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Decision

Matter of: Ripple Effect Communications, Inc.

File: B-418660.2

Date: December 14, 2020

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Andrew J. Smith, Esq., Robert B. Neill, Esq., and Major Gregory T. O'Malley, Department of the Army, for the agency.
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DIGEST

1. Protest that agency misevaluated protester's proposal under the management approach factor is denied where, in all but one respect, the evaluation was reasonable and consistent with the evaluation criteria in the solicitation.
 2. Protest that agency misevaluated protester's key personnel under the experience factor by assessing a weakness based on a lack of required expertise is denied where the protester did not demonstrate that the error resulted in competitive prejudice.
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DECISION

Ripple Effect Communications, Inc., a small business of Rockville, Maryland, protests the award of a contract to Goldbelt Frontier, LLC, also a small business, of Alexandria, Virginia, under request for proposals (RFP) No. W81XWH-19-R-0098, issued by the Department of the Army, U.S. Army Medical Research Acquisition Activity, for senior scientific support services for the Congressionally Directed Medical Research Programs. The protester, the incumbent contractor, primarily argues that the agency improperly evaluated its technical proposal and made a flawed best-value decision.

We deny the protest.

BACKGROUND

The solicitation, issued as a small business set-aside on September 19, 2019, anticipated the award of a fixed-price requirements contract to be performed over a

base year and four 1-year options. Agency Report (AR), Tab 15, Conformed RFP, at 12.¹ The requirement, from the Congressionally Directed Medical Research Program (CDMRP), is to provide approximately 40 senior level scientists to support research management needs in six areas: autoimmune and genetic disorders; cancer; cardiovascular and respiratory health; infectious diseases; neurological and psychological health; and tissue, organ, and orthopedic injuries and restorative/rehabilitative medicine. AR, Tab 15, Conformed RFP, at 12-13 (Performance Work Statement (PWS) 1.2, 3.1.2).

Award was to be made, without conducting discussions, to the firm offering the best value considering price and five non-price evaluation factors, listed in descending order of importance: management approach, technical approach, experience, small business participation plan, and past performance. AR, Tab 15, Conformed RFP, at 42. The non-price factors were more important than price. *Id.* Proposals were to be adjectivally rated as outstanding, good, acceptable, marginal, or unacceptable under the first three non-price factors, and then given an overall adjectival rating.² *Id.* at 44. Only the management approach and experience factors are at issue here.

The agency received 11 proposals by the October 30, 2019, closing date, including those from Goldbelt and Ripple. COS at 10. After eliminating one proposal for reasons not relevant here, and an evaluation of proposals by a source selection evaluation board (SSEB), award was made to Goldbelt on March 27, 2020. Ripple protested the award to our Office; the protest was dismissed as academic on May 15 in response to the agency's notice that it planned to take corrective action by, at a minimum, reevaluating the proposals under the past performance factor and making a new source selection decision. Req. for Dismissal (B-418660), attach. 1, Memorandum from Contracting Officer to Counsel for the Army (May 7, 2020), at 1. A reevaluation of proposals took place over the summer of 2020 with the following results for offerors rated acceptable or higher overall. The results, with respect to Ripple and Goldbelt were as follows:

¹ Although the contracting officer identified both September 13 and 19 as the date on which the RFP was issued, the RFP amendments and conformed RFP in the record state that the RFP was issued on September 19. AR, Tab 2, Contracting Officer's Statement (COS), at 1-2; see, e.g., AR, Tab 9, RFP amend. 1, at 1. We recognize that the document identified as the original RFP in the record is dated September 13, but is also marked "DRAFT." AR, Tab 5, RFP, at 1.

² Proposals were to be rated acceptable or unacceptable under the small business participation plan factor, and to be given relevance and confidence ratings under the past performance factor. RFP at 45.

	Goldbelt	Ripple
Management Approach	Good	Good
Technical Approach	Outstanding	Outstanding
Experience	Marginal	Acceptable
Small Business Participation	Acceptable	Acceptable
Past Performance	Relevant Satisfactory Confidence	Very Relevant Substantial Confidence
Overall	Good	Good
Price (millions)	\$29.7	\$40.0

AR, Tab 22, Source Selection Decision Document (SSDD), at 8, 19.

In his SSDD, the contracting officer provided a detailed description of the evaluation findings with respect to each offeror. *Id.* at 13-18. He eliminated from further consideration those proposals with overall ratings of unacceptable or marginal. *Id.* at 18. Goldbelt had the lowest price of those offerors rated good overall, and the contracting officer found the firm offered the best value after conducting a tradeoff analysis between Goldbelt and each remaining offeror, including Ripple.

He noted that both Ripple and Goldbelt were rated good under the management approach factor and outstanding under the technical approach factor, the two most important factors. *Id.* at 23. He found that Ripple's proposal demonstrated an understanding of the approach needed for staffing and provided a detailed recruitment and hiring process. He found that Goldbelt's recruitment and retention strategy exceeded the solicitation's specified performance requirements for staffing qualified personnel and the benefits described lowered the potential risk that contractors would leave to seek federal positions. Additionally, Goldbelt proved it clearly understood all of the objectives for this requirement. *Id.* at 24.

Under the experience factor, he noted that Ripple was rated acceptable to Goldbelt's marginal. He found that both firms' strengths were similar in nature, both having had experience with Department of Defense (DOD) medical contracts. However, Ripple received more strengths related to its incumbent experience in regards to staffing and government systems and experience with similar government contracts. The strengths presented in the Goldbelt's proposal were overshadowed by weaknesses pertaining to a lack of information related to managing subcontractors. Although Goldbelt received a marginal rating, it had experience in managing awards for DOD medical program areas using DOD electronic grants systems. The agency concluded Goldbelt's approach would be advantageous because of the heavy reliance on this skillset for the tasks to be completed under the contract. AR, Tab 22, SSDD, at 20.

Taking into consideration the collective non-price factors of both offerors and conducting a best-value tradeoff between them, the contracting officer concluded that Goldbelt would represent a better value than Ripple. He stated:

First, when compared against the non-price ratings of Goldbelt, Ripple Effect received the same rating in the heaviest weighted non-price factor (Management Approach) and the same overall rating. Ripple Effect received a better rating in the third factor (Experience) and fifth factor (Past Performance). However, Ripple Effect's higher price of \$2,053,762.00 (per year) and \$10,268,810.00 (overall) does not support the premiums obtained by the higher ratings of these lower weighted factors, as discussed in the previous paragraph. Additionally, Goldbelt clearly demonstrated an understanding of the requirement on the first two heavier weighted factors. For these reasons, the Contracting Officer cannot make the determination that it is in the best interest of the Government to award to Ripple Effect based on the rating and cost difference between the two "Acceptable" or better Offerors (Ripple Effect and Goldbelt Frontier).

Id. at 24.

Award was made to Goldbelt at a price of \$29,727,302. After receiving a new debriefing, Ripple filed this protest.

DISCUSSION

Ripple argues that the agency miscalculated its proposal under the management approach and experience factors, overlooked crucial information, and ignored numerous strengths in its proposal. Comments at 2-3. For the reasons discussed below, we deny the protest.

Management Approach Factor

Ripple argues that the agency ignored critical information in its proposal when evaluating the firm's proposal under the management approach factor. The firm challenges each of four identified weaknesses. We address three and find that the record supports the agency's evaluation, and that the fourth weakness assessed was not prejudicial to Ripple even if we accept its arguments that the assessment of that weakness was unreasonable.³

³ The fourth and final management approach weakness criticized Ripple's transition plan as lacking an adequate approach to its transitioning management and staff to the new PWS. Ripple argues that the evaluation of a weakness overstated the RFP requirements and was unreasonable because Ripple's incumbency would result in "no appreciable transition risks." Protest at 8; Comments at 8. Even assuming that the agency's assessment of a weakness was unreasonable, our review of the source

The RFP provided that each offeror's management approach would be evaluated for the degree to which it will lead to the successful accomplishment of the requirement. AR, Tab 15, Conformed RFP, at 42. The solicitation set forth several specific areas for evaluation, one of which was the degree to which the proposal described the offeror's organizational structure and subcontracting relationships. The RFP stated that

The proposal will be evaluated to the degree to which the Offeror's chain of command practices contribute in a positive manner to ensuring the completion of all objectives on schedule and flexibility in allocating resources. The management plan will be evaluated to the degree to which the proposal addresses methods for managing subcontracts and mitigating organizational conflicts of interest.

Id. at 43.

The agency found that Ripple "describes briefly its chain of command practices and asserts that prior performance on two previous contracts evidences practices that contribute in a 'positive manner' to ensuring the completion of all objectives on schedule and flexibility in allocating resources." COS at 18. Nevertheless, the contracting officer explains that Ripple does not meaningfully describe how its proposed procedures to monitor schedule, provide flexibility in reallocating resources, or perform routine surveillance, audits, reviews and quality management would contribute in a positive manner and diminish its risk of unsuccessful performance. *Id.*

Ripple argues that the agency overlooked critical information in its proposal in assigning this weakness. The firm contends that it proposed such things as personnel familiar with CDMRP policies and regulation; and a project director responsible for performing [DELETED]. Comments at 6 (citing AR, Tab 17, Ripple Non-Price Proposal, at 15-16). The firm also argues that it addressed [DELETED]. *Id.* (citing AR, Tab 17, Ripple Non-Price Proposal, at 10-11).

The evaluation of technical proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method for accommodating them. *SRA Int'l, Inc.*, B-408624, B-408624.2, Nov. 25, 2013, 2013 CPD ¶ 275 at 5. In reviewing a protest of an allegedly improper evaluation, our Office does not reevaluate quotations; rather, we review the record to determine if the evaluation was reasonable, consistent with the solicitation's evaluation scheme, as well as procurement statutes and regulations, and adequately documented. *TransAtlantic Lines, LLC*, B-411242, B-411242.2, June 23, 2015, 2015 CPD ¶ 204 at 9.

selection decision reflects that the weakness was not identified as having any significance to the contracting officer's assessment of a rating of outstanding to both Ripple's and Goldbelt's proposals under the technical factor. Additionally, it had no role in the tradeoff rationale to select Goldbelt over Ripple. AR, Tab 22, SSDD, at 24.

There is no evidence that the agency overlooked any of this information, which is in any event not responsive to the agency's concern about the lack of a meaningful description of proposed procedures. Additionally, our review supports the reasonableness of the agency's evaluation. Specifically, contrary to Ripple's contention, the record demonstrates that the agency distinguished between the valuable experience of Ripple's personnel and the absence of explanation in Ripple's proposal for how the procedures the firm proposed would reduce the risk of unsuccessful performance.⁴

The agency also identified as a weakness Ripple's mitigation plan for organizational conflict of interests (OCI). In the agency's view, the plan was "incomplete and lack[ed] information on how [Ripple's and team member's] processes will avoid, identify and resolve [conflicts of interest]." AR, Tab 23, Consensus Technical Evaluation Summary, at 46.

Ripple argues that the RFP did not define any specific parameters for this factor except to state that "Contractors shall submit a mitigation plan at the Contract level" and argues it provided what the RFP required. Protest at 8 (quoting RFP at 28). However, the RFP specifically requests the offeror's "best strategy for mitigation of any potential OCI" and then states that the management plan will be evaluated to the degree to which the proposal addresses mitigating any OCI. RFP at 28. Our review of the record shows that Ripple's proposal does not meaningfully address this requirement, and instead merely states that it would "[DELETED]" and, if an OCI arose during performance, it would "[DELETED]." AR, Tab 17, Ripple Non-Price Proposal, at 10. The agency reasonably evaluated these brief general statements by Ripple as constituting a weakness in the degree to which the firm addressed mitigating OCIs.

Another specific area to be evaluated was the recruitment and retention strategy, which would be evaluated to the degree to which the proposal addressed the PWS requirements for staffing and managing qualified personnel and how the risk mitigation plan addressed unanticipated personnel issues. RFP at 22. The agency identified as a weakness Ripple's risk mitigation strategy for performance concerns. AR, Tab 23, Consensus Technical Evaluation Summary, at 46. Ripple's approach assumed that its hiring process would ensure that each science officer (SO) would be [DELETED] but the agency concluded that such an approach was not a sufficient strategy for preventing or mitigating performance issues. *Id.*

⁴ For example, the evaluators identified as strengths Ripple's emphasis on grants management expertise in its science officer corps, and its thorough employee hiring and vetting process based on the incumbent contract, while also assessing a weakness for depending only on its hiring process without addressing prevention or mitigation of subsequent performance problems. AR, Tab 23, Consensus Technical Evaluation Summary, at 45-46. Ripple maintains that this aspect of the evaluation penalized it for being the incumbent but our review of the record does not support the claim; rather, we conclude that the agency fairly and accurately assessed the content of Ripple's proposal, and reasonably concluded that assessment of a weakness was merited.

Ripple cites to language in its proposal about how it hires quality personnel and says the agency ignored this language. Protest at 9-10. Ripple misses the point; the agency was concerned that hiring was Ripple's only strategy for addressing performance issues and thought this was not enough to mitigate the risk of unsuccessful performance.⁵ AR, Tab 23, Consensus Technical Evaluation Summary, at 46. Ripple has therefore provided us no basis to find the agency's evaluation unreasonable.

Experience Factor

Ripple also challenges the agency's evaluation of the firm's proposal under the experience factor, arguing that it was inconsistent with the requirements of the RFP. In relevant part, the RFP directed offerors to demonstrate experience in specific areas, which included the following (which we paraphrase):

- performance of identical, similar to, or related to performing tasks contained within the Performance Work Statement and contracts with risks that would be comparable to the PWS;
- corporate experience in managing subcontractors and providing personnel with similar education and training to those required by the PWS;
- experience identifying and resolving problems in performing services; and
- résumés and letters of commitment for key personnel to show relevant training, education, and certifications. RFP at 23.

Ripple contends that the agency unreasonably assigned a rating of acceptable to the protester's proposal, rather than outstanding or good, based on two erroneous weaknesses, which we address separately.

The agency assessed the first weakness because Ripple "d[id] not propose Key Personnel with significant infectious diseases expertise." Protest at 11 (quoting AR, Tab 27, Enhanced Debriefing of Protester, at 3). Ripple contends that the agency unreasonably disregarded the résumé for one of its key personnel, which showed a doctorate in virology, significant research on infectious diseases, and experience providing support to the Uniformed Services University of Health Sciences Infectious

⁵ Ripple also contends that the record shows disparate treatment in comparison to how Goldbelt was evaluated under this criterion. Comments at 7. According to the protester, Goldbelt's proposal should have been rated marginal at best because the proposal lacked an approach to recruiting incumbent staff and failed to show that the awardee had the resources to do so. *Id.* To the contrary, the awardee's proposal contained a detailed approach to recruiting and retaining qualified personnel, which included discussion of its recruiting methods and examples of the successful recruiting of incumbent and new personnel at contract startup. AR, Tab 20, Goldbelt Non-Price Proposal, at 5-6. Contrary to Ripple's contention that Goldbelt's approach was a weakness, the evaluation provided a rationale for viewing Goldbelt's recruiting and retention as a strength that exceeded the agency's requirement. AR, Tab 22, SSDD, at 24.

Disease Clinical Research Program and the Food and Drug Administration, covering diseases, which included both measles and the severe acute respiratory syndrome coronavirus. *Id.* at 11-12.

In response, the Army contends that its evaluation reasonably concluded that under the experience factor Ripple's proposal was simply acceptable, reflecting an "adequate approach and understanding of the requirements." COS at 29. The agency contends that there were multiple weaknesses, and that Ripple's disagreement with the evaluation cannot support its argument for a higher rating. *Id.* Even so, the agency acknowledges that one of the individuals proposed by Ripple had post-graduate experience in infectious disease research, and that any conclusion the individual did not have this experience was a "misstatement." *Id.* Notwithstanding the agency's acknowledgement of this misstatement, the agency now provides new explanations to justify discounting the experience: that the person's experience was "over 11 years out from working in the infectious diseases field," and that the agency could not ascertain whether the person would hold one of the six key personnel SO roles for Ripple. *Id.* The agency argues that those two new considerations render the protester's claims meritless. *Id.*

Beyond this, the agency notes that Ripple's proposal was assessed strengths under the experience factor for its experience staffing the incumbent contract, having an SO staff of dedicated professionals, its highly experienced and dedicated senior scientists, and its scientists' deep knowledge of CDMRP processes. *Id.* at 30. More broadly, the agency also notes Ripple's highly comparable experience at other agencies in addition to the incumbent contract. *Id.* Altogether, the agency argues, the record provides no basis to question its evaluation judgment in rating Ripple's proposal acceptable under the experience factor. *Id.*

As the Army recognizes, the basis given in the contemporaneous evaluation record for rating Ripple acceptable under the experience factor is not consistent with the substance of its proposal. The Army provides new rationales, however, based on the length of time since the person had the desired experience, and the difficulty of determining whether the person was one of Ripple's six key personnel SOs, still justify the evaluation. *Id.* at 29-30.⁶

Post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review as long as those explanations are credible and consistent with the contemporaneous record. *NWT, Inc.; PharmChem Labs., Inc.*, B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16. The Army's arguments meet this standard.

⁶ Ripple's proposal stated that it "proposed not only the six required key positions but we have identified 12 proposed Key Personnel," and referenced a table identifying 12 senior scientists, one of whom had the infectious disease qualifications. AR, Tab 17, Ripple Non-Price Proposal, at 9.

Although Ripple argues that the RFP did not indicate that the evaluation would include assessing the recency of key personnel experience, we view this new rationale as sufficiently related to the evaluation of personnel experience that it was reasonably encompassed within the stated criteria. We also find that the Army had a basis to question whether the person was one of the required key personnel given Ripple's decision to propose [DELETED] senior scientists as key SO personnel, rather than the six identified in the RFP.⁷ These rationales are reasonable and consistent with the Army's assessment of a weakness in Ripple's proposal, so we deny this aspect of the protest.

The second weakness assessed under the experience factor relates to Ripple's experience in management of subcontractors. Ripple contends that the agency overlooked the firm's experience in overseeing subcontractors in multiple similar contracts, including managing the same subcontractor that it proposed to use in performing this requirement. Protest at 13; Comments at 3-4. Additionally, the protester contends that the evaluation failed to credit its experience providing staff with the required skills, and experience in identifying problems and resolving them. Protest at 13. Ripple contends that a reasonable evaluation of its experience would have identified multiple strengths under the experience factor, which would have resulted in it being awarded the contract. *Id.* The agency argues that its evaluation reasonably assessed the protester's proposal.

Contrary to the protester's claims that the agency overlooked strengths in Ripple's experience, our review of the record shows that the evaluators reasonably assessed the second weakness under the experience factor because Ripple had not adequately addressed its experience in managing subcontractors. AR, Tab 23, Consensus Evaluation for Ripple, at 47-48. The evaluators noted specifically that, after identifying past problems with a subcontractor putting forward unacceptable staff, Ripple's proposal did not address steps that Ripple took to monitor performance, or to change its processes to avoid recurrence of the problem. *Id.* at 48. The evaluation determined that Ripple's experience merited assessment of a weakness, rather than the strengths that Ripple contends were present. *Id.*

In disputing the basis for the weakness, Ripple argues that the Army overlooked experience in subcontractor management that included taking corrective action when subcontractor deliverables were inadequate, and subsequently, termination of a subcontractor's agreement. Comments at 4 (citing AR, Tab 17, Ripple Non-Price Proposal, at 24-25). The protester also contends that the Army failed to consider its approach to providing qualified personnel, and overlooked Ripple's proactive approach to project management or a matrix that identified multiple areas of experience in subcontractor management. *Id.*

⁷ Notably, in response to a question from a prospective offeror, the Army stated "[a]s indicated in the RFP, the Gov[ernment]t anticipates that only six, of the seven Level IV Science Officers shall be considered key personnel." AR, Tab 15, Conformed RFP, at 3.

Our review of the record does not support the protester's claim that the evaluation of a weakness was unreasonable. Ripple's proposal directly asserts that on one contract it had identified a new subcontractor when the initially-selected subcontractor failed to provide a qualified candidate. On the other contract, Ripple asserted that it provided guidance and feedback to a subcontractor with quality problems, and terminated a subcontractor that had not achieved objectives after multiple attempts. AR, Tab 17, Ripple Non-Price Proposal, at 25. In our view, the record undermines Ripple's claim that the agency overlooked this information; rather, the evaluators reasonably found that Ripple did not demonstrate how its experience would enhance successful performance under this RFP through refining the monitoring of subcontractor performance, or adapting its management practices to prevent recurrence of problems. As a result, the record provides a reasonable basis for the assessment of the second weakness under the experience factor.

Altogether, the record before our Office shows that the Army's evaluation of Ripple's proposal was reasonable. Accordingly, we have no basis to sustain the protest.

The protest is denied.

Thomas H. Armstrong
General Counsel