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Decision

Matter of: New Generation Solution, LLC

File: B-421273

Date: February 8, 2023

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Major Heather M. Martin, Dana J. Chase, Esq., Andrew Smith, Esq., and Major Bruce Mayeaux, 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 an agency's evaluation of proposals under the technical evaluation factor and management/staffing factor is denied where the evaluation was reasonable and consistent with the solicitation.
 2. Protest challenging an agency's best-value tradeoff determination is denied where the record reflects that the agency's source selection rationale was consistent with the stated evaluation criteria.
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DECISION

New Generation Solution, LLC (NGS), a small business of McLean, Virginia, protests the issuance of a task order to NexTech LinTech, LLC, a small business of Southfield, Michigan, by the Department of the Army under request for proposals (RFP) No. PANMRA-21-P-0000-005511 for information technology (IT) support services. The protester alleges that the agency unreasonably evaluated the protester's proposal and challenges the Army's best-value tradeoff decision.

We deny the protest.

BACKGROUND

The RFP was issued on May 10, 2022, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5, under the General Services Administration's 8(a) Streamlined Technology Acquisition Resources for Services (STARS) III governmentwide acquisition contract,¹ seeking information management and IT services in support of the Army's Medical Research Institute of Infectious Diseases.² Agency Report (AR), Tab 13, RFP amend. 4 (RFP) at 1.³ The RFP contemplated the issuance of a fixed-price task order with a 1-year base period, four 1-year option periods, and the option to extend services pursuant to FAR clause 52.217-8 for an additional six months. *Id.* at 2.

The RFP announced that award would be made on a best-value tradeoff basis, considering price and non-price factors, with the non-price factors listed in descending order of importance: technical, management/staffing, and past performance. RFP at 11. When combined, the non-price factors would be significantly more important than price. *Id.* at 12. The RFP provided for the assessment of significant strengths, strengths, weaknesses, significant weaknesses, and deficiencies in the offerors' proposals during the best-value tradeoff. *Id.* at 16-17.

The solicitation advised that the process of rating the first two non-price factors would involve two steps. First, evaluators would rate each factor individually, with the technical and management/staffing factors receiving ratings of either outstanding, good, acceptable, marginal, or unacceptable. RFP at 11, 15. Second, evaluators would assign a collective rating to these non-price factors, using the previously mentioned adjectival ratings. *Id.* at 11. The solicitation cautioned that only proposals with an overall rating of "acceptable" or higher would be considered for award. *Id.* at 12. The RFP stated that the past performance factor would be evaluated independently from the

¹ The 8(a) STARS contract is a multiple-award, indefinite-delivery, indefinite-quantity governmentwide acquisition contract set aside for section 8(a) small disadvantaged business concerns. Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration to enter into contracts with government agencies and to arrange for the performance of such contracts by awarding subcontracts to socially and economically disadvantaged small business concerns. FAR 19.800.

² The solicitation advised that these IT services would support the Army's medical research activities, which include "basic and applied research to develop products, information, procedures, strategies, and training programs, and provide for medical defense against biological threats and naturally occurring infectious diseases of military significance that require biocontainment." RFP at 4.

³ References to the RFP, unless otherwise noted, are to the fourth amendment, which is the final version provided by the agency, as the Army stated that no conformed copy exists.

other non-price factors, would be assessed for relevancy, and would receive a confidence rating.⁴ *Id.* at 14-16.

Under both the technical factor and management/staffing factor, the RFP provided that proposals would be evaluated “to determine the degree to which the [o]fferor’s methodologies, processes, and capabilities reflect an ability to effectively execute the [solicitation] requirements” in eight different areas.⁵ RFP at 12. For the technical factor, these evaluation areas included the ability to provide quality and timely technical support; the ability to sustain a balanced cybersecurity program; and, as relevant here, the ability to “maintain baseline and computing environment certifications based on current Army [t]raining best business practice.” *Id.* With regard to the management/staffing factor, evaluation areas included corporate teaming, management structure, and, relevant here, a staffing approach “that demonstrates the capability to provide the full range of staffing resources,” including a plan “to mitigate personnel turnover. . . and manage unexpected turnover.” *Id.* at 13.

On or before the June 17, 2022 closing date for receipt of proposals, the agency received proposals from eleven offerors, including NGS and NexTech. Contracting Officer’s Statement (COS) at 2-3. The agency evaluated NGS’s and NexTech’s proposals as follows:

	Technical	Management/ Staffing	Overall Rating	Past Performance	Price
NGS	Good	Acceptable	Good	Satisfactory	\$29,434,125
NexTech	Outstanding	Outstanding	Outstanding	Substantial	\$32,869,776

AR, Tab 25, Consolidated Source Selection Decision Document (SSDD) at 76.

In evaluating the protester’s proposal, the agency assessed two significant strengths under the technical factor, noting the proposal’s demonstrated understanding of [REDACTED] requirements and its “comprehensive [REDACTED],” as well as its provision for additional [REDACTED]. *Id.* at 78-79. The agency assessed one strength in the protester’s proposal under the management/staffing factor based on NGS’s “[REDACTED].” *Id.* at 80-81.

⁴ Confidence ratings were determined by assessing whether areas in an offeror’s proposal raised or lowered expectations of success. RFP at 14. The available confidence ratings for the past performance factor were substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence. *Id.* at 15-16.

⁵ The solicitation lists eight points to be considered under the technical factor and eight under the management/staffing factor, referring to them as areas, while the agency refers to these bulleted points as subfactors in its report. See Memorandum of Law (MOL) at 8. For the sake of clarity, we will refer to them as evaluation areas.

In evaluating the awardee's proposal, the evaluators assessed three significant strengths and seven strengths under the technical factor, as well as one significant strength, four strengths, and one weakness under the management/staffing factor. *Id.* at 77, 79. The agency concluded that NexTech's proposal offered "significantly more advantages and valuable benefits" than NGS's proposal and offered the best value to the Army, justifying the awardee's twelve percent price premium. *Id.* at 82-83.

On October 26, the agency notified NexTech that it had been selected for award and sent all other offerors, including the protester, unsuccessful offeror letters. COS at 3. The following day, the protester timely requested a post-award debriefing, which it received on October 31. *Id.* On November 1, the protester submitted additional questions, to which the agency provided responses on November 4. *Id.* On November 9, NGS filed its protest with our Office.⁶

DISCUSSION

The protester challenges various aspects of the agency's evaluation. First, NGS argues that the agency unreasonably evaluated its proposal under the technical factor and under the management and staffing factor. According to NGS, its proposal should have received an overall rating of "outstanding" for these factors given the several strengths the agency assessed its proposal. Protest at 10. Next, the protester argues that the agency's tradeoff decision was flawed, asserting that the Army failed to properly consider the price savings NGS's proposal offered.⁷ *Id.* at 12-13. After reviewing the record, we find no basis to sustain NGS's protest.⁸

Technical and Management/Staffing Evaluation

The protester challenges its adjectival ratings under both the technical factor and the management/staffing factor, as well as its combined rating for these factors. Specifically, NGS argues that its proposal should have received a higher rating under the technical factor because of the two significant strengths identified for the protester's approach to the employee certifications area, asserting that this approach "vastly

⁶ Because the value of the task order is in excess of \$10 million, this protest is within our jurisdiction to consider protests of task orders issued under civilian agency indefinite-delivery, indefinite-quantity task order contracts. See 41 U.S.C. § 4106(f)(1)(B); *Alliant Sols., LLC*, B-415994, B-415994.2, May 13, 2018, 2018 CPD ¶ 173 at 4 n.8.

⁷ The protester also initially challenged the agency's evaluation of its proposal under the past performance factor as unreasonable, but subsequently withdrew that allegation. See Protest at 11-12; Comments at 1 n.1.

⁸ In its various protest submissions, NGS has raised arguments that are in addition to, or variations of, those specifically discussed below. While we do not specifically address all of the protester's arguments, we have considered all of them and find that they afford no basis on which to sustain the protest.

exceeds the definition of 'Good' and lines up more closely with the ['outstanding'] definition." Comments at 5. Similarly, the protester contends that the agency should have assigned the proposal a "good" rating under the management/staffing factor, given the Army's identification of a strength for NGS's staffing approach and the fact that the solicitation defines a "good" proposal as one that "indicates a thorough approach and understanding of the requirements and contains at least one strength." Comments at 4; RFP at 15. Moreover, NGS asserts that the Army should have assigned an overall rating of "outstanding" to its proposal because, viewed as a whole, it had multiple strengths, no weaknesses or deficiencies, and consequently met the solicitation's definition of "outstanding." Protest at 10; see RFP at 15 (defining an outstanding proposal as one that "indicates an exceptional approach and understanding of the requirements and contains multiple strengths, and risk of unsuccessful performance is low").

The agency responds that its evaluation was reasonable and conducted in accordance with the solicitation criteria. Regarding the "good" rating given to NGS's proposal under the technical factor, the agency acknowledges that two significant strengths were identified under one of the technical factor's eight evaluation areas, but characterizes NGS's response to the remaining seven evaluation areas as "minimal," failing to provide an appropriate level of detail, and merely meeting the requirements of the RFP. COS at 6. The agency further argues that nothing in the definition of "good" prevented evaluators from assigning that rating to a technical proposal with more than one strength. MOL at 25. Regarding the "acceptable" rating assigned under the management/staffing factor, the agency asserts that this was based on the protester's sole strength for its staffing approach and its failure to address the other seven management/staffing evaluation areas in greater detail. COS at 6-7.

With respect to the protester's argument that its overall technical rating should have been outstanding, the Army asserts that, in accordance with the solicitation, it considered the greater weight afforded to the technical factor as compared to the management/staffing factor and subsequently assigned an overall rating of "good" to the protester's proposal, despite the "acceptable" rating under the management/staffing factor. MOL at 25. The Army references both the definition for an "outstanding" proposal and its ratings of the individual technical and management/staffing factors, contending that the protester's proposal displayed a thorough, but not excellent, approach and understanding of the overall solicitation requirements, particularly given NGS's "fail[ure] to add value for fourteen of the sixteen" evaluation areas. COS at 7. Ultimately, the agency contends that NGS's proposal did not demonstrate an exceptional approach or justify an outstanding rating. *Id.*

In reviewing protests of an agency's evaluation, we do not reevaluate proposals; rather, we review the record to determine whether the evaluation is reasonable and consistent with the solicitation's evaluation scheme and applicable procurement laws and regulations. *Immersion Consulting, LLC*, B-420638, June 30, 2022, 2022 CPD ¶ 171 at 4. Further, evaluation ratings and the number of strengths and weaknesses assessed are merely a guide to, and not a substitute for, intelligent decision making in

the procurement process. *Affolter Contracting Co., Inc.*, B-410878, B-410878.2, Mar. 4, 2015, 2015 CPD ¶ 101 at 11 n.10. There is no legal requirement that an agency award the highest possible rating under an evaluation factor simply because the proposal contains strengths or is not evaluated as having any weaknesses. *NCI Info. Sys., Inc.*, B-417752 *et al.*, Oct. 17, 2019, 2019 CPD ¶ 363 at 6.

Here, a review of the record shows that the agency did not act unreasonably in assigning an overall rating of “good” to the protester’s proposal. We do not find unreasonable the agency’s argument that NGS’s technical and management/staffing approach contained “minimal detail” for most of the sixteen evaluation areas under both those factors. See MOL at 25-26. For example, we note the contrast in the record between the two significant strengths identified for the certifications evaluation area in the protester’s technical proposal and the awardee’s three significant strengths and seven strengths, which span seven of the eight technical evaluation areas. See AR, Tab 25, Consolidated SSDD at 77-79.

Further, while the solicitation’s definition for a rating of outstanding includes a minimum requirement for “multiple strengths,” it does not establish that a proposal with multiple strengths under one factor will automatically receive such a rating. See RFP at 15. Instead, as noted above, the plain language of the solicitation describes an outstanding proposal as one that “indicates an exceptional approach and understanding of the requirements *and* contains multiple strengths, *and* risk of unsuccessful performance is low.” RFP at 15 (emphasis added). Contrary to the protester’s insistence, the agency is not required to award an overall “outstanding” rating to NGS’s proposal simply because it contains multiple strengths. See *NCI Info. Sys., Inc., supra*. Ultimately, the record shows that the agency reasonably evaluated NGS’s proposal under the technical and management/staffing factors, identifying several strengths but concluding that the level of detail provided throughout the proposal merited an overall “good” rather than “outstanding” rating. Accordingly, this protest ground is denied.

Best-Value Tradeoff

The protester also argues that the agency’s best-value tradeoff decision was unreasonable. Specifically, NGS asserts that the agency failed to properly consider the benefit of its proposal’s lower price and contends that the award decision “was merely based on non-price merit.” Protest at 13.

The agency responds that its award decision was reasonable, well-documented, and consistent with the solicitation. MOL at 30. The agency asserts that it considered all of the evaluation factors and determined that NGS’s superiority in all three of the non-price factors, which the solicitation weighted more heavily than price, justified the price premium of the awardee’s proposal. AR, Tab 25, Consolidated SSDD at 82-83. Ultimately, the agency argues that NexTech’s proposal was “significantly stronger” than NGS’s and offered the best value to the Army. MOL at 34.

Where, as here, a solicitation provides for issuance of a task order on a best-value tradeoff basis, it is the function of the source selection authority to perform a price/technical tradeoff, that is, to determine whether one proposal's technical superiority is worth its higher price. *Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 24. An agency has broad discretion in making a tradeoff between price and nonprice factors, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the solicitation's stated evaluation criteria. *Sigmattech, Inc.*, B-419565 *et al.*, May 7, 2021, 2021 CPD ¶ 241 at 31.

We find that the agency properly exercised its discretion in conducting the tradeoff analysis and concluding that the awardee's superiority under all of the non-price evaluation factors was worth the proposal's price premium. To the extent the protester argues that the agency relied on a mechanical comparison of adjectival ratings and insufficiently documented its tradeoff decision, we do not find NGS's argument persuasive. The record shows that the agency identified specific advantages in the awardee's proposal, such as a greater level of detail in addressing the [REDACTED]; and that these advantages informed the evaluators' decisions on which ratings to assign. See MOL at 25-26. The record shows that the evaluators also considered more detailed advantages, such as NexTech's extensive knowledge of the [REDACTED], which would help the Army with "how to best take advantage of the [REDACTED]" and benefit the agency by "[REDACTED]." AR, Tab 25, Consolidated SSDD at 82. In other words, where the agency found aspects of the proposals to warrant strengths, it documented them. See *id.* at 78-80. Ultimately, the protester's disagreement with the agency's conclusions regarding the relative merits of the proposals, without more, does not establish that the best-value tradeoff and award decision were unreasonable. See *Immersion Consulting, LLC*, *supra* at 5.

The protest is denied.

Edda Emmanuelli Perez
General Counsel