEB Report, at 9; see also AR, Tab 2.3, Second Declaration of SSEB Member, at 10. The agency also argues that “the solicitation clearly does not contemplate evaluating the experience and educational attainments of proposed key personnel beyond considering the labor categories proposed by Zolon[]Tech.” MOL at 8.

Here, again, we find no basis to question this aspect of the agency’s evaluation of ZolonTech’s proposal. The protester has not identified, nor do we find, any basis in the RFP that would require the agency to assess a strength based solely on a numerical counting of the years of experience or education of proposed staffing. We note that, instead, the RFP provided for the agency to evaluate the “[s]uitability of the proposed staffing mix to execute the proposed technical approach.” RFP, attach. G, Offeror Instructions and Evaluation Factors, at 10. The SSEB’s documentation evaluation of ZolonTech’s staffing matrix appears consistent with this criterion.

In sum, we have considered, and reject, all of ZolonTech’s assertions that the agency’s evaluation was flawed for failing to assess these seven alleged strengths in its proposal. While ZolonTech may disagree with the agency’s judgments, it has failed to establish that those judgments were unreasonable or inconsistent with the terms of the solicitation. Accordingly, these protest grounds are also denied.

Evaluation of Federated IT’s Proposal

Finally, ZolonTech alleges in its supplemental protest that the agency should have assessed a risk for Federated IT’s proposed supply chain because, among other things, the awardee did not provide certain supply chain certifications as described in the RFP. Comments and Supp. Protest at 8. Specifically, ZolonTech contends:

Although this was not called out as part of the evaluation factors, it was a requirement of the PWS and Federated[]IT’s failure to address this requirement should have resulted in a risk assessment against Federated[]IT. However, the evaluators never mention the risks associated with the supply chain for either company. The government’s

failure to assess this as a risk for Federated[]IT was arbitrary and capricious[.]

Id. at 9.

The record shows that, among the numerous topics covered by the PWS, one section titled “acquisition risk requirements” requires the contractor to certify the hardware, firmware, and software provided under the task order. RFP attach. A, PWS, at 29-32. In response to the protest, the agency explains that “the PWS describes the work to be performed by the successful contractor” and, specifically, that “[t]his certification requirement clearly refers to contractual obligations that arise during performance; it is plainly not a proposal instruction.” Supp. MOL, Dec. 11, 2019, at 5. Moreover, the agency notes that “[t]he instructions to offerors did not require offerors to submit a certification relating to [this section of the] PWS” and that “the evaluation factors did not provide for evaluation of any such certification.” Id. at 6.

As noted above, in reviewing protests challenging the evaluation of proposals in a task order competition, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency’s judgment was reasonable and in accord with the evaluation criteria. Booz Allen Hamilton, Inc.; Leidos Inc., supra, at 5. Where a dispute exists as to a solicitation’s actual requirements, we will first examine the plain language of the solicitation. Point Blank Enters., Inc., B-411839, B-411839.2, Nov. 4, 2015, 2015 CPD ¶ 345 at 4.

Here, the protester’s contentions do not provide a basis to conclude that the agency’s evaluation was unreasonable. First, we note that the protester’s contentions are largely self-contradictory--that is, ZolonTech simultaneously argues that offerors were required to provide supply chain certifications but that this “was not called out as part of the evaluation factors”; and that “the evaluators never mention the risks associated with the supply chain for either company” but that not assessing Federated IT’s proposal in particular for such risk was “arbitrary and capricious.” Comments and Supp. Protest at 9. In this regard, we find the protester’s various allegations unpersuasive.¹⁰

Moreover, based on our review of the record, we find no basis to question the reasonableness of the agency’s evaluation of Federated IT’s proposal or the agency’s view that the RFP did not instruct offerors to submit, nor provide for the agency to evaluate, such supply chain certifications. To the extent ZolonTech believes that the RFP should have established such a requirement, we find that the protester is, again,

¹⁰ In its supplemental comments, ZolonTech raises--for the first time--several arguments that expound upon this protest ground, such as contending that the agency should have evaluated supply chain risks under subfactor 1 of the technical/management factor, virtual desktop delivery and infrastructures. Supp. Comments at 2-3. ZolonTech’s revised assertions are untimely and will not be considered further. 4 C.F.R. § 21.2(a)(2).

raising an untimely challenge to the terms of the solicitation. 4 C.F.R. § 21.2(a)(1); see, e.g., ASRC Fed. Data Sols., LLC, supra, at 7. In any event, we note that the record shows that the agency found that Federated IT's proposal was "adequate" and did not warrant the assessment of a risk. AR, Tab 13.2, Federated IT SSEB Report, at 7-8; see also AR, Tab 2.5, Third Declaration of SSEB Member, at 4. Under these circumstances, we find no basis to sustain the protest.

The protest is denied.

Thomas H. Armstrong
General Counsel