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Decision

Matter of: WWC Global, LLC

File: B-420598

Date: June 13, 2022

Robert A. Burton, Esq., and Zachary H. Schroeder, Esq., Crowell & Moring LLP, for the protester.

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DIGEST

Protest challenging the agency's evaluation of past performance and selection decision is denied where the record shows that both were reasonable and in accordance with the terms of the solicitation.

DECISION

WWC Global, LLC, a small business of Lutz, Florida, protests the issuance of a task order to Credence Dynamo Solutions, LLC (CDS), a small business of Vienna, Virginia, by the Department of the Army under request for task order proposals (RTOP) No. W50NH921R0028 for enhanced programming and resource management services to support Army Intelligence and Security Command (INSCOM). The protester contends that the agency's evaluation of past performance was unreasonable, and as a result, the selection decision was flawed.

We deny the protest.

BACKGROUND

The Army issued the RTOP on June 26, 2021, to small business firms with General Services Administration (GSA) One Acquisition Solutions for Integrated Services (OASIS) multiple award indefinite-delivery, indefinite-quantity (IDIQ) contracts. Contracting Officer's Statement (COS) at 2. The RTOP contemplated issuance of a single fixed-price task order, with a period of performance consisting of a 12-month base period and four 12-month option periods. Agency Report (AR), Tab 3, RTOP

at 3-23, 42.¹ The RTOP will require the contractor to provide subject matter experts necessary to support the mission of INSCOM by providing management and technical support in areas such as resource planning, programming, budgeting, execution, and oversight, as well as support for the Future-Years Defense Program (FYDP).² AR, Tab 3d-1, RTOP amend. 4, RTOP attach. 1, Updated Performance Work Statement at 2.

The RTOP stated that award would be made utilizing a best-value tradeoff process, considering two evaluation factors, past performance and price, with past performance identified as significantly more important than price. RTOP at 85, 87. For the past performance factor, the RTOP stated that the agency would conduct a performance confidence assessment and establish a confidence assessment rating for each proposal.³ *Id.*

The Army received five proposals, including from CDS and WWC. COS at 6. In its final evaluation of past performance, the agency assigned CDS a rating of substantial confidence, and assigned WWC a rating of satisfactory confidence. AR, Tab 8, Source Selection Decision Document (SSDD) at 5. CDS's total evaluated price was \$73,654,063, and WWC's total evaluated price was \$93,609,602. *Id.* Based on the evaluation, the contracting officer, who was also the source selection authority (SSA), concluded that CDS's proposal was the lowest price proposal and the most advantageous to the government as compared to all other proposals. *Id.* at 16.

On February 28, 2022, the Army notified WWC that it had selected CDS for the task order award. The Army provided WWC with an enhanced debriefing, which concluded on March 10. This protest followed.⁴

¹ The RTOP was amended seven times. Unless otherwise noted, citations to the RTOP in this decision are to the initial solicitation issued by the agency and produced at Tab 3.

² The FYDP is a Department of Defense (DOD) database and accounting system that summarizes forces and resources associated with programs approved by the Secretary of Defense. See 10 U.S.C. § 221.

³ The performance confidence ratings were as follows: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. AR, Tab 9, Source Selection Evaluation Board Training Slides at 43.

⁴ The Department of the Army issued the RFP under the OASIS IDIQ contracts established by GSA. For purposes of determining the applicable dollar value threshold for our Office's jurisdiction to hear protests in connection with the issuance or proposed issuance of a task or delivery order, we analyze the statutory authority (*i.e.*, Title 10 or Title 41 of the United States Code) under which the IDIQ contract was issued, rather than the authority of the agency that issued the task or delivery order. *Analytic Strategies LLC; Gemini Indus., Inc.*, B-413758.2, B-413758.3, Nov. 28, 2016, 2016 CPD ¶ 340 at 2 n.2. The GSA OASIS IDIQ contracts were established under the authority of

DISCUSSION

The protester challenges several aspects of the past performance evaluation, and contends that these errors resulted in a flawed selection decision. Although we do not specifically address all of WWC's arguments, we have fully considered all of them and find that they afford no basis on which to sustain the protest.

Evaluation of WWC's Past Performance

The protester contends that the agency's evaluation of its past performance was unreasonable. WWC argues that the agency unreasonably concluded that the first of its two submitted contract references was not relevant. Protest at 12-18. WWC also argues that the agency failed to reasonably evaluate its second contract reference, which concerned its subcontractor's performance of the incumbent contract, and that this reference alone should have been sufficient for the agency to assign WWC a rating of substantial confidence. *Id.* at 18-20. The agency argues that its evaluation of WWC's past performance was consistent with the solicitation, and that, based on WWC's record of past performance, the assigned rating of satisfactory confidence was reasonable. COS at 9-12; Memorandum of Law (MOL) at 44-57.

The evaluation of an offeror's past performance is within the discretion of the contracting agency, and we will not substitute our judgment for reasonably based past performance ratings. *AAR Integrated Techs.*, B-416859.4, June 11, 2019, 2019 CPD ¶ 214 at 6. Where a solicitation calls for the evaluation of past performance, we will examine the record to ensure that the evaluation was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations. *International Preparedness Assocs. Inc.*, B-415416.3, Dec. 27, 2017, 2017 CPD ¶ 391 at 5. The assessment of the relative merits of an offeror's past performance information is generally within the broad discretion of the contracting agency. *Id.* A protester's disagreement with the agency's judgment does not establish that an evaluation was unreasonable. *FN Mfg., LLC*, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

To evaluate past performance, the RTOP stated that the agency would conduct a performance confidence assessment and assign a rating based on the offeror's recent and relevant performance record. RTOP at 87. The RTOP defined recent contracts as those performed within three years of the date of issuance of the RTOP. *Id.* at 80. Regarding relevance, the RTOP provided as follows:

Title 41, therefore the jurisdictional dollar threshold applicable here is \$10 million. 41 U.S.C. § 4106(f)(B)(2). The value of the protested task order exceeds this amount, and, as such, this protest is within our jurisdiction to hear protests of task orders placed under civilian agency IDIQ contracts. *Id.*

Relevant Contracts are those comparable in scope and magnitude of effort and complexity to the following statement of work requirements:

- i. Support of a DOD organization with Financial Management and Program and Resource Management Support with a minimum of 70 [Top Secret/Sensitive Compartmented Information (TS/SCI)] cleared [full-time equivalents (FTEs)] at a minimum of 7 [Continental United States (CONUS)] and [outside of the Continental United States (OCONUS)] locations (with a minimum of 2 of those locations OCONUS) during a 12-month period.
- ii. Support of [FYDP] planning and maintenance of Government data management systems.

Id.

The RTOP instructed offerors to provide up to three recent contracts that the offeror considered to be relevant. AR, Tab 3d-3, RTOP amend. 4 at 5. The RTOP further stated: "The burden of providing thorough and complete past performance information remains with the offeror. It is the offeror's responsibility to submit detailed and complete information so the Government may evaluate its Past Performance volume." *Id.* The RTOP stated that the government would not assume the duty to search for data to cure problems found in proposals, and that while the government "may elect to consider data obtained from internal and external sources other than the proposal, the burden to provide thorough and complete past performance information rests with the offeror." *Id.*

The RTOP also stated that only contracts performed by the named offeror would be considered, however the government may consider the past performance of an associated entity, a predecessor company, or joint venture. RTOP at 81. In pertinent part, the past performance questionnaire (PPQ) worksheet included in the RTOP included the following description of the requirement for subject matter experts:

INSCOM has a requirement to provide management and technical support in the areas of Resource Planning, Resource Programming, Resource Budgeting, Resource Execution, Congressional Authorizations and Appropriations, and Resource Oversight support in the preparation, review, analysis, coordination and maintenance of documentation and associated databases used in DOD resource management systems to develop, restructure, rebalance, transform, and sustain INSCOM organizations. This includes [FYDP] planning, development of transformational resource support programs, and maintenance of the data management systems that provide resources, fiscal or manning and support for current year funds execution.

AR, Tab 3-2, RTOP attach.2, PPQ Worksheet at 1.

In its proposal, WWC identified two past performance references. AR, Tab 4, WWC Proposal at 4. The first reference was a contract performed by WWC for the United States Special Operations Command's Enterprise-Wide Training and Exercises Program (UEWTEP). *Id.* Regarding the UEWTEP contract, the proposal states:

While not specifically [a financial management]-focused contract, it covers all aspects of the past performance requirements. We did not include any of our smaller [financial management] contracts, including those OCONUS, although the tasks may be more relevant to the INSCOM requirements, because they were not as well aligned with the RTOP criteria.

Id. In addition, the PPQ for the UEWTEP contract described the requirements as including, but not limited to, "planning, design/scripting, integrating, coordinating, managing and executing approved training and exercise programs, information and data analysis, joint collective training integrating cyberspace and building [partner nation] capacity activities with the joint exercise and training program." AR, Tab 4a, WWC UEWTEP PPQ at 2.

In its evaluation, the agency concluded that the UEWTEP contract was recent but not relevant. AR, Tab 6, WWC Past Performance Consensus Evaluation at 2. Specifically, the evaluators concluded that although the reference addressed some of the solicitation requirements, the reference ultimately "did not demonstrate financial resource management expertise," as required by the RTOP evaluation criteria. *Id.* at 4; *see also* Tab 4, WWC Proposal at 5 (stating that "the primary focus of the UEWTEP effort is program management for a large and complex worldwide training and exercise program."). The contracting officer states that the UEWTEP contract reference "did not provide sufficient evidence regarding the FYDP portion of this requirement," and "has a very different scope and does not meet the 'scope and magnitude of effort and complexity' of the statement of work requirements." COS at 9. The UEWTEP contract was therefore not considered by the agency when assigning a confidence rating for WWC's past performance. AR, Tab 6, WWC Past Performance Consensus Evaluation at 4.

WWC argues that the UEWTEP contract met and exceeded all of the RTOP requirements, and it was unreasonable for the Army to find the reference not relevant simply because the primary focus of the UEWTEP scope of work was not for financial management and program and resource management support. Protest at 16. However, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. *Innovative Pathways, LLC*, B-416100.2, June 13, 2018, 2018 CPD ¶ 212 at 5. WWC's disagreement with the agency's judgment does not establish that the evaluation was unreasonable. *FN Mfg., LLC, supra*.

As noted, the RTOP stated that relevance would be assessed based on a finding that the contract reference was comparable in scope and magnitude of effort and complexity to the RTOP requirements, and specifically identified support of a DOD organization with financial management and program and resource management support as relevant to the requirements. RTOP at 80. The RTOP specifically stated: "Past performance which is identified in the offeror's Past Performance Factor volume but is not supported with the information requested in Section L may be determined not Relevant." *Id.* at 87. On this record, we find no basis to question the agency's conclusion that the UEWTEP contract was not relevant based on its scope of work in comparison to the scope of the RTOP requirement.

For its second past performance reference, WWC identified the incumbent contract, which has been performed by PotomacWave Consulting, Inc. As noted above, WWC's proposal identified PotomacWave as a major subcontractor for this "follow-on" effort. AR, Tab 4, WWC Proposal at 4, 7-12. In its evaluation, the agency concluded that the contract was recent and very relevant. AR, Tab 6, WWC Past Performance Consensus Evaluation at 2-3. The agency identified a strength for the "[d]emonstrated capacity to operate at more than the requested level for both CONUS/OCONUS locations," as required by the RTOP. *Id.* at 3. Further, the agency considered a PPQ submitted by the contracting officer's representative for the incumbent contract, and based on the ratings and comments therein, assigned WWC an overall rating of satisfactory confidence. *Id.* at 4.

In this regard, in the PPQ submitted for PotomacWave's performance of the incumbent contract, the contracting officer's representative assigned ratings of satisfactory and marginal under quality of financial and program management support, and ratings of satisfactory in the areas of timeliness response and schedule. AR, Tab 4c, WWC Incumbent Contract Reference PPQ at 4-8; Tab 16, Decl. of Contracting Officer's Representative. In particular, the contracting officer's representative stated that the ability to recruit and retain qualified personnel to maintain a stable workforce "has been a struggle" and that "[c]onsistency has really been the issue here." AR, Tab 4c, WWC Incumbent Contract Reference PPQ at 4. The contracting officer's representative noted that the contractor maintained at least an 84 percent fill rate for assigned employees and subcontractors, even adding 15 new surge positions within the prior year during the pandemic, and "continues to work diligently to recruit and retain employees." *Id.* at 5. Overall, the contracting officer's representative concluded as follows:

The [incumbent contractor team] has worked tirelessly to execute all tasks. . . . Their Leadership Team is highly responsive, effective, and very transparent regarding all matters. I've been satisfied with the support they've provided, with the exception of being able to keep us staffed with fully-cleared, [financial management] specialty-area qualified personnel on a consistent basis. Again, I believe this has less to do with this contract's program management team and more to do with the vendor's recruitment team.

Id. at 8.

WWC argues that “[s]tanding alone, performance of the ‘recent’ and ‘very relevant’ INSCOM contract should have been sufficient to warrant a Substantial Confidence rating.” Protest at 18. As our Office has explained, however, there is no requirement that an incumbent be given extra credit for its status as an incumbent, or that an agency assign or reserve the highest rating for the incumbent offeror. *ENGlobal Gov. Servs., Inc.*, B-419612, B-419612.2, May 14, 2021, 2021 CPD ¶ 214 at 4-5; *Integral Consulting Servs., Inc.*, B-415292.2, B-415292.3, May 7, 2018, 2018 CPD ¶ 170 at 7. Based on the information provided in the PPQ submitted for the incumbent contract, we find the agency’s rating of satisfactory confidence to be reasonable.

WWC also argues that the agency unreasonably failed to consider the most recent report in the Contractor Performance Assessment Reporting System (CPARS) for the incumbent contract, quotes from which were included in its proposal. Protest at 19; Comments at 10-11. The protester contends that this CPARS report, which addressed the period of performance from September 30, 2016, to September 29, 2017, and which assigned the subcontractor an overall rating of satisfactory, should have been considered. See Comments, exh. 1, Incumbent Contract CPARS Report at 1.

The record shows that the contracting officer did not locate the report in the CPARS database at the time the agency performed its evaluation, and the report was not considered. Agency Resp. to Comments, exh. 1, Supp. COS at 1-2. The contracting officer explains that on November 2, 2018, DOD waived the requirement for the intelligence community to submit past performance evaluations in CPARS. *Id.* at 2. Consequently, the final CPARS report for the incumbent contract, which was for the 2016-2017 period, marked the contract as closed, and CPARS archived the report because reports for expired contracts are archived after three years. *Id.* Such archived reports were not accessible to the contracting officer at the time. *Id.*

We do not think that the agency’s failure to locate or consider the final CPARS report for the incumbent contract made the evaluation of WWC’s past performance unreasonable. The RTOP stated that “[f]or each contract submitted by the offeror, the offeror shall send a copy of the [PPQ] directly to the appropriate [procurement contracting officer] and/or [contracting officer’s representative],” and request that the PPQs be returned directly to the government. RTOP at 82. Nothing in the RTOP specifically required that the agency consider CPARS reports, and we find that the agency reasonably considered the PPQ submitted in response to the RTOP that provided the most current information regarding performance of the incumbent contract. Moreover, we think the contracting officer reasonably explains why the CPARS report was not accessible. See Agency Resp. to Comments, exh. 1, Supp. COS at 2.

Additionally, although the WWC proposal included selected quotes from the “most recent CPARS on file” for the incumbent contract reference, see AR, Tab 4, WWC Proposal at 12, the CPARS report assessed a period of performance from September 30, 2016, to September 29, 2017. See Comments, exh. 1, Incumbent

Contract CPARS Report at 1. In contrast, the PPQ prepared for the incumbent contract addressed WWC's subcontractor's entire performance, through the end of contract performance in September 2021. AR, Tab 4c, WWC Incumbent Contract Reference PPQ at 2. As discussed, the record shows that the agency's evaluation is consistent with the RTOP, and we find the evaluation to be reasonable. Accordingly, these protest allegations are denied.

Disparate Treatment

WWC also contends that the Army failed to evaluate offerors against a common relevancy standard. Specifically, the protester argues that the Army must have held WWC to a much higher standard than it did CDS in order for CDS to have received a higher past performance rating. Protest at 21-22. WWC further argues that even if the Army assigned all offerors the highest rating, past performance should have been a discriminator in favor of WWC based on performance of the incumbent contract by its proposed major subcontractor. *Id.* at 23-24.

In reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency, but rather examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. *MicroTechnologies, LLC*, B-413091, B-413091.2, Aug. 11, 2016, 2016 CPD ¶ 219 at 4-5. An offeror's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7. In addition, where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the proposals. *Solers Inc., A Peraton Co.*, B-418500.2 *et al.*, July 31, 2020, 2020 CPD ¶ 261 at 10.

Here, the record shows that like WWC, CDS submitted two contract references.⁵ AR, Tab 5, CDS Proposal at 2. The agency concluded that CDS's second past performance reference was recent, but not relevant, and therefore did not consider it when assigning CDS a rating of substantial confidence. AR, Tab 7, CDS Past Performance Evaluation Worksheet at 2-3. Regarding the first reference, the agency concluded that the contract was recent and very relevant, and that the reference "involved essentially the same scope and magnitude of effort and complexities this solicitation requires." *Id.* at 2. Further, the agency identified two strengths for the reference: (1) the number of CONUS and OCONUS locations exceeded the total requested in the RTOP; and (2) the reference was performed with 147 TS/SCI cleared FTEs, exceeding the minimum of 70 required by the RTOP. *Id.* at 3. The agency further noted that the reference received exceptional performance ratings. *Id.*; see also AR, Tab 5b, EPASS Contract CPARS

⁵ The first reference identified in CDS's proposal was a United States Air Force (USAF) contract to provide engineering, professional, and administrative support services (EPASS); the second reference was a USAF Special Operations Command contract to provide aircrew instruction support. AR, Tab 5, CDS Proposal at 2.

Report at 2 (indicating ratings of exceptional in the areas of quality, schedule, cost control, and management). On this basis, the agency assigned CDS a rating of substantial confidence. AR, Tab 7, CDS Past Performance Evaluation Worksheet at 4.

In contrast, as discussed above, the agency's evaluation of WWC's past performance identified one strength for WWC's second reference, the incumbent contract performed by the protester's subcontractor, because it demonstrated the capacity to operate at more than the requested number of CONUS and OCONUS locations. AR, Tab 6, WWC Past Performance Consensus Evaluation at 3. However, the evaluators also concluded that the contract was performed with 64 TS/SCI cleared FTEs, below the minimum of 70 TS/SCI cleared FTEs stated the RTOP. *Id.* at 2. The contracting officer states that although the RTOP requirement is a follow-on to the incumbent contract, the RTOP includes increased requirements, as reflected in the performance work statement. COS at 1. As noted, based on the PPQ completed for the incumbent contract reference, WWC was rated by the agency as satisfactory confidence. AR, Tab 6, WWC Past Performance Consensus Evaluation at 3-4.

On this record, we find the agency's evaluation reasonable, and find no basis to conclude that the agency assessed proposals disparately. The record shows that CDS and WWC each provided two contract references, only one of which was found to be very relevant by the agency for each offeror. Whereas the reference considered by the agency for CDS's past performance exceeded all of the RTOP's minimum requirements and was rated as exceptional, the reference considered by the agency for WWC did not exceed all of the requirements and was rated as satisfactory. Thus, we conclude that the difference in ratings was the result of the differences between the proposals, and find that the agency's evaluation was reasonable and consistent with the RTOP. Therefore, we deny this allegation.

Selection Decision

The protester argues that the best-value determination was deficient because the SSA relied on the flawed evaluation to justify the award to CDS, and that the decision lacks any meaningful comparative analysis of the proposals and is insufficiently documented. Protest at 24-26; *see also* Comments at 11-14. The agency argues that the SSDD adequately documents the SSA's conclusion that CDS's proposal presented the best value because it was the highest rated proposal with the lowest price. COS at 15-16; MOL at 62.

Here, the record shows that the SSA "considered and relied upon the Source Selection Evaluation Board's [] detailed evaluations of the proposals received for this acquisition, including strengths, weaknesses and risks, and took no exceptions to the final evaluations." AR, Tab 8, SSDD at 1. The SSA concluded that CDS's past performance rated as substantial confidence, based on the very relevant past performance with exceptional quality, was significantly more advantageous than WWC's past performance rated as satisfactory confidence. *Id.* at 15. The SSA also concluded that

CDS's price was more advantageous because it was \$19,955,538 or 27.1 percent less than WWC's price. *Id.* at 16.

Because we have denied the protester's challenges to the agency's evaluation, we conclude that there is no basis to challenge the agency's best-value determination. Where, as here, the highest-rated, lowest-priced offer is selected for award, a tradeoff is not required. *Maxim Healthcare Servs.*, B-412967.9, B-412967.11, June 25, 2018, 2018 CPD ¶ 230 at 11. As discussed above, we find no merit to WWC's challenges to the agency's evaluation of past performance. Thus, there is no basis to question the agency's reliance upon those evaluation judgments in making its source selection, and the protester's disagreement does not establish that the agency acted unreasonably or provide a basis to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel