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Decision

Matter of: Omni2H, LLC

File: B-418655

Date: July 16, 2020

Wayne A. Keup, Esq., Wayne A. Keup, PLLC, for the protester.
Devon E. Hewitt, Esq., Protorae Law PLLC, for Digitized Schematic Solutions, LLC, the intervenor.

Colonel Patricia S. Wiegman-Lenz, Colby L. Sullins, Esq., Major David Gilkes, Charles Epperson, Esq., and W. Jacob Worthan, Esq., Department of the Air Force, 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

1. Agency's risk assessment was reasonable and consistent with the terms of the solicitation.
 2. In Department of Defense procurement valued in excess of \$100 million, agency's decision not to conduct discussions was reasonable where the record supports the agency's determination that award on the basis of initial proposals was in the government's best interest.
 3. Agency reasonably determined that awardee's cost/price was reasonable based on comparison of the awardee's cost/price to that of other offerors and to an independent government cost estimate.
 4. Agency's best-value tradeoff determination was reasonably based on the source selection authority's consideration of the relative merits and risks presented by the protester's and awardee's proposals, along with the difference in cost/prices.
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DECISION

Omni2H, LLC, of La Mesa, California, protests the Department of the Air Force's award of a contract to Digitized Schematic Solutions, LLC (DSS), of Warren, Michigan, pursuant to request for proposals (RFP) No. FA8530-19-R-0001, to provide sustainment of technical orders and engineering data support services. Omni2H challenges the

agency's risk assessment; determination not to conduct discussions; price evaluation; and best-value tradeoff determination.

We deny the protest.

BACKGROUND

In June 2019, the agency issued RFP No. FA8530-19-R-0001,¹ seeking proposals to provide technical data support services for the Air Force.² The solicitation provided for award of a single indefinite-delivery indefinite-quantity (IDIQ) contract³ for a 1-year base period and four 1-year ordering periods; stated that award would be made on the basis of a best-value tradeoff; and established two evaluation factors: technical and cost/price. AR, Tab 4, RFP at 245, 325. The solicitation also identified three equally weighted technical subfactors⁴ that would be rated with regard to acceptability and risk,⁵ and provided for a tradeoff between technical risk and cost/price.⁶ *Id.* at 325. In this context, each offeror was required to identify potential performance risks in its technical proposal, and provide its proposed mitigation of such risks. *Id.* at 322-23.

¹ The solicitation was issued as a negotiated 8(a) set-aside pursuant to Federal Acquisition Regulations (FAR) part 15 and section 8(a) of the Small Business Act, 15 U.S.C. 637(a). Section 8(a) of the Act authorizes the Small Business Administration to enter into contracts with government agencies and arrange for the performance of such contracts by awarding subcontracts to socially and economically disadvantaged small business concerns.

² The solicitation contemplates performance of administrative support services related to Air Force technical orders/manuals and engineering data, including management, update, editorial, distribution, and library support services. Agency Report (AR), Tab 4, RFP at 376-79. The procurement is a follow-on to a prior procurement that is referred to as the Technical Data Support Services enterprise (TDSSe) procurement; this procurement is referred to as "TDSSe²." *Id.*

³ Under the predecessor TDSSe procurement, there were four incumbent IDIQ contractors. AR, Tab 1, Contracting Officer's Statement (COS) at 4.

⁴ The three subfactors were: management plan, capability task, and awardable task.

⁵ The solicitation stated that technical risk assessments would be based on the agency's "identification of any weaknesses and/or significant weaknesses" and provided for risk ratings of low, moderate, high, or unacceptable. RFP at 328.

⁶ The solicitation provided that each offeror's total cost/price would be evaluated for reasonableness and balance, and stated that "technical risk is considered significantly more important than cost/price." *Id.* at 325, 329.

Of particular relevance to this protest, the solicitation provided that the contractor “shall be proficient in sustainment of S1000D”⁷ and will be required to integrate “legacy technical data into a TMSS [technical manual specifications and standards] compliant S1000D IETM [interactive electronic technical manual].” RFP at 129, 138. With regard to performance under subfactor 3, awardable task, the solicitation identified particular activities that will require S1000D capabilities, including IETM (interactive electronic technical manual) support, *id.* at 375, and provided that, in evaluating proposals under that subfactor, the agency would consider whether a proposal reflected the “appropriate labor skills mix and hours.” *Id.* at 327. The solicitation further provided that the contractor “shall employ and maintain a technically trained and experienced work force compatible with the scope of work defined within this contract”; and “shall ensure that all training requirements for the newly hired employee(s) are completed before the contract start date.” *Id.* at 147-48. Finally, the solicitation advised offerors that the agency did not intend to conduct discussions, stating: “The Government intends to award without discussions. The Government, however, reserves the right to conduct discussions if deemed in its best interest.” *Id.* at 325.

On or before the August 6 closing date, proposals were submitted by 11 offerors, including Omni2H and DSS. In responding to the requirements regarding technical subfactor 3, awardable task, Omni2H’s proposal identified various risks, including the following, which Omni2H characterized as a “high” risk: “Critical skills not available for incumbent staff, e.g. S1000D editing.” AR, Tab 5, Omni2H Proposal at 360. Omni2H proposed to mitigate this risk by providing “detailed tutorials and training on S1000D and IETM processes,” and by providing “[c]ross [t]raining” on an “as opportunity basis.” *Id.* Omni2H also proposed staffing for activities that require S1000D capabilities at levels that exceeded the agency’s staffing estimates. Omni2H acknowledged that its proposed overstaffing created the risk of an “[u]nder-utilized work force,” but asserted that such risk would be mitigated by its “[c]ross [t]raining” of personnel. *Id.*

In evaluating Omni2H’s proposal, the agency assessed a significant weakness under subfactor 3, awardable task. In this regard, the agency referenced: the solicitation’s requirements regarding personnel with S1000D capabilities; Omni’s proposal statement that this skill was “not available from incumbent staff”; and the proposal’s assertion that “tutorials” and “cross-training” would constitute sufficient risk mitigation. AR, Tab 35, Comparative Analysis Report (CAR) at 20, 27-28. The agency noted that “The S1000D specification is a highly complex technical standard that requires an experienced staff already in place and a formal training environment for those less experienced skillsets required to convert and sustain an S1000D IETM.” *Id.* Based on these considerations, the agency explained the basis for its assessment of a significant weakness, stating:

Lack of a trained/qualified S1000D staff upon contract execution runs counter to the AF [Air Force] vision of transitioning TO [task orders] to the

⁷ S1000D is an international specification for the procurement and production of technical publications. Protest at 4 n.2.

S1000D standard and will likely cause disruption of schedule, increased cost and degradation of performance quality.”

Id. at 20.

The agency also assigned weaknesses to Omni2H’s proposal based on its proposed overstaffing. *Id.* at 21. Overall, the agency assigned a moderate risk rating⁸ to the proposal under technical subfactor 3, noting that “close Government monitoring will likely be required to overcome these difficulties. *Id.* at 21.

Following completion of the agency’s evaluation, Omni2H’s and DSS’s proposals were rated as follows:

	Subfactor 1 Management Plan	Subfactor 2 Capability Task	Subfactor 3 Awardable Task	Cost/Price
Omni2H	Acceptable Low Risk	Acceptable Low Risk	Acceptable Moderate Risk	\$195,698,934
DSS	Acceptable Low Risk	Acceptable Low Risk	Acceptable Low Risk	\$215,531,723

Id. at 24.

Based on this evaluation, the agency’s source selection advisory council recommended that the source selection authority (SSA) make award to DSS without conducting discussions. *Id.* at 28.

On February 24, 2020, the SSA selected DSS for award. Noting the concerns with Omni2H’s proposed approach to meeting the S1000D requirements, as discussed above, the SSA stated:

The S1000D specification is a highly complex technical standard that requires an experienced staff already in place and a formal training environment for those less experienced skillsets required to convert and sustain an S1000D IETM. Whereas [DSS’s] proposal did not identify any weaknesses nor risks associated with the capability to begin implementation of the S1000D immediately upon award. The negative impact of [Omni2H’s] ability to fully implement S1000D upon award far outweighs the 9.3% (\$19,832,789) higher cost proposed by [DSS].

AR, Tab 36, Source Selection Decision Document (SSDD) at 5.

⁸ The solicitation defined a moderate risk rating as reflecting a proposal with “a significant weakness or combination of weaknesses which may potentially cause disruption of schedule, increased cost or degradation of performance.” RFP at 87.

Omni2H was subsequently notified of the source selection decision. This protest followed.

DISCUSSION

Omni2H protests the agency's: evaluation of risk; determination not to conduct discussions; price evaluation; and best-value tradeoff determination. As discussed below, we find no merit in any of the protest allegations.

Evaluation of Risk

First, Omni2H challenges the agency's evaluation with regard to technical risk. More specifically, Omni2H asserts that the agency unreasonably failed to give sufficient credit to Omni2H's proposed "cross-training" of Omni2H's proposed staff as an effective risk mitigation approach. Omni2H acknowledges that its proposal was based on staff who "may or may not be properly trained in S1000D editing and related capabilities," Protest at 4, but maintains that the agency should have concluded that Omni2H's provision of "tutorials and training" for untrained staff was sufficient to mitigate the risk that Omni2H itself described as "high." *Id.*

The agency responds that the solicitation provides that the contractor "shall be proficient in . . . S1000D" and, specifically, that writers/editors "must have experience with all types of manuals, such as S1000D." RFP at 107, 138. The agency further notes that the solicitation put offerors on notice that, with regard to subfactor 3, awardable task, the agency would consider whether a proposal reflected the "appropriate labor skills mix and hours." *Id.* at 327. Finally, the agency responds that the S1000D specification is a highly complex technical standard that requires an experienced staff, and that Omni2H's proposal sought to substitute training for experience. On this record, the agency maintains that its assessment of moderate risk in Omni2H's proposal was reasonable and consistent with the terms of the solicitation.

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. *CACI Techs., Inc.*, B-408552, Nov. 1, 2013, 2013 CPD ¶ 255 at 6. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *Computer World Servs. Corp.*, B-410513, B-410513.2, Dec. 31, 2014, 2015 CPD ¶ 21 at 6. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. *Vertex Aerospace, LLC*, B-417065, B-417065.2, Feb. 5, 2019, 2019 CPD ¶ 75 at 8.

Here, as discussed above, the solicitation expressly advised offerors of the requirements regarding qualified and experienced staff, including specific provisions regarding S1000D capabilities. Offerors were further advised that the agency would make risk assessments based on, among other things, their approach to staffing.

Further, Omni2H's proposal was based on personnel who "may or may not be properly trained in S1000D editing and related capabilities"; its proposal to overstaff certain areas was consistent with an intent to train otherwise unqualified personnel to perform S1000D requirements; and Omni2H's own proposal characterized the risk associated with this approach as "high." Finally, the agency did not evaluate Omni2H's proposal as unacceptable for its proposed staffing approach; rather, it assigned a moderate risk rating flowing from the agency's concerns regarding that approach. On this record, we find nothing unreasonable, or inconsistent with the solicitation provisions, in the agency's assessment of moderate risk in Omni2H's proposal. Omni2H's protest challenging the risk assessment is denied.⁹

Award without Discussions

Next, Omni2H protests that it was improper for the agency to make award to DSS without conducting discussions. In this regard, Omni2H refers to section 215.306(c) of the Defense Federal Acquisition Regulation Supplement (DFARS) which provides that "[f]or acquisitions with an estimated value of \$100 million or more, contracting officers should conduct discussions." Because this procurement has an estimated value in excess of \$100 million, Omni2H maintains that the agency was required to conduct discussions.

The agency responds by first noting that section M of the solicitation put offerors on notice of the agency's intent, stating that, while it reserved the right to conduct discussions, "[t]he Government intends to award without discussions." See RFP at 325. The agency further responds that its review of initial proposals demonstrated clear technical advantages and disadvantages that differentiated the proposals. In this regard, the agency notes that it received 11 proposals and that, following evaluation, 6 proposals were determined to be technically acceptable with fair and reasonable prices. COS at 27. Finally, the agency notes that DSS's proposal was rated low risk under each of the three technical factors and offered the second-low cost/price. Based on this record, the agency maintains that it reasonably concluded that it was in the best interest of the government to make award on the basis of initial proposals.

We have explained that, although DFARS § 215.306(c) establishes an expectation that discussions will be conducted in Department of Defense procurements valued over \$100 million, agencies retain the discretion not to conduct discussions based on the

⁹ Omni2H's protest also speculates that DSS's approach to staffing the contract with inexperienced personnel will be similar to its own and, thus, the agency engaged in disparate treatment in evaluating the two proposals. However, DSS's proposal did not identify this risk, and the agency did not assess a weakness in that regard. Further, nothing in Omni2H's submissions meaningfully explains why, in the context of the predecessor TDSSe contract performed by multiple contractors, any TDSSe² awardee--or DSS specifically--will be unable to hire sufficiently skilled and experienced incumbent personnel. Accordingly, based on our review of the record, Omni's assertion regarding alleged disparate treatment provides no basis to sustain its protest.

particular circumstances of each procurement. *Science Applications Int'l Corp.*, B-413501, B-413501.2, Nov. 9, 2016, 2016 CPD ¶ 328 at 8-9. In this regard, we will review an agency's decision to forego discussions, taking into consideration various facts, including notification in the solicitation of that intent; existence of clear technical advantages/disadvantages in initial proposals; and submission of initial proposals offering fair and reasonable prices. *Novetta, Inc.*, B-414672.4, B-414672.7, Oct. 9, 2018, 2018 CPD ¶ 349 at 22-23.

Here, we reject Omni2H's assertion that the agency was required to conduct discussions. As discussed above, section M of the solicitation clearly advised offerors that, while conducting discussions was an option, the agency "intends to award without discussions." RFP at 325. Further, based on our review of the record, the agency reasonably concluded that the initial proposals demonstrated clear technical advantages and disadvantages between the competing proposals. Specifically, DSS's initial proposal was the only one that reflected low technical risk under all three evaluation subfactors at a fair and reasonable price, and offered the second-low cost/price overall. Finally, the initial proposals reflected meaningful competition in that six proposals offered technically acceptable solutions at fair and reasonable prices. On this record, we do not find the agency's determination to award on the basis of initial proposals unreasonable, and Omni2H's protest challenging that determination is denied.

Price Evaluation

Next, Omni2H challenges the agency's price evaluation of DSS's proposal, asserting "[t]here is nothing in the record of this procurement to provide any meaningful support for the required Contracting Officer's price reasonableness determination." Protest at 7. Accordingly, Omni2H maintains that "the Contracting Officer's responsibility for evaluating the reasonableness of the offered prices has not been satisfied." *Id.*

The agency responds that it did, in fact, perform a price reasonableness analysis with regard to the proposed prices, noting that it first compared the offerors' total cost/prices with each other. COS at 32. In performing this comparison, the agency established an average of the total cost/prices and considered whether each offeror's cost/price was within 15 percent of that average. *Id.* Based on this comparison, the agency concluded that the cost/price of three offerors was unreasonably high; both Omni2H's and DSS's cost/prices were within the 15 percent range. *Id.*; AR, Tab 36, SSDD at 4. Further, the agency states that it calculated an independent government cost estimate (IGCE) based on historical prices; that IGCE was \$211,526,741. COS at 33. The agency compared DSS's total cost/price of \$215,531,723 to the IGCE, determining that it was within 2% of the IGCE. *Id.* On this record, the agency maintains that it properly determined that DSS's cost/price was reasonable.

An agency may use various techniques and procedures to ensure receipt of a fair and reasonable cost/price, including the comparison of proposed cost/prices to each other or to an independent government estimate. FAR 15.4040-1(b)(2); *Technatomy Corp.*,

B-414672.5, Oct. 10, 2018, 2018 CPD ¶ 353 at 12. The manner and depth of an agency's price analysis is a matter committed to the discretion of the agency, which our Office will not disturb provided that it is reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *Id.*

Here, based on our review of the record, we do not question the agency's determination that DSS's cost/price was reasonable. As noted above, the agency performed a comparison of DSS's cost/price to that of the other offerors and against an IGCE, and determined that DSS's cost/price was reasonable based on those comparisons. Accordingly, Omni2H's protest challenging the agency's price evaluation is denied.

Best-Value Tradeoff Determination

Finally, Omni2H challenges the agency's best-value tradeoff determination. First, Omni2H's challenge is based on the alleged evaluation flaws discussed above. Protest at 7. Additionally, Omni2H asserts "there is nothing in the available record to support" the selection of DSS's higher-priced proposal. *Id.*

The agency responds that, as discussed above, none of the alleged evaluation flaws have merit and, accordingly, they do not provide any basis for challenging the best-value tradeoff determination. The agency further responds that the best-value tradeoff was reasonable and consistent with the terms of the solicitation, noting that the solicitation specifically advised offerors that "Technical risk is considered significantly more important than cost/price." See RFP at 325. The agency further notes that the SSA looked behind the risk ratings by referring to DSS's ability "to begin implementation of the S1000D immediately upon award"; contrasting that to "[t]he negative impact of [Omni2H's] ability to fully implement S1000D upon award"; and concluding that DSS's greater capability "far outweigh[ed] the 9.3% (\$19,832,789) higher cost." SSDD at 5.

Selection officials have considerable discretion in making price/technical tradeoff decisions. *DGC, Int'l*, B-410364.3, Apr. 22, 2015, 2015 CPD ¶ 136 at 6. The propriety of the tradeoff does not turn on the differences in ratings and/or cost/prices *per se*, but on whether the selection official's judgment concerning the significance of the differences was rational and consistent with terms of the solicitation. *Id.* In this context, the documentation supporting the decision must be sufficient to establish that the selection official was aware of the relative merits and costs of the competing proposals. *General Dynamics--Ordnance & Tactical Sys.*, B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8-9.

Here, as discussed above, we have rejected all of Omni2H's complaints regarding alleged evaluation flaws; accordingly, there is no merit in the assertion that the best-value tradeoff determination was unreasonable on the basis of those alleged flaws. Further, the solicitation specifically advised offerors that technical risk was significantly more important than cost/price. Finally, the record amply demonstrates that the SSA considered the relative merits and risks of the two proposals, along with the difference

in cost/prices.¹⁰ On this record, we find no merit in Omni2H's protest challenging the agency's best-value tradeoff determination.

The protest is denied.

Thomas H. Armstrong
General Counsel

¹⁰ We note that Omni2H complains that the agency calculated the difference in DSS's and Omni2H's cost/prices as 9.3 percent; Omni2H maintains that it should have been calculated as 10.134 percent. Since the SSA's source selection decision expressly recognized the specific dollar value difference between the cost/price of the two proposals, along with their respective total cost/prices, we do not view the minor difference in percentage calculations to be significant.