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Decision

Matter of: Mainstream IP Solutions

File: B-418722

Date: July 14, 2020

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Kim Churchill, Esq., and Trevor Davies, Esq., Department of the Navy, for the agency.

Kenneth Kilgour, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency unreasonably evaluated protester's proposal as unacceptable is denied because the record demonstrates that the evaluation was reasonable and consistent with the solicitation's requirements.

DECISION

Mainstream IP Solutions, of Tampa, Florida, protests the award of a contract to First American Business Solutions Inc., of New Port Richey, Florida, under request for proposals (RFP) No. N0040620R0004, issued by the Department of the Navy, Naval Supply Systems Command, for commercial telecommunications operation and maintenance support services. The protester asserts that the agency unreasonably evaluated its proposal as unacceptable.

We deny the protest.

BACKGROUND

The solicitation, set aside for small businesses, was issued under the simplified acquisition procedures of Federal Acquisition Regulation (FAR) part 12 and subpart 13.5. The RFP sought proposals for the award of a fixed-price contract, with a 1-year base period and four 1-year options. Award would be made to the responsible offeror whose offer conforming to the solicitation was most advantageous to the agency, considering three factors--technical, past performance, and price. Agency Report (AR),

Tab 1, RFP at 103-04. Proposals would be evaluated as acceptable or unacceptable under the technical factor and each of its subfactors, and only technically acceptable proposals would be further evaluated under past performance and price. *Id.* at 104. The technical factor had three subfactors, including, as relevant to this protest, key personnel resumes. *Id.*

The RFP required offerors to submit resumes for key personnel, including the site manager, and those resumes required agency approval. *Id.* at 60. The solicitation provided that the key personnel resumes would be evaluated based on, among other things, “the years of experience of personnel performing each of the PWS [performance work statement] positions.” *Id.* at 104. The RFP required the site manager to possess a minimum of 10 years experience in operation and maintenance of telecommunications equipment and information systems that are similar in scope and complexity to the requirement. The RFP further required that “three years within the past five years shall be in managing a telecommunications operation similar in scope and complexity to this PWS.” *Id.*

The protester and the awardee both submitted proposals. As relevant to this protest, Mainstream’s proposal included a resume for its proposed site manager, which showed experience managing a telecommunications operation similar to the current requirement from “May 2017-Present.” Protester’s Resp. to GAO Request, June 8, 2020, Protester’s Technical Proposal at 7, Site Manager’s Resume.

The Navy evaluated Mainstream’s proposal as technically unacceptable because the protester’s proposed site manager failed to meet the minimum solicitation requirements. Agency Comments, encl. 2, Technical Evaluation at 2. Specifically, the agency evaluators could not determine that the proposed site manager had 3 years of experience, within the past 5 years, in managing a telecommunications operation similar in scope and complexity to this PWS. *Id.*

DISCUSSION

The protester challenges the agency’s evaluation of the proposed site manager’s resume as unacceptable, which rendered Mainstream’s proposal technically unacceptable. Mainstream argues that the proposed site manager performed the required work “across 4 calendar years, 2017, 2018, 2019, and 2020, therefore exceeding the 3 years of managing a telecommunications operation similar in scope and complexity.” Protest at 8-9.

As noted above, the agency conducted this procurement using simplified acquisition procedures. Simplified acquisition procedures are designed, among other things, to reduce administrative costs, promote efficiency and economy in contracting, and avoid unnecessary burdens for agencies and contractors. FAR 13.002. When using these procedures, an agency must conduct the procurement with a concern for fair and equitable competition and must evaluate proposals in accordance with the terms of the solicitation. *Sky Quest Aviation LLC*, B-415383, Dec. 4, 2017, 2017 CPD ¶ 374 at 3. In

reviewing protests of an allegedly improper simplified acquisition evaluation, our Office examines the record to determine whether the agency met this standard and exercised its discretion reasonably. *Id.* An offeror's disagreement with an agency's evaluation, without more, does not provide a basis to sustain a protest. *Id.*

The protester first contends that the agency's interpretation of 3 years as meaning a total of 36 months of experience "is not defined nor supported in the Solicitation." Resp. to Req. for Dismissal at 1. The protester contends that the three years of experience referenced in the solicitation means work conducted over a three year period. With this interpretation, the protester asserts that the proposed site manager's resume showed experience across four years--2017 to 2020--and as a result, the protester argues that it satisfied the requirement for three years of experience. *Id.* at 1-2.

When a dispute arises as to the actual meaning of solicitation language, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. *LCLC Inc./CfMRF*, B-414357, May 22, 2017, 2017 CPD ¶ 153 at 5. A solicitation is not ambiguous unless it is susceptible to two or more reasonable interpretations. *Id.* If the solicitation language is unambiguous, our inquiry ceases. *Id.*

The protester's interpretation of the solicitation is unreasonable. Three years is understood to mean a total of 36 months, not work performed at various times across three calendar years. The solicitation required 3 years of experience, or, unambiguously, 36 months.

The protester further argues that, notwithstanding the content of the resume, the proposed site manager met the 36 month experience requirement by the time that the agency notified the protester of its unacceptable rating. Resp. to Req. for Dismissal at 3.

We have consistently stated that, when a resume indicates experience "to present," the agency should reasonably consider that employee's experience as of the evaluation date. *SGT, Inc.*, B-294722.4, July 28, 2005, 2005 CPD ¶ 151 at 13. As noted above, the site manager's resume indicated relevant experience for the requirement at issue from "May 2017-Present." Here, the agency performed its evaluation on April 7, 2020. Agency Comments, encl. 1, Email from Lead Technical Evaluator to Contracting Officer. From May 2017 to April 7, 2020, is not 3 years. The record supports the reasonableness of the agency's evaluation of the site manager's resume as unacceptable for failure to demonstrate the RFP's minimum qualification requirements.

Mainstream notes that in "March 2020, [the proposed site manager] became the incumbent Site Manager fulfilling all the duties required for such in this Solicitation on this very contract." Resp. to Req. for Dismissal at 2. To the extent the protester is suggesting that the agency evaluators should have used their personal knowledge of the site manager's performance under the incumbent contract to satisfy the requirement

that his resume demonstrate 3 years of experience managing a similar telecommunications operation, we disagree.

In certain limited circumstances, an agency has an obligation (as opposed to the discretion) to consider outside information bearing on an offeror's past performance, which the agency knew, or should have known. *Strategi Consulting LLC; Signature Consulting Group, LLC*, B-416867, B-416867.4, Dec. 21, 2018, 2019 CPD ¶ 10 at 13. For example, in evaluating past performance, in certain instances an agency must consider an offeror's performance of a similar contract about which the contracting officer or agency evaluators had personal knowledge. See, e.g., *GTS Duratek, Inc.*, B-280511.2, B-280511.3, Oct. 19, 1998, 98-2 CPD ¶ 130 at 14. Unlike the unique obligation discussed above related to past performance, the information here relates to the technical requirements of a solicitation, and an offeror's technical evaluation is dependent on the information furnished, rather than the agency's failure to consider its own information regarding the assessment. See, e.g., *Strategi Consulting LLC; Signature Consulting Group, LLC, supra*.

Finally, the protester asserts that the agency should have evaluated the qualifications of Mainstream's proposed alternate site manager. As noted above, in reviewing protests of an allegedly improper simplified acquisition evaluation, our Office examines the record to determine whether the agency conducted the procurement with a concern for fair and equitable competition, evaluated proposals in accordance with the terms of the solicitation, and exercised its discretion reasonably. *Sky Quest Aviation LLC, supra*. Here, the solicitation did not request that offerors submit resumes for an alternate site manager. See RFP at 60. Nor did the solicitation's announced evaluation criteria provide for the agency's evaluation of alternate key personnel. See *id.* at 104. In these circumstances, the agency's decision not to evaluate the qualifications of the alternate site manager did not violate the terms of the solicitation and was a matter within the agency's discretion. Thus, we see no merit to this allegation.

The protest is denied.

Thomas H. Armstrong
General Counsel