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Decision

Matter of: Garco-WEMCO, JV

File: B-420317

Date: January 24, 2022

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DIGEST

Protest challenging the agency's technical and past performance evaluations are denied where the evaluations were reasonable and consistent with the terms of the solicitation.

DECISION

Garco-WEMCO, JV (Garco), a small business joint venture of Spokane, Washington, protests the award of a contract to REEL COH, Inc. (REEL), of Boisbriand, Quebec, Canada, under request for proposals (RFP) No. W912DW21R0028, issued by the Department of the Army, Army Corps of Engineers (USACE), for the Libby Dam intake crane replacement project in Libby, Montana. The protester contends the agency's evaluation of Garco's proposal was unreasonable and did not comport with the solicitation's stated evaluation criteria.

We deny the protest.

BACKGROUND

The agency issued the solicitation on May 26, 2021, pursuant to the procedures in Federal Acquisition Regulation (FAR) part 15, seeking the replacement of an intake gantry crane at the Libby Dam in Libby, Montana. Agency Report (AR), Tab B, RFP at 7.¹ Specifically, the agency sought contractor support for the removal of an existing

¹ Our citations to the record correspond to the Adobe PDF document page numbers.

gantry crane and related systems, as well as the design, fabrication, transportation, and installation of a new intake gantry crane. *Id.* at 10. The RFP anticipated the award of a fixed-price contract with a 2-year period of performance. *Id.* at 4, 16.

The solicitation provided for award on a best-value tradeoff basis, considering three non-price factors: (1) work plan; (2) past performance; and (3) experience.² *Id.* at 21. USACE would evaluate a proposed work plan for “how well the plan demonstrates the Offeror’s understanding of the scope of work, including challenges inherent in the work, and a detailed plan addressing issues specific to this project.” *Id.* at 29. Under this factor, the agency would also consider how well a work plan addressed essential tasks, schedules, and the sequencing of tasks, as well as the feasibility of the plan for managing and coordinating tasks, and the degree to which the plan identifies and manages risks. *Id.*

Past performance would be evaluated for recency, relevancy, and quality. *Id.* at 30. Recent performance included work completed within seven years of the proposal due date. *Id.* USACE would assess relevancy by considering “the extent to which the projects are comparable in size, scope, and complexity” to the instant requirement and would assign one of four adjectival ratings: very relevant; relevant; somewhat relevant; and not relevant. *Id.* For quality, USACE would “determine how well the Offeror performed on the recent and relevant projects.” *Id.* Finally, under the experience factor, the agency would consider “the extent to which the Offeror’s past projects are relevant and similar in type, size, scope, and complexity to the solicited project[.]” *Id.*

For both the work plan and experience factors, USACE utilized a combined technical/risk adjectival rating scheme, with the following possible combinations: outstanding; good; acceptable; marginal; or unacceptable.³ *Id.* at 28. The RFP further provided that the “combined technical/risk rating includes consideration of risk in conjunction with the strengths, weaknesses, and deficiencies in determining technical ratings.” *Id.* For the past performance factor, USACE would assign a performance confidence assessment rating--considering recency, relevancy, and quality--with five possible ratings: substantial confidence; satisfactory confidence; neutral confidence; limited confidence; and no confidence. *Id.* at 30-31. The solicitation advised that the evaluation factors were of equal importance and the non-price factors, when combined, were considered significantly more important than price. *Id.* at 27.

USACE received multiple proposals by the July 12 deadline. Contracting Officer’s Statement (COS) at 1. The following is a summary of the agency’s final ratings of Garco and REEL:

² The experience factor had three subfactors: (a) design; (b) manufacturing; and (c) installation. RFP at 21.

³ USACE applied these ratings to the experience subfactors, but did not apply an overall rating for experience.

	Garco	REEL
Work Plan	Marginal	Good
Past Performance	Relevant/Satisfactory Confidence	Very Relevant/ Substantial Confidence
Experience		
Design Experience	Acceptable	Outstanding
Manufacturing Experience	Acceptable	Outstanding
Installation Experience	Acceptable	Outstanding
Price	\$12.05M	\$13.78M

AR, Tab I, Source Selection Decision Document (SSDD) at 2.

Following the source selection evaluation board's (SSEB) evaluation, the source selection authority (SSA), who was also the contracting officer, conducted an independent assessment of the offerors' proposals and engaged in a tradeoff analysis. *Id.* at 12. The SSA concluded that REEL's proposal represented the best value to the agency. *Id.* In so finding, the SSA concluded that REEL "submitted the strongest proposal with adjectival ratings far above the other proposals." *Id.* at 11. And while Garco submitted the second highest rated proposal, and was lower priced than REEL's proposal, the SSA concluded that "the difference in the non-price ratings between [Garco's] offer and [REEL's] is substantial enough" to warrant a "significant" tradeoff advantage in favor of REEL. *Id.* The agency awarded the contract to REEL on September 27. COS at 2. Following a debriefing, Garco filed the instant protest on October 21.

DISCUSSION

The protester raises three principle challenges to the agency's evaluation of proposals. First, Garco contends USACE strayed from the solicitation's stated evaluation criteria under the work plan and experience factors, where the agency did not consider or assign technical risk ratings to proposals. Protest at 7-8; Comments at 5-7. In addition, the protester alleges that USACE unreasonably evaluated the firm's proposed work plan, challenging several assigned weaknesses and a significant weakness. Protest at 8-12; Comments at 7-10. Finally, Garco argues the agency's evaluation of its past performance was flawed, as the agency unreasonably focused on the relevancy of the protester's past performance, and thus failed to adequately consider the quality of the protester's submitted references. Protest at 12-14; Comments at 3-5. For the following reasons, we find no basis to sustain the protest.⁴

⁴ Garco raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each argument and find that none provides a basis on which to sustain the protest. For example, the protester challenges the adequacy of the SSA's best-value tradeoff analysis. Comments at 11. Our review of the record confirms that agency's tradeoff decision was

Technical Risk

The protester challenges the agency's evaluation of proposals under the work plan and experience factors, contending USACE failed to "consider or assign Technical Risk Ratings" to offerors's proposals as was required by the RFP. Protest at 7. In this regard, Garco asserts that had the agency considered technical risk, its overall ratings would likely have increased. *Id.* at 8. The sole example on which Garco relies for this contention is that Garco's facility is closer to the agency's site location than REEL's facility, thus "making [Garco's] site inspections [more] convenient, cost-effective and low risk". *Id.*

The evaluation of an offeror's proposal is a matter largely within the agency's discretion. *Frontline Healthcare Workers Safety Found., Ltd.*, B-402380, Mar. 22, 2010, 2010 CPD ¶ 91 at 5. In reviewing a protest that challenges an agency's evaluation of proposals, our Office will not reevaluate proposals; rather, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. *Ocean Servs., LLC*, B-406087, B-406087.2, Feb. 2, 2012, 2012 CPD ¶ 62 at 5.

The protester's argument that USACE effectively failed to consider technical risk finds no support in the record. The RFP states the agency would assign combined technical/risk ratings in evaluating proposals under the work plan and experience factors, which "include[] consideration of risk in conjunction with the strengths, weaknesses, and deficiencies in determining technical ratings." RFP at 28. Indeed, the solicitation provides a description for each combined technical/risk rating (which includes a specific consideration of technical risk for each rating level), as well as a definition for each technical risk level identified.⁵ *Id.*, tables 1 and 2. The record demonstrates the SSEB utilized these criteria when evaluating proposals under the work plan and experience factors, to include an analysis of a proposal's technical risk and in the assignment of combined technical/risk ratings. See AR, Tab H, SSEB Report at 9 (assigning Garco a combined technical/risk rating of marginal under the work plan factor, and noting that the offeror's failure to adhere to the required on-site work schedule, use of entire period of performance, and missing elements/tasks from its

reasonable and appropriately documented. See AR, Tab I at 11-12 (summarizing the evaluation and comparing the relative merits of REEL's and Garco's proposals). A protester's disagreement with the agency's determinations as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency, does not establish that the source selection decision was unreasonable. *General Dynamics-Ordnance & Tactical Sys.*, B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8.

⁵ For example, a low risk proposal "may contain weakness(es) which have little potential to cause disruption of schedule, increased cost or degradation of performance[]" and that "[n]ormal contractor effort and normal Government monitoring will likely be able to overcome any difficulties." RFP at 28, table 2.

schedule added risk to the successful performance of the contract); AR, Tab I, SSDD at 3 (noting same).

Thus, the record amply demonstrates that the agency reasonably considered technical risk as part of its evaluation of proposals. To the extent that the protester complains that the agency did not specifically assign a distinct adjectival rating to technical risk (as opposed to considering risk when assigning an overall factor adjectival rating), such an objection is without merit, where the record otherwise demonstrates that the agency reasonably considered risk. In this regard, we have repeatedly explained that these types of summary level assessments (e.g., adjectival ratings) are merely guides to, and not a substitute for, intelligent decision making. Where an agency reasonably considers the underlying bases for the ratings, including advantages and disadvantages with the specific content of competing proposals, in a manner that is fair and equitable and consistent with the solicitation's terms, a protester's disagreement over the summary level assessments is essentially inconsequential in that it does not affect the reasonableness of the judgments made in the source selection decision. *Environmental Chem. Corp.*, B-416166.3 *et al.*, June 12, 2019, 2019 CPD ¶ 217 at 12.

As addressed above, the record demonstrates that the agency reasonably assessed potential technical risk as part of its evaluation of proposals. With respect to the protester's lone alleged example of ignored risk (i.e., the location of the awardee's corporate facilities), we find no basis to object to the agency's evaluation. While Garco disagrees with the agency's failure to consider an offeror's facility proximity to the USACE work site--which was not a requirement or evaluation element stated in the RFP--the protester's disagreement with the agency's evaluation conclusions, without more, is insufficient to render the evaluation unreasonable. *Armedia, LLC*, B-415525 *et al.*, Jan. 10, 2018, 2018 CPD ¶ 26 at 4. As the record demonstrates the agency's evaluation judgments were reasonable and consistent with the solicitation's stated evaluation criteria, this protest ground is denied.

Work Plan

The protester also challenges USACE's evaluation of its work plan, contending the agency improperly assigned a significant weakness and several weaknesses to its proposal. Protest at 8-12; Comments at 7-10. In this regard, Garco argues the agency misinterpreted its proposed project schedule, misevaluated the submission schedule for its operation and maintenance (O&M) manuals and as-built drawings, and unreasonably assigned multiple weaknesses for the same underlying issues. *Id.* Our review of the record, however, confirms the reasonableness of the agency's evaluation.

Offerors were required to submit a work plan covering "the entire project duration from contract award to contract closeout[.]" which described the work necessary to complete the required tasks. RFP at 21. Offerors' work plans were required to provide a schedule, identify contractor roles, and were to include a narrative description explaining how the RFP's major tasks would be accomplished. *Id.* The solicitation expressly provided that each line or activity on an offeror's schedule must "strictly

reflect[] the Monday through Thursday 10-hour days at Libby Dam.” *Id.* USACE would evaluate how well an offeror’s work plan demonstrated an “understanding of the scope of work, including challenges inherent in the work, and a detailed plan addressing issues specific to this project.” *Id.* at 29. Among other things, the solicitation provided that the agency would also evaluate the degree to which the work plan addressed essential tasks and provided “a realistic schedule duration for each work task, and sequences work tasks in a logical order[,]” as well as the “feasibility of the Offeror’s plan for managing and coordinating the tasks[.]” *Id.*

In evaluating Garco’s work plan, the agency assessed two strengths, four weaknesses, and one significant weakness, resulting in an overall rating of marginal. AR, Tab H, SSEB Report at 9. As relevant to the protest allegations, USACE assigned one weakness because Garco’s proposed “[s]chedule shows five-day work week[s] during work at the Libby Dam Site, contrary to RFP requirements and was reiterated in an inquiry response during the solicitation period[,]” and another weakness because its “O&Ms and as-built drawings are located at the end of the schedule.” *Id.* The agency also assigned a significant weakness to Garco’s work plan because the “[s]chedule shows tasks through the full period of performance (POP), even with work over weekends and Fridays.” *Id.* The agency provided additional explanation for its findings during the debriefing processes. See AR, Tab D, Garco’s Initial Debriefing at 2-3; AR, Tab E, Garco’s Enhanced Debriefing at 1-4.

The protester finds fault with the agency’s evaluation in several respects. First, the protester contends the agency’s assigned weakness for Garco proposing a schedule that included the performance of tasks on Fridays and weekends was unreasonable. Protest at 8-11; Comments at 7-9. In the protester’s view, nothing in the solicitation “prohibited offerors from working at their own shops on Fridays and over the weekends to perform design, manufacturing, shop testing, etc.” Protest at 9. Moreover, the protester avers “nothing in [Garco’s] proposal stated that [Garco] would perform installation work at Libby Dam on Fridays or over the weekends.” Comments at 7.

However, the record reflects that Garco’s work schedule does not explain, discuss, or otherwise identify that the scheduled work to be performed on Fridays and weekends would be at Garco’s facilities, and not at the Libby Dam site. See AR, Tab C, Garco’s Proposal at 3-6. In the absence of explanation, and given the solicitation’s clear instruction that each line or activity on a work plan’s schedule must “strictly reflect[] the Monday through Thursday 10-hour days at Libby Dam[,]” we cannot find the agency’s assignment of a weakness unreasonable. It is an offeror’s responsibility to submit a well-written proposal with adequately detailed information that allows for a meaningful review by the procuring agency. *Hallmark Capital Group, LLC*, B-408661.3 *et al.*, Mar. 31, 2014, 2014 CPD ¶ 115 at 9; *see also Patriot Def. Grp., LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 9 (denying protest based on clarifying information first raised in a protest, as an agency is not responsible for evaluating information that is not included in a quotation or proposal). The protester’s lack of clarity in its proposal does not provide our Office a basis with which to sustain the protest.

In a similar vein, the protester argues the assignment of a significant weakness to Garco's work plan--for proposing a "[s]chedule [that] shows tasks through the full period of performance (POP), even with work over weekends and Fridays"--was unreasonable in two respects. AR, Tab H, SSEB Report at 9. First, the protester contends it is unreasonable to downgrade Garco's work plan for proposing a project schedule that covered the full period of performance, where the solicitation instructed offerors to "[d]evelop a project schedule for the entire project duration from contract award to contract closeout." RFP at 21. Second, Garco argues the assigned significant weakness is duplicative of other assigned weaknesses. Comments at 8-9. We find no merit in either allegation.

The record explains the agency did not assign a significant weakness merely because the protester intended to use the entire period of performance to complete the work, but instead, because Garco intended to work hours outside of the permitted work schedule (*i.e.*, Monday-Thursday). In essence, Garco was proposing to work more days than were authorized by the agency's timeframe. Indeed, as explained in the debriefing, the agency concluded that Garco's approach would "result [in] significant risk that the Offeror will not be able to complete the work in the allotted time while adhering to the work-day requirements of the Contract." AR, Tab D, Garco's Debriefing at 3. In other words, the agency reasonably found that the protester proposed to use the entire permissible Monday-Thursday project schedule, while also proposing to perform work outside of the permitted Monday-Thursday schedule. We find no basis to object to the agency's concern that absent performing work outside of the permitted Monday-Thursday schedule, it was not apparent that the protester would be able to complete the work within the permitted project schedule.

Additionally, this significant weakness is not, as the protester argues, duplicative of other assigned weaknesses. While another assigned weakness faults the protester for proposing (contrary to the express terms of the solicitation) a schedule that included performance outside of the Monday-Thursday limitation, this significant weakness concerns the risk that Garco will not be able to successfully perform the contract because the firm's schedule may ultimately exceed the total allotted time permitted for performance. Thus, to the extent that the record reasonably reflects two related, but ultimately distinct schedule concerns, we find the agency's conclusion, in this regard, unobjectionable. *Mission1st Grp., Inc.*, B-419369.2, Jan. 25, 2021, 2021 CPD ¶ 65 at 12.

We find similarly unobjectionable USACE's assignment of a weakness for the scheduled submission of Garco's O&M manuals and as-built drawings. See AR, Tab H, SSEB Report at 9. As explained more fully in the agency's debriefing, Garco scheduled the submission of its "O&Ms and as-built drawings [] at the end of [its proposed] schedule after completion of commissioning[.]" which contradicts the solicitation's requirement that draft copies of such "be submitted and approved prior to the start of commissioning." AR, Tab D, Garco's Debriefing at 2; see *also* RFP at 22 (requiring that an offeror's schedule include the "[p]reparation, submittal, and Government [review of] operation and maintenance manual and as-built drawings review"); *id.* at 480 (requiring

draft copies of the O&M manuals and as-built drawings be submitted and approved prior to the start of commissioning).

The protester does not contest that its schedule did not include an entry for the preparation, submittal, or review of its O&M manuals and as-built drawings, or that the delivery of such items occurs at the end of its schedule. Instead, the protester's contention is that "nothing in the Solicitation stated where or [when] O&Ms and as-built drawings were required to appear on project schedules[]" because such items were end-deliverables. Comments at 9. However, a necessary precondition for the delivery of these items, per the solicitation, was agency review. Garco included the delivery of the O&M manuals and as-built drawings without scheduling any dates for such review. Given the solicitation's evaluation criteria--which includes how well a work plan "provides a realistic schedule duration for each work task, and sequences work tasks in a logical order[]"--we find reasonable the agency's assignment of a weakness where Garco's proposed schedule did not account for the agency's review of the protester's O&M manuals and as-built drawings. Accordingly, this protest ground is denied.

Past Performance

Finally, the protester challenges the agency's evaluation of its past performance, arguing USACE based its evaluation "almost entirely on the extent and relevancy of the offeror's Experience." Protest at 13. Where, as here, a solicitation requires the evaluation of past performance, we will examine an agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria. *TriWest Healthcare Alliance Corp.*, B-401652.12, B-401652.13, July 2, 2012, 2012 CPD ¶ 191 at 24. An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of agency discretion that we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. *Fox RPM Corp.*, B-409676.2, B-409676.3, Oct. 20, 2014, 2014 CPD ¶ 310 at 3. The evaluation of past performance, by its very nature, is subjective and we will not substitute our judgment for reasonably based evaluation ratings; an offeror's disagreement with an agency's evaluation judgments, without more, does not demonstrate that those judgments are unreasonable. *FN Mfg., LLC*, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

The solicitation advised that the agency would assign a performance confidence assessment rating based on three aspects to the evaluation of past performance--recency, relevancy, and quality. RFP at 30. As relevant here, USACE would assess past performance relevancy by considering "the extent to which the projects are comparable in size, scope, and complexity" to the instant requirement. *Id.* The RFP further provided, "[m]ore relevant past performance will typically be a stronger predictor of future success and have more influence on the past performance confidence assessment than past performance of lesser relevance." *Id.* Under past performance quality, the agency would examine "how well the Offeror performed on the recent and

relevant projects.” *Id.* Garco received a past performance rating of relevant/satisfactory confidence. AR, Tab H, SSEB Report at 10.

The protester’s argument that USACE conducted a flawed past performance evaluation because it “paid mere lip service” to how well Garco performed is not supported by the record. Comments at 4. Indeed, the SSEB assigned Garco strengths based on its performance record in terms of relevant work, but also based on the quality of the firm’s performance. AR, Tab H, SSEB Report at 10 (assigning strengths for Garco’s “demonstrated design, manufacture, and installation of multiple cranes[]” and because the firm’s “[contractor performance assessment reporting system] reports demonstrate a successful performance history on varied, large scale projects”).

While the agency did find that two of the firm’s submitted past performance references were less relevant when compared to the instant requirement, the underlying evaluation record confirms that the agency, in arriving at its evaluation conclusions, considered the quality of Garco’s performance on those references. *Id.* at 10 (finding that Garco “received overall good performance evaluations with no significant negative remarks[]” and the firm’s performance record “shows satisfactory or better performance from each individual firm, as well as the combined [joint venture]”). Although Garco may disagree with the agency’s evaluation conclusions that its “good” performance on less relevant references warranted a rating of satisfactory--as opposed to an outstanding, such disagreement, without more, does not demonstrate that USACE’s evaluation was improper or inconsistent with the stated evaluation criteria. *FN Mfg., LLC, supra*, at 7.

The protest is denied.

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General Counsel