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Decision

Matter of: Ekagra Partners, LLC

File: B-420733; B-420733.2

Date: August 9, 2022

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Wilmary Bernal, Esq., Department of Commerce, for the agency.
Kasia Dourney, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging evaluation of the protester's key personnel and its proposed technical approach for one of the call orders is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.
 2. Protester is not an interested party to challenge the evaluation of quotations and resulting award decision where the protester was not eligible for award as a result of submitting a technically unacceptable quotation.
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DECISION

Ekagra Partners, LLC, a small business of Leesburg, Virginia, protests the establishment of a blanket purchase agreement (BPA) and the issuance of two call orders to Paradyme Management, Inc., also a small business of Greenbelt, Maryland, under request for quotations (RFQ) No. 1333LB21Q00000010. The RFQ was issued by the Department of Commerce, United States Census Bureau, for tools catalog support services. Ekagra challenges the agency's technical, past performance, and price evaluations, and the reasonableness of the agency's source selection. The protester also argues that the agency conducted misleading discussions.

We deny the protest in part, and dismiss it in part.

BACKGROUND

On July 1, 2021, the agency issued the RFQ, as a small business set-aside, under the General Services Administration's (GSA) federal supply schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4, to vendors holding Information Technology (IT) schedule No. 70 contracts. Agency Report (AR), Tab 5, RFQ at 1-2. The solicitation was issued under the corresponding size standard of North American Industry Classification System code 541511 (custom computer programming services). *Id.* at 2. The RFQ anticipated establishment of a single BPA and issuance of two call orders; the orders could be issued on a fixed-price or labor-hour basis, or a combination thereof, for a base year and four 1-year option periods. *Id.*

The RFQ provided for award on a best-value tradeoff basis, considering the following evaluation factors: (1) similar experience and past performance; (2) master BPA--technical approach; (3) call order 0001--technical approach; (4) call order 0002--technical approach; and (5) price. *Id.* at 111. The first two factors each consisted of two equally-weighted subfactors; for factor 1, the RFQ provided for subfactor (1)(A), similar experience, and subfactor (1)(B), past performance. *Id.* For factor 2, the RFQ provided for subfactor (2)(A), management approach for BPA, and subfactor (2)(B), key personnel for BPA. *Id.* The non-price factors were of equal importance and when combined, were significantly more important than price. *Id.* at 112.

The solicitation identified three key personnel positions: project manager, lead tools administrator, and Tools Support Center of Excellence (TSCoE) lead subject matter expert.¹ AR, Tab 8, RFQ amend. 3 at 113. The RFQ required vendors to submit resumes for the key personnel positions and provided that the agency would evaluate the resumes to determine the extent the candidates "meet, or exceed, skills, experience and education required in performing the work." *Id.* at 113-14. As relevant here, the agency would assess the "[k]nowledge, skills and abilities of the proposed key personnel to meet minimum labor category requirements." *Id.* at 114.

The agency received four quotations, including quotations from Ekagra and Paradyme, by the July 20 solicitation closing date. Contracting Officer's Statement (COS) ¶¶ 30. The agency evaluated technical quotations by assessing significant strengths, strengths, weaknesses, significant weaknesses, and risks. RFQ at 112-13. The agency noted that Paradyme was the only vendor who "addressed and met every requirement identified in the solicitation," submitting the best overall technical quotation. AR, Tab 25, Contracting Officer's (CO) Best-Value Determination at 1. More specifically, the agency identified three strengths, no weaknesses, and no risks in Paradyme's quotation. AR, Tab 23, Technical Evaluation Team (TET) Report at 49-50.

In contrast, the agency evaluated Ekagra's technical quotation as unacceptable under the key personnel and the call order 0002--technical approach subfactors, identifying

¹ The requirement anticipated creating the TSCoE, which was to be supported by the contractor selected to perform the requirement. Memorandum of Law (MOL) at 3-4.

three significant weaknesses and three high risks for those two subfactors. *Id.* at 27-30. The agency found that the protester’s proposed key personnel failed to meet the minimum requirements, and its proposed technical approach for call order 0002 did not provide required details for maintaining the integrity of the system security baselines. *Id.* The Census Bureau also assigned a weakness and a moderate risk to Ekagra’s proposed management approach, noting that the protester did “not describe [its] retention strategy to minimize turnover.” *Id.* at 26. At the same time, the agency identified strengths for the similar experience and past performance subfactors, resulting in Ekagra receiving three strengths, one weakness, one moderate risk, three significant weaknesses, and three high risks. *Id.* at 50-52.

After evaluating quotations, the agency assigned Ekagra’s and Paradyme’s quotations the following rankings:

	Ekagra	Paradyme
Technical Ranking	2	1
Call Order 0001 Price	\$6,603,298	\$259,644
Call Order 0001 Price Ranking	4	1
Call Order 0002 Price	\$7,579,958	\$8,847,648
Call Order 0002 Price Ranking	1	3

COS ¶ 43.

Subsequently, the contracting officer, acting as the source selection authority (SSA), conducted a tradeoff analysis between the four quotations received and noted that Paradyme had the highest likelihood of successfully providing the requirement considering the few strengths, no weaknesses, and no risks identified in its quotation. AR, Tab 25, CO’s Best-Value Determination at 7-9. Ultimately, the SSA concluded that Paradyme’s superior technical approach and lowest price for call order 0001 represented the best value to the government for call order 0001. *Id.* at 8-9. Although Paradyme’s price for call order 0002 was higher than Ekagra’s, the SSA found that the potential benefits associated with Paradyme’s superior technical approach warranted paying the price premium. *Id.* Accordingly, the SSA concluded that the quotation submitted by Paradyme represented the best value to the government, and on April 27, established the BPA with, and issued two call orders to, that firm. AR, Tab 26, Award Decision Memo. at 24.

After requesting and receiving a brief explanation of the agency’s basis for award, Ekagra filed this protest with our Office.

DISCUSSION

Ekagra raises a number of challenges to the agency’s evaluation of Paradyme’s and its own quotations, including the evaluation of its key personnel and its proposed technical

approach for call order 0002.² As discussed below, we conclude that the agency reasonably evaluated the protester's key personnel and the technical approach for call order 0002, finding them inadequate and Ekagra's quotation technically unacceptable. As a result, Ekagra is not an interested party to maintain its additional challenges to the agency's evaluation of quotations.

Key Personnel Evaluation

Ekagra argues that the agency unreasonably assigned significant weaknesses and high risks to its quotation after it concluded that Ekagra's key personnel, *i.e.*, its lead tools administrator and its BPA project manager, did not meet the solicitation's required qualifications. Protest at 22-25. Ekagra contends that the RFQ did not require the specific qualifications at issue. *Id.* at 22. In this regard, the protester challenges the agency's reliance on the RFQ's attachment J.2, which provided labor category descriptions, to find that Ekagra failed to "map" key personnel to the labor categories included in that document. Ekagra argues that attachment J.2 was neither an evaluation document nor part of the evaluation criteria, and that vendors were only required to map their labor categories to GSA multiple award schedule IT labor categories. *Id.*; Comments & Supp. Protest at 6.

The agency responds that aligning proposed key personnel with the roles and responsibilities contemplated by the Census Bureau was a requirement recognized by Ekagra's quotation. MOL at 23-26. For example, the agency notes that Ekagra's resumes for proposed lead tools administrator and BPA project manager specifically indicated that the "[d]emonstrated skills and experiences [were] mapped to the roles and responsibilities of this labor category." *Id.* at 25 (*citing* AR, Tab 10, Ekagra's Tech. Quotation at 23, table 4); *see also id.* at 27 (*citing* AR, Tab 10, Ekagra's Tech. Quotation at 17, table 2). The agency also points out that both resumes included a statement that

² On May 19, 2022, the intervenor requested partial dismissal of Ekagra's protest for failing to state legally sufficient grounds of protest. Intervenor's Req. for Dismissal at 1-6. On June 2, our Office indicated its intention to grant the intervenor's request for dismissal with respect to Ekagra's allegations that the agency unreasonably and unequally evaluated the awardee's technical quotation, and misevaluated price quotations.

With respect to the latter assertion, the protester argues that the agency failed to conduct a price realism analysis as part of its evaluation of price. The RFQ here did not provide for the evaluation of price realism. Absent a solicitation provision providing for a price realism evaluation, agencies are neither required, nor permitted to conduct one in awarding a fixed-price or labor-hour contract. *See Lynxnet, LLC*, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 4. Regarding the other allegations, we conclude that they fail to meet the requirements of our Bid Protest Regulations to include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(c)(4) and (f). Accordingly, these protest grounds are dismissed.

“[t]eam Ekagra certifies that [the lead tools administrator and the BPA project manager, respectively] meets/exceeds the requirements of the proposed labor category as defined in [a]ttachment J.2--[l]abor [c]ategory [d]escriptions.” *Id.* at 25 (quoting AR, Tab 10, Ekagra’s Tech. Quotation at 24) (emphasis added); see also *id.* at 26-28 (for a similar discussion regarding the BPA project manager position).

Where, as here, an agency issues an RFQ to FSS vendors under FAR subpart 8.4 and conducts a competition for the establishment of a BPA and the issuance of an order, we will review the record to ensure that the agency’s evaluation was reasonable and consistent with the terms of the solicitation and applicable laws and regulations. *Digital Solutions, Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. A protester’s disagreement with the agency’s judgment, without more, does not establish that an evaluation was unreasonable. *DEI Consulting, supra.*

As set forth above, the RFQ identified three key personnel positions. AR, Tab 8, RFQ amend. 3 at 102-3. The solicitation instructed that the resumes for these positions should include “discussion of the appropriateness of [candidates’] skills and experience to successfully fulfill the requirements outlined in [the performance work statement (PWS)] of the BPA.” *Id.* at 103. In addition, the resumes were to “provide labor categories and [q]uoter’s certification that the individual meets or exceeds the requirements of the proposed labor category.” *Id.* As relevant here, the RFQ included the following provision regarding the labor categories:

The Government is in need of labor categories that are comparable to the BPA Roles outlined in Attachment J.1--Price Quotation Worksheet and Attachment J.2--Labor Category Descriptions. These provided descriptions are solely based on what is anticipated for the work described in [the PWS] at time of BPA award.

Id. at 4. The agency was to evaluate the “[k]nowledge, skills and abilities of the proposed key personnel to meet minimum labor category requirements.” *Id.* at 117.

The record shows that the agency concluded that Ekagra’s proposed lead tools administrator did not possess the required minimum 2 years of professional experience in “scaled agile framework (SAFe)/Agile methodology, logging and monitoring using cloud-native services.” AR, Tab 23, TET Report at 27. Similarly, the agency found that the protester’s proposed BPA project manager did not demonstrate the required minimum of 2-3 years of experience with Agile or SAFe. *Id.* Based on our review of the record, we agree with the agency’s conclusions that the proposed individuals did not possess 2 years of experience with Agile or SAFe.

Notably, the PWS specifically sought services requiring knowledge of SAFe and Agile, for example, anticipating the contractor’s “[p]articipati[on] in Agile SCRUM and SaFe activities such as . . . daily standup, sprint planning, and retrospective meetings.” AR, Tab 8, RFQ amend. 3 at 12. RFQ attachment J.2, containing the labor category

descriptions for the requirement, expressly provided for the lead tools administrator to possess a “[m]inimum 2 years of professional experience in SAFe/Agile methodology.” AR, Tab 9(b), attach. J.2 Labor Category Descriptions at 4. For the project manager, attachment J.2 required a “minimum 2-3 years” of “[k]nowledge of Agile and/or SAFe [f]rameworks. *Id.* at 1.

On this record, we think the solicitation was sufficiently clear as to the minimum qualifications for the two key personnel positions at issue. In fact, the protester itself acknowledged in its quotation that it understood that the requirements for the two key personnel were those included in “[a]ttachment J.2--[l]abor [c]ategory [d]escriptions.” AR, Tab 10, Ekagra’s Tech. Quotation at 24. Consistent with the RFQ requirements discussed above, and Ekagra’s express acknowledgement that attachment J.2 contained the requirements for the key personnel positions at issue, we see no reason to concur with the protester’s contentions here.

The protester’s disagreement with the agency’s evaluation of Ekagra’s key personnel does not establish that the evaluation was unreasonable. *DEI Consulting, supra*. Accordingly, we find no basis upon which to sustain Ekagra’s challenge to the agency’s key personnel evaluation.

Call Order 0002 Evaluation

Ekagra also alleges that the agency unreasonably evaluated its quotation under the call order 0002--technical approach factor, and improperly assigned a significant weakness and high risk for failing to describe how to maintain the integrity of the tools security baselines.³ Protest at 26-29; Comments & Supp. Protest at 7-8. The protester argues that it did address how it would “support, create, and maintain the integrity of the tools baseline[s] and how to tool readiness and availability” but the agency failed to credit Ekagra’s quotation in this regard. Protest at 26.

The agency assigned a significant weakness here because it concluded that Ekagra failed to adequately articulate its specific proposed methodology for maintaining the integrity of the tools baselines. AR, Tab 23, TET Report at 30. Specifically, the agency noted the following:

While the Quoter indicated that: ‘We will monitor the (secured) configuration baseline of each platform, tool, and application product in accordance with the [configuration management] plan and, will document,

³ The protester withdrew the portion of this argument “addressing section L.6.5,” describing the requirement “to create and maintain the integrity of the tools security baselines. Comments & Supp. Protest at 7 n.4 (*citing* Protest at 25-26.). While the protester initially alleged that the agency misquoted the RFQ in its evaluation record, and assigned a significant weakness to Ekagra’s quotation based on incorrect language from a prior version of the solicitation, the protester later withdrew this part of the argument. *Id.*

report, and immediately remediate any deviation, [or] drift found in the deployed configuration' the Quoter failed to provide a clear and concise description on 'HOW' they will maintain the integrity of the Tools Baselines.

Id. The agency further noted that despite stating that “[t]o maintain the integrity of a tool’s baselines, we will implement the following measures,” Ekagra’s quotation failed to describe those measure and, instead, the protester “pivot[ed] to Section 4.5 and Section 4.6. of the technical quot[ation].” *Id.* In sum, the Census Bureau concluded that:

The information provided in these sections do not address how they will establish the baselines, as these sections only detail how they will meet their own [service level agreement]s, and not the baselines for the systems they will support.

Id. The agency found that “[n]ot describing how the integrity of the baselines will be maintained” was a significant weakness “because it substantially increases the risk of unsuccessful BPA or Call Order performance by causing tools to be misconfigured, noncompliant, and increase security vulnerabilities,” causing “schedule delays and increased costs due to rework.” *Id.*

Based upon our review of the record, we find no reason to question the agency’s evaluation. The responsibility for submitting a well-written quotation--here, including an adequate explanation of proposed methods for creating and maintaining the integrity of the tools baselines--lies first and foremost with the vendor. *See, e.g., Advisory Tech. Consultants*, B-416981.3, June 4, 2019, 2019 CPD ¶ 209 at 4. A protester’s disagreement with the agency’s judgment in this regard, without more, does not demonstrate that the agency’s judgment was unreasonable. *Id.* Because the record does not support the protester’s allegation, we find the agency’s evaluation reasonable. We therefore deny this protest ground.

Interested Party Status

Ekagra also challenges the agency’s past performance evaluation and alleges that the agency conducted misleading price discussions, an improper best-value tradeoff analysis, and unreasonably evaluated Paradyme’s price and technical approach for call order 0001. Protest at 20-21, 32, 33-34; Comments & Supp. Protest at 1-3, 8-20.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, only an interested party may protest a federal procurement. 31 U.S.C. § 3554. To qualify as an interested party, a protester must be an actual or prospective vendor whose direct economic interest would be affected by the award of a contract or the failure to award a contract. *Id.* § 3551(2)(A); 4 C.F.R. § 21.0(a)(1). Generally, to have the requisite economic interest to maintain a protest, the protester must demonstrate that it would be in line for award if its protest were sustained.

Kearney & Co., PC, B-420331, B-420331.2, Feb. 4, 2022, 2022 CPD ¶ 56 at 4; *Lamb Infomatics, Ltd.*, B-418405.5, B-418405.6, Mar. 5, 2021, 2021 CPD ¶ 116 at 8.

We conclude that Ekagra is not an interested party to maintain its remaining challenges. As discussed above, Ekagra's quotation is not eligible for award due to the firm's technically unacceptable quotation. Even if Ekagra were to demonstrate that the agency should have rated its technical quotation more highly under the past performance subfactor, or prevail on its remaining challenges, Ekagra would remain ineligible for award due to its technically unacceptable quotation. See, e.g., *Chimes Dist. of Columbia, Inc.*, B-419972, Oct. 18, 2021, 2021 CPD ¶ 344 at 5. Thus, Ekagra lacks the requisite direct economic interest to maintain its protest on the remaining issues. 31 U.S.C. § 3551(2)(A); 4 C.F.R. § 21.0(a)(1). We therefore dismiss Ekagra's remaining arguments.

The protest is denied in part and dismissed in part.

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