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Decision

Matter of: DynCorp International, LLC

File: B-418594; B-418594.2

Date: June 23, 2020

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Jonathan A. Hardage, Esq., and Alex M. Cahill, Esq., Department of the Army, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably determined that protester's proposal failed to demonstrate compliance with the solicitation's requirements, rendering the proposal ineligible for award.

DECISION

DynCorp International, LLC, of McLean, Virginia, protests the Department of the Army's issuance of a task order to Technica, LLC, pursuant to request for proposals (RFP) No. W52P1J-19-R-0005, for logistics support services at Fort Bliss, Texas. DynCorp challenges various aspects of the agency's evaluation and source selection process, including the agency's determination that DynCorp's proposal failed to comply with the solicitation's requirements regarding small business participation.

We deny the protest.

BACKGROUND

On July 12, 2019, the agency issued the solicitation to contractors holding basic ordering agreements (BOA) under the Enhanced Army Global Logistics Enterprise

(EAGLE) program.¹ The solicitation contemplated the award of a cost-plus-fixed-fee task order for a 1-year base period and four 1-year option periods; provided that the successful offeror will be responsible for providing maintenance, supply, and transportation services at Fort Bliss; and established the following evaluation factors: technical, small business participation, past performance, and cost/price. AR, Tab 16, RFP at 2.

The solicitation provided that proposals would be evaluated under the technical and small business participation factors on an acceptable/unacceptable basis; assigned qualitative confidence ratings under the past performance factor;² and evaluated for reasonableness and realism under the cost/price factor. *Id.* at 110. The solicitation further provided that award would be based on the proposal offering the lowest reasonable/realistic cost/price evaluated as acceptable under the technical and small business participation factors with a past performance rating of substantial confidence. *Id.*

Of specific relevance to this protest, in order to be evaluated as acceptable under the small business participation plan, the solicitation required large-business offerors³ to “provide three individual subcontracting reports (ISRs) for recent contracts that included a subcontracting plan,” *id.* at 86, and advised that the agency “will evaluate the Offeror’s . . . achievement on each goal stated within the subcontracting plan as reported on each ISR.” *Id.* at 117. Further, the solicitation warned that a proposal would be rejected as unacceptable under the small business participation factor, and ineligible for award, if it did not “provide[] documentation showing its small business goals were met or exceeded for each recent reference.” *Id.* at 117-18.

On or before the September 3 closing date, proposals were submitted by seven offerors, including DynCorp and Technica. In evaluating the ISRs submitted with DynCorp’s proposal under the small business participation factor, the agency concluded that the contracts identified by DynCorp had been performed by corporate entities with commercial and government entity (CAGE) codes⁴ other than the CAGE code of the

¹ The EAGLE program is used to provide logistics services at Army installations around the world. Agency Report (AR), Tab 1, Contracting Officer’s Statement/Memorandum of Law at 1-2.

² The solicitation provided that the agency would assign past performance confidence ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. RFP at 115.

³ There is no dispute that DynCorp is a large business for purposes of this procurement.

⁴ CAGE codes are assigned to discrete business entities to dispositively establish the identity of a legal entity for contractual purposes. See, e.g., *Gear Wizzard, Inc.*,

(continued...)

entity identified in DynCorp’s proposal as the offeror. In this regard, the solicitation required that each proposal identify the offeror by providing, among other things, the CAGE code assigned to the offeror. RFP at 70. The solicitation further stated: “an Offeror is defined as the prime BOA Holder submitting a proposal under this RFP.” *Id.* at 88.

In its proposal, DynCorp stated that the corporate entity that was the offeror in this procurement was identified by CAGE code [redacted]. See AR, Tab 75, DynCorp Proposal Standard Form 33 at Block 15a; Tab 95, DynCorp Proposal Vol 4, attach 5. Nonetheless, the ISRs DynCorp submitted with its proposal identified contracts that had been performed by entities identified by CAGE codes [redacted], [redacted], and [redacted]. AR, Tab 126, DynCorp Small Business Participation Evaluation Report at 4. Because none of the ISRs provided as part of DynCorp’s proposal corresponded with the CAGE code of the offeror, the agency concluded that: “[DynCorp’s proposal] has not provided documentation showing compliance with reporting requirements and has not provided documentation showing its small business goals were met.” *Id.* at 5. The agency elaborated that DynCorp’s proposal “did not provide an explanation” as to why DynCorp provided ISRs related to other corporate entities and, on this record, evaluated DynCorp’s proposal as unacceptable under the small business participation factor. *Id.* at 4-5.

Following completion of the agency’s evaluation, DynCorp’s and Technica’s proposals were rated as follows:⁵

	Technical	Past Performance	Small Business	Evaluated Cost/Price
DynCorp	Acceptable	Unknown Confidence ⁶	Unacceptable	\$186,784,992
Technica	Acceptable	Substantial Confidence	Acceptable	\$181,708,285

AR, Tab 130, SSDD at 9.

(...continued)

B-298993, Jan. 11, 2007, 2007 CPD ¶ 11 at 2; *National Found. Co.*, B-253369, Sept. 1, 1993, 93-2 CPD ¶ 143 at 2 n.1.

⁵ In addition, two other proposals were rated acceptable under the technical and small business participation factors and received past performance ratings of substantial confidence. AR, Tab 130, Source Selection Decision Document (SSDD) at 9-10.

⁶ The agency similarly found that DynCorp’s past performance references related to contracts performed by corporate entities with CAGE codes other than that of the offeror, leading to an assessment of unknown confidence under the past performance evaluation factor. AR, Tab 124, Past Performance Evaluation Report at 5-7.

Thereafter, the source selection authority selected Technica's proposal for award.⁷ This protest followed.

DISCUSSION

First, DynCorp challenges the agency's evaluation of DynCorp's proposal under the small business participation factor.⁸ In this regard, DynCorp asserts that the agency's assessment was unreasonable because the agency "narrowly construed the use of CAGE codes." Protest at 34. While acknowledging that the solicitation specifically stated that the agency "will evaluate the Offeror's . . . achievement on each goal stated within the subcontracting plan," DynCorp complains that the agency's evaluation "unfairly penalized" DynCorp and "improperly relied on trivial differences" by not accepting DynCorp's proffer of performance by entities with CAGE codes that were "merely different" from the CAGE code of the offeror. *Id.* at 37, 41. Finally, DynCorp asserts that the agency's application of the solicitation provisions was "overly restrictive" and reflected "an unduly strict and formalistic reading" of those provisions. DynCorp Comments, Apr. 30, 2020, at 2, 18.

The agency responds that the terms of the solicitation, along with applicable authority, provided a reasonable basis for the agency not to consider the prior performance of corporate entities with CAGE codes that differed from the CAGE code DynCorp provided in its proposal to establish its identity. In this regard, the agency notes that the solicitation specifically provided that the agency would evaluate "the offeror's" prior achievement of subcontracting goals; that DynCorp's proposal was unambiguous in establishing its identity as the offeror by referencing CAGE code [redacted]; and that the ISRs DynCorp submitted to establish compliance with the solicitation requirements identified contracts performed by entities with CAGE codes that differed from that of the offeror. Finally, the agency notes that DynCorp's proposal contained no additional information or explanation that addressed the differing CAGE codes.

In reviewing protests challenging the evaluation of an offeror's proposal, or, as here, the rejection of a proposal based on the agency's evaluation, it is not our role to reevaluate proposals; rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accordance with the solicitation criteria and applicable

⁷ The solicitation advised offerors that the agency intended to make award without conducting discussions, RFP at 88, and, consistent with that provision, the agency did not conduct discussions with any offeror.

⁸ Additionally, DynCorp protests the agency's evaluation under the past performance and cost/price factors. Since, as discussed below, we conclude that the agency reasonably evaluated DynCorp's proposal as unacceptable under the small business participation factor, rendering DynCorp's proposal ineligible for award, DynCorp is not an interested party to further challenge the procurement. See, e.g., *JSF Sys., LLC*, B-410217, Oct. 30, 2014, 2014 CPD ¶ 328 at 4. In any event, we have reviewed the entire record here and find no basis to sustain DynCorp's protest.

statutes and regulations. *Distributed Solutions, Inc.*, B-416394, Aug. 13, 2018, 2018 CPD ¶ 279 at 4. It is an offeror's responsibility to submit a well-written proposal that clearly demonstrates compliance with the solicitation, and where a proposal fails to do so, the offeror runs the risk that its proposal will be rejected. *CACI Techs., Inc.*, B-296946, Oct. 27, 2005, 2005 CPD ¶ 198 at 5. In this regard, we have recognized that an agency's uncertainty regarding corporate identity may reasonably form the basis for rejecting a proposal, see, e.g., *Tele-Consultants, Inc.*, B-414738.4, Jan 29, 2019, 2019 CPD ¶ 73 at 3; *W.B. Constr. & Sons, Inc.*, B-405874, B-405874.2, Dec. 16, 2011, 2011 CPD ¶ 28/2 at 4, and we have specifically noted that CAGE codes are assigned to discrete business entities for a variety of purposes (for example, facility clearances, pre-award surveys, and tracking the ownership of technical data) to dispositively establish the identity of a legal entity. *URS Group, Inc.*, B-402820, July 30, 2010, 2010 CPD ¶ 175 at 4; *Gear Wizzard, Inc.*, B-298993, Jan. 11, 2007, 2007 CPD ¶ 11 at 2; *National Found. Co.*, B-253369, Sept. 1, 1993, 93-2 CPD ¶ 143.

Here, as discussed above, the solicitation specifically required DynCorp to provide recent ISRs for contracts with subcontracting plans; provided that the agency would use those submissions to assess "the Offeror's . . . achievement on each goal stated within the subcontractor plan as reported on each ISR"; and required that DynCorp submit the CAGE code of the "offeror." RFP at 117. Further, there is no dispute that DynCorp's proposal established its identity by referencing CAGE code [redacted]. There is also no dispute that the ISRs DynCorp submitted for purposes of establishing the acceptability of its proposal under the small business participation evaluation factor were for contracts performed by entities with CAGE codes ([redacted], [redacted], and [redacted]) that did not match the CAGE Code Dyncorp used to identify itself in its proposal. Finally, DynCorp's proposal provided no additional information or explanation on which the agency could rely to conclude that the entities for which the ISRs were submitted were the same as the offeror.

On this record, we find no basis to question the agency's assessment that DynCorp's proposal was unacceptable under the small business participation evaluation factor and, accordingly, was ineligible for award. That is, the agency reasonably concluded that DynCorp's proposal failed to provide sufficient information for the agency to make an assessment of acceptability under the small business participation evaluation factor. Further, since the solicitation specifically provided that only proposals rated acceptable under the small business participation factor were eligible for award, there is no basis for DynCorp to further challenge the exclusion of its proposal from consideration.

The protest is denied.

Thomas H. Armstrong
General Counsel