



Decision

Matter of: Practical Solutions, Inc.

File: B-419152

Date: December 17, 2020

Jehad Hajeer, Practical Solutions, Inc., for the protester.
Peter J. Orłowicz, Esq., and Debra Chesnin, Esq., Railroad Retirement Board, for the agency.
Katherine I. Riback, Esq., and Evan C. Williams, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging award to a higher technically rated, higher-priced vendor is denied where the solicitation provided that technical merit was essentially equal to price and the agency's procurement record provided a reasonable basis for the award decision.

DECISION

Practical Solutions, Inc., a small business of Washington, D.C., protests the award of a task order to TrueTandem, LLC, of Herndon, Virginia, under request for proposals (RFP) No. 60RRBH20R0018, issued by the Railroad Retirement Board for computer engineering services. The protester contends that the agency made an improper source selection decision by awarding the task order to TrueTandem based on that vendor's higher technically rated and higher-priced proposal.

We deny the protest.

BACKGROUND

The RFP, issued on June 24, 2020, contemplated award of a fixed-price task order in accordance with Federal Acquisition Regulation (FAR) subpart 8.4. Agency Report (AR), Exh. 1, RFP at 1, 5. The RFP limited competition to vendors who hold contracts

under Schedule 70 of the General Services Administration (GSA) Federal Supply Schedule (FSS) for the required services.¹ *Id.* at 19.

The agency is seeking proposals from GSA schedule contract holders to implement Microsoft 365 design/build services in the Microsoft Government Community cloud.² RFP at 4. The RFP advised prospective vendors that proposals would be evaluated on the basis of the following factors: technical approach, project management plan, risk management plan, security plan, staffing plan, issue resolution, timeline, quality assurance surveillance plan, experience and qualifications of proposed staff, and past performance.³ *Id.* at 32-33. The solicitation advised vendors that “[t]he relative importance between all non-cost factors combined AND cost or price is essentially the same.” *Id.* at 31. The solicitation also stated that in the event the proposals were determined to be essentially technically equal under the non-price factors, then award would be made on the basis of the lowest overall price. *Id.*

The agency received three proposals responding to the RFP. COS at 1. Thereafter, the agency established a competitive range consisting of the proposals of TrueTandem and Practical Solutions, and conducted discussions with those vendors. AR, Exh. 11, Amend. No. 3; COS at 5. When conducting discussions with Practical Solutions, the agency provided relevant questions and sought clarifications. At the conclusion of discussions, the agency evaluated TrueTandem’s proposal as exceeding the technical requirements at a total evaluated price of \$2,607,852, while evaluating Practical Solutions’s proposal as meeting the technical requirements at a total evaluated price of \$2,578,085. AR, Exh. 18, Price Evaluation (final offers) at 1160, 1161; Exh. 29, Unsuccessful Offeror Letter to Practical Solutions Inc. (Sept. 17, 2020) at 1263; COS at 3.

¹ Here, the solicitation identified itself as an “RFP,” and the solicitation contemplated an evaluation and source selection scheme similar to those used in negotiated procurements. The solicitation’s terminology reflects the fact that, although the agency proceeded under the FSS ordering procedures of FAR subpart 8.4, it actually conducted the procurement much like a negotiated procurement under FAR part 15. Nevertheless, in the contemporaneous record and in the agency’s filings with our Office, the agency refers to the firms responding to the RFP as vendors. For consistency with the underlying procurement record, this decision will use the term vendors throughout.

² Microsoft 365 is a line of subscription services offered by Microsoft. AR, Exh. 2, Limited Source Justification at 36.

³ The solicitation also listed bill of materials and value-added characteristics as evaluation factors, but the agency in its evaluation determined that these two factors were not applicable to contractor performance of the sought services, and did not use these two criteria in its evaluation. Contracting Officer Statement (COS) at 2 n.1. The protester does not challenge the agency’s conduct in this regard.

Based on its evaluation of the final revised proposals, the agency concluded that TrueTandem's proposal provided the best overall value to the government, and selected that firm for award. AR, Exh. 27, Notice of Award (Sept. 17, 2020). This protest to our Office followed.⁴

DISCUSSION

In its protest, Practical Solutions contends that the agency's source selection decision was flawed because it resulted in award to a vendor whose price was higher than that of Practical Solutions, even though that vendor only had a slightly higher technical rating. As discussed below, we find no basis to sustain the protest.⁵

Source selection officials have broad discretion to determine the manner and extent to which they will make use of evaluation results, and must use their own judgment to determine what the underlying differences between proposals might mean to successful performance of the contract. See *ERC, Inc.* B-407297, B-407297.2, Nov. 19, 2012, 2012 CPD ¶ 321 at 10. It is well established that adjectival ratings are only guides for intelligent decision making in the procurement process. *Protection Strategies, Inc.*, B-414648.2, B-414648.3, Nov. 20, 2017, 2017 CPD ¶ 365 at 17. The essence of an agency's evaluation is reflected in the evaluation record itself, not in the adjectival ratings. See *Systems Eng'g Partners, LLC*, B-412329, B-412329.2, Jan. 20, 2016, 2016 CPD ¶ 31 at 7.

Here, as noted above, the solicitation provided that all noncost factors combined and cost or price were essentially equal in weight. RFP at 31. Further, as also discussed above, Practical Solutions's proposal received a lower technical rating than True Tandem's proposal. AR, Tab 18, Price Evaluation (final offers) at 1160, 1161, Exh. 29, Unsuccessful Offeror Letter to Practical Solutions Inc. (Sept. 17, 2020) at 1263; COS at 3.

⁴ On October 9, 2020, the agency notified our Office that it had exercised its discretion to override the CICA-mandated stay of performance (commonly referred to as a "CICA stay" required under 31 U.S.C. § 3554) in this procurement. Letter from Agency to GAO (Oct. 9, 2020).

⁵ Our discussion regarding the agency's evaluation of proposals is general in nature because those evaluations and the selection decision reference materials in the vendors' proposals that appear to be proprietary to the vendors. We did not issue a protective order in connection with this protest--under which such information would have been available to counsel admitted to the protective order--because Practical Solutions elected not to retain counsel. Consequently, a redacted version of the agency report was furnished to Practical Solutions. Nonetheless, we have reviewed the entire record *in camera*, including all of the agency's evaluation materials as well as the proposals submitted by the firms.

Practical Solutions contends that because both vendors are offering Microsoft products, there is no meaningful way to differentiate between the two proposals, and that therefore it should receive the award, as the lower-priced vendor.

We have examined the challenges raised by Practical Solutions to the agency's technical evaluation of True Tandem's proposal and find that the agency reasonably evaluated this proposal. In this regard, the record shows that the agency reasonably documented the technical strengths assigned to TrueTandem's proposal and, similarly, identified a basis for giving Practical Solutions's proposal a lower rating. AR, Exh. 30, Unsuccessful Offeror Letter to Practical Solutions (Oct. 5, 2020) at 1265. Finally, it is clear that the agency concluded that the technical superiority of TrueTandem's proposal warranted payment of a slightly higher price and, accordingly, represented the best overall value to the government. Based on our review of the record, we find no basis to question the reasonableness of the agency's decision to select TrueTandem's proposal for award.⁶ See *L-3 Commc'ns, L-3 Link Simulations & Training*, B-410644.2, Jan. 20, 2016, 2016 CPD ¶ 44 at 7 (denying protest where agency properly considered relative merits of two proposals).

The protest is denied.

Thomas H. Armstrong
General Counsel

⁶ Regarding the protester's argument that the agency's evaluation exhibited "bias in the scoring of" its proposal (Protest at 3), we note that government officials are presumed to act in good faith, and we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. *Triton Marine Constr. Corp.*, B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6. Our examination of the contemporaneous record does not support Practical Solutions's claim that the final evaluation was affected by bias against the firm.