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Decision

Matter of: LOGMET LLC

File: B-420941; B-420941.2

Date: November 9, 2022

Timothy A. Furin, Esq., The Law Office of Timothy A. Furin, PLLC, for the protester. William T. Welch, Esq., and J. Patrick McMahon, Esq., McMahon, Welch and Learned LLC, for XOtech LLC, the intervenor.

Andrew J. Smith, Esq., Dmitrius R. McGruder, Esq., Jill B. Wiley, Esq., and Seth Ritzman, Esq., Department of the Army, for the agency.

Hannah G. Barnes, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the evaluation of the protester’s quotation is denied where the agency’s evaluation conclusions were reasonable and consistent with the terms of the solicitation.

2. Protest alleging that the agency engaged in disparate treatment is denied where the differences in ratings were based on differences in the quotations.

DECISION

LOGMET LLC, a service-disabled veteran-owned small business (SDVOSB) of Road Rock, Texas, protests the issuance of a task order to XOtech LLC, an SDVOSB of Tyrone, Georgia, under request for quotations (RFQ) W81K0422Q0003, issued by the Department of the Army for equipment storage and maintenance services in support of a medical equipment concentrations site. The protester argues that the agency unreasonably evaluated its quotation.

We deny the protest.

BACKGROUND

On April 21, 2022, the Army issued the RFQ as an SDVOSB set-aside to holders of General Services Administration Federal Supply Schedule contracts, pursuant to Federal Acquisition Regulation (FAR) subpart 8.4. Agency Report (AR), Tab 4, RFQ

at 1. The solicitation sought medical equipment storage and maintenance services at the Army's medical equipment concentration site in Ogden, Utah. *Id.* at 43. The RFQ contemplated the issuance of a fixed-price task order with a 12-month base period and four 12-month option periods. Contracting Officer's Statement (COS) at 2-3.

The RFQ provided for award on a lowest-price, technically acceptable basis, considering the following factors: technical, past performance, and price. RFQ at 86-88. The technical factor contained three subfactors: phase-in plan; quality control and management approach; and contractor/subcontractor key personnel qualifications.¹ *Id.* at 86-87. The solicitation defined an acceptable quotation as one that "clearly and comprehensively addresses each of the factors and its subfactors" and "provide[s] sufficient details for the [g]overnment to determine whether the quote satisfactorily meets the [solicitation's] minimum requirements." *Id.* at 91. An unacceptable quotation "[f]ails to clearly and comprehensively address" the factors, "[f]ails to provide sufficient detail," and "[f]ails to clearly demonstrate" the vendor's understanding of the solicitation and technical capability to perform its requirements. *Id.* at 92.

As relevant to the protest, under the quality control and management approach subfactor, the solicitation advised that, when contracted personnel identify medical equipment as "non-serviceable or non-reparable," they should dispose of it by pulling it from storage and moving it to a designated non-serviceable equipment rack in preparation for transport out of the facility. *Id.* at 63. For other equipment, the RFQ directed personnel to perform both scheduled and "remedial" maintenance. *Id.* at 64. The solicitation also directed vendors to address, among other things, the "bullets in [] paragraph 5.5.2.3[²] [of the performance work statement (PWS)]" and the vendor's approach to "a sound management process for . . . ensuring adequate levels of performance are maintained." *Id.* at 86.

[REDACTED] vendors, including LOGMET and XOtech, submitted quotations by the May 20 closing date for receipt of quotations. COS at 2. The agency rated [REDACTED] as acceptable under all factors. *Id.* Evaluators rated LOGMET's quotation technically unacceptable under the quality control and management approach subfactor. *Id.* On July 29, the agency notified LOGMET of the award to XOtech. *Id.* at 3. This protest followed.

¹ As relevant here, the protester argues only that the agency unreasonably evaluated its quotation with respect to the quality control and management approach subfactor.

² Paragraph 5.5.2.3 of the PWS advised that vendors' management plans should include the "management techniques or procedures to be utilized to accomplish the basic functions of planning, organizing and controlling for each function depicted on the organizational structure, to include the proposed interface and relationships between major functional areas for project management and administration." *Id.* at 61.

DISCUSSION

The protester contends that its quotation clearly and comprehensively detailed its quality control plan and management plan in response to the solicitation. Protest at 2. More specifically, LOGMET argues that the agency unreasonably found its quotation technically unacceptable and that its quotation properly addressed how to handle different categories of equipment. Comments and Supp. Protest at 6-8. The protester also argues that the agency engaged in disparate treatment. Comments and Supp. Protest at 20-21. After reviewing the record, we find no basis to sustain LOGMET's protest.³

Remedial Maintenance

The protester argues that the agency could not reasonably find its quotation technically unacceptable with regard to the quality control and management plan subfactor, as its quotation "met or exceeded" all solicitation criteria and "was otherwise compliant in every respect with the [s]olicitation." Protest at 2.

The agency responds that it rated the protester's quotation unacceptable because, contrary to the terms of the RFQ, LOGMET proposed performing remedial maintenance on non-serviceable equipment. Memorandum of Law (MOL) at 8. The agency argues that the protester's quotation confuses non-serviceable equipment with repairable equipment that requires maintenance, and that these are two distinct categories in the solicitation. Supp. MOL at 11. The Army points to the protester's technical quotation, in which it proposes to "perform[] remedial maintenance for equipment in unserviceable status with follow-up by scheduled services." *Id.* (quoting AR, Tab 6, Technical at 9). The agency asserts that the protester's quotation is unclear and misleading when it uses the term "unserviceable" to describe both equipment requiring maintenance and equipment to be disposed of and "placed in a separate, unserviceable holding area." Supp. MOL at 12 (quoting AR, Tab 6, Technical at 9).

LOGMET responds that its quotation properly addresses the solicitation's requirements. The protester argues that two of the Army's manuals reference and define four different categories of "unserviceable" equipment, and only one of these categories defines equipment meant to be discarded.⁴ Comments and Supp. Protest at 7; Supp. Comments at 9-11. Consequently, LOGMET asserts that the term "unserviceable" is appropriate and that its quotation "propose[s] to do [what the solicitation required] -- perform remedial maintenance and services on 'unserviceable' equipment to bring it to

³ In its various protest submissions, LOGMET has raised arguments that are in addition to, or variations of, those discussed below. While we do not specifically address all of the protester's arguments, we have considered them all and find that they afford no basis on which to sustain the protest.

⁴ The protester references Defense Logistics Manual 4000.25-2 and Army Regulation 750-1.

a serviceable status and . . . dispose of ‘non-serviceable’ equipment.” Comments and Supp. Protest at 7.

In reviewing a protest challenging an agency’s technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency’s evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester’s disagreement with the agency’s judgment does not establish that an evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. Further, it is a vendor’s responsibility to submit an adequately written quotation that establishes its technical capability and the merits of its proposed approach and allows for meaningful review by the procuring agency in accordance with the evaluation terms of the solicitation. *Deloitte Consulting, LLP*, B-416882.4, Jan. 6, 2020, 2020 CPD ¶ 21 at 6. A vendor risks having its quotation evaluated unfavorably where it fails to submit an adequately written quotation. *DCR Servs. & Constr., Inc.*, B-420179.2; B-420179.3, Apr. 28, 2022, 2022 CPD ¶ 109 at 5.

We disagree with the protester’s argument that its quotation clearly addressed the solicitation’s requirements. The record shows that the solicitation differentiated between non-serviceable equipment and equipment requiring remedial maintenance, but never uses the term “unserviceable.” See RFP at 63-64. We agree with the agency’s argument that the protester’s quotation states within a single paragraph the intention to both dispose of certain “unserviceable” equipment and perform remedial maintenance on other “unserviceable” equipment, without defining the term “unserviceable.” See Supp. Comments at 9-11; AR, Tab 6, Technical at 9. In this regard, LOGMET has failed to submit a clear, adequately written quotation. On this record, we find that the agency reasonably rated the protester’s quotation technically unacceptable. This protest ground is denied.

Disparate Treatment

The protester also argues that even if the agency reasonably found its quotation technically unacceptable, the agency engaged in disparate treatment by failing to also rate the awardee’s quotation technically unacceptable, as “neither [vendor] proposed the 21 [full-time equivalents (FTEs)] identified in . . . the [s]olicitation.” Comments and Supp. Protest at 20-21. The protester asserts that, despite the agency’s claim that it based the quotation’s technically unacceptable rating on LOGMET’s failure to clearly explain how its workforce would successfully perform the required work, the evaluators actually based this rating on LOGMET’s failure to quote 21 FTEs. *Id.* at 18-19; see MOL at 9. The protester speculates, based on the awardee’s price, that XOTech could not have quoted 21 FTEs. Comments and Supp. Protest at 21.

The agency responds that it did not mechanically measure the adequacy of LOGMET’s staffing by some preset number of FTEs, and notes that the contemporaneous evaluation record states that the protester “failed to show why the reduced number of

FTEs . . . would be able to complete the same number of tasks.” Supp. MOL at 23 (quoting AR, Tab 10 Task Order Decision Document at 10). The Army also argues that LOGMET’s assumption regarding the number of FTEs XOTech quoted is speculative, as the protester did not have access to the awardee’s technical quotation and therefore could not have known the number of personnel quoted. Supp. MOL at 29. The agency asserts that it did not engage in disparate treatment, given that the protester and awardee “submitted [quotations] with varying levels of FTEs and allocation of personnel.”⁵ *Id.* at 31.

In conducting procurements, agencies may not generally engage in conduct that amounts to unfair or disparate treatment of competing vendors. *Arc Aspicio, LLC et al.*, B-412612 *et al.*, Apr. 11, 2016, 2016 CPD ¶ 117 at 13. Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences in the quotations. *Camber Corp.*, B-413505, Nov. 10, 2016, 2016 CPD ¶ 350 at 8.

Here, the protester fails to demonstrate that the agency engaged in disparate treatment. We agree with the agency that LOGMET’s assertion is based on the faulty premise that the agency imposed a requirement for a specific number of FTEs. See Supp. MOL at 23. The solicitation advised vendors that they would be evaluated based on whether their management approach ensured adequate levels of performance, and the record shows that evaluators were concerned that LOGMET’s quoted workforce could not meet the solicitation requirements. See RFQ at 86; Supp. MOL at 23. The record also shows that the awardee quoted more FTEs than the protester. Supp. MOL at 29. LOGMET has not shown that the agency evaluated quotations for technical acceptability based on a specific number of preset FTEs; further, as the awardee and protester quoted different workforce mixes, LOGMET cannot show that its quotation is functionally equivalent to XOTech’s quotation. Ultimately, the protester has failed to demonstrate that the agency engaged in disparate treatment.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁵ LOGMET proposed [REDACTED] FTEs, and XOTech proposed [REDACTED]. Supp. MOL at 29.