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Decision

Matter of: Prosperitus Solutions, LLC

File: B-421461; B-421461.2

Date: May 25, 2023

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DIGEST

Protest that the agency unreasonably evaluated the protester's past performance is denied where the record shows the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Prosperitus Solutions, LLC, of San Antonio, Texas, protests the award of a contract and task order to AIMS-USGP JV, LLC, of Aldie, Virginia, under request for proposals (RFP) No. HT940823R0001, issued by the Defense Health Agency for medical administrative technicians and other administrative support at Department of Defense (DOD) Military Treatment Facilities (MTFs) in San Antonio, Texas. The protester asserts that the agency unreasonably evaluated its past performance.

We deny the protest.

BACKGROUND

The agency issued the RFP on October 31, 2022, pursuant to Federal Acquisition Regulation (FAR) part 12 and subpart 15.3, for medical administrative technicians and other medical administrative support services at various DOD MTFs in San Antonio, Texas. Agency Report (AR), Tab 3, Conformed RFP (RFP) at 1; RFP, attach. 2, FAR provision 52.212-2 Addendum at 71; RFP, attach. 3, Performance Work Statement

(PWS) at 77.¹ The RFP required 16 positions to be filled, including 14 types of medical administrative technicians. RFP at 6-13; Contracting Officer's Statement (COS) at 5-6. Among the medical administrative technician positions to be filled were mammography administrative assistant II, medical records clerk, dermatology administrative technician, urology administrative technician, allergy/immunization administrative technician, and family health administrative technician. RFP at 6-8; PWS at 77, 95-113; COS at 5.

The RFP contemplated the award of a fixed-price indefinite-delivery, indefinite-quantity (IDIQ) contract to be performed over a 5-year period. RFP, attach. 2, FAR provision 52.212-2 Addendum at 71; PWS at 77. The RFP provided for award on a best-value tradeoff basis considering technical, past performance, and price factors. PWS at 71. The technical factor acted as a "gate" criterion that was to be evaluated solely for acceptability. A proposal had to receive a rating of acceptable under both technical subfactors (management plan and staffing plan) for an overall technical rating of acceptable in order to then be evaluated under the past performance and price factors. *Id.* at 74. For purposes of the best-value tradeoff, past performance was significantly more important than price. *Id.*

Under the past performance factor, offerors could submit a maximum of three past performance references. RFP, attach. 1, FAR provision 52.212-2 Addendum at 69. The RFP provided that the agency would evaluate references for recency and relevancy. *Id.* at 72. To be recent, a past performance reference had to be ongoing or have been performed within the past three years from the date the present solicitation was issued. *Id.* To be relevant, a past performance reference had to involve a similar scope and magnitude of effort and complexities as required by the RFP. *Id.* at 73. After evaluating each reference for recency and relevancy, the agency evaluated the quality of an offeror's performance and assigned an overall confidence rating of no confidence, limited confidence, neutral confidence, satisfactory confidence, or substantial confidence. *Id.* If an offeror had no recent/relevant past performance information, an offeror's past performance was assigned a neutral confidence rating. *Id.* The agency also reserved the right to consider information about offerors' recent contracts contained in the Contractor Performance Assessment Reporting System (CPARS) and to contact past performance references from other recent contracts in its evaluation of a firm's past performance. *Id.* at 73. The RFP provided that the government would utilize CPARS evaluations and past performance questionnaires (PPQs) to evaluate past performance and, where CPARS evaluations were available, offerors did not have to submit PPQs. *Id.* at 69.

In order to be eligible for award, a proposal had to receive a rating of acceptable under the technical factor, a rating of no less than satisfactory confidence under the past performance factor, and the proposed price had to be evaluated as fair and reasonable. *Id.*

¹ All page numbers refer to the Bates numbers. Where a document does not have Bates numbering, page numbers refer to the Adobe PDF page numbers.

The agency received 46 timely proposals, including those of AIMS-USGP and Prosperitus. COS at 2, 4. After all proposals were evaluated, the source selection authority (SSA) conducted a best-value tradeoff analysis focusing in part on proposals from each past performance rating level that had the lowest price at that level (e.g. AIMS-USGP’s proposal was the lowest-priced proposal with a substantial confidence rating). AR, Tab 8, Source Selection Decision Document (SSDD) at 4-5. The table below includes the proposal of Prosperitus and the proposals from every past performance rating level with the lowest price at that level:

	Technical	Past Performance	Price
Offeror A	Acceptable	Neutral	\$9,738,172
Prosperitus	Acceptable	Neutral	\$13,289,224
Offeror B	Acceptable	Satisfactory	\$10,467,156
AIMS-USGP	Acceptable	Substantial	\$14,953,879

AR, Tab 8, SSDD at 2-3.

In the SSDD, the SSA noted that medical administrative technicians were a critical requirement as they are required to “run 15 different departments throughout six MTFs . . . [at] the Air Force’s largest medical wing[,]”; they are “integral to ensuring more than 240,000 beneficiaries in the San Antonio metropolitan area receive uninterrupted healthcare”; and a disruption in the duties performed by these medical administrative technicians “could create a serial effect of program interruptions, ultimately impacting healthcare delivery.” *Id.* at 10. The SSA determined that while all the proposals listed above had equal technical ratings, AIMS-USGP’s superior past performance gave the agency a higher level of confidence that it would successfully perform the contract and supply the needed medical administrative technicians. *Id.* at 5. The SSA concluded that AIMS-USGP’s price premium was justified compared to the other proposals with lower ratings and lower prices and that it provided the best value to the government. *Id.* The agency awarded the contract to AIMS-USGP and issued it an initial task order on February 1, 2023. COS at 1.

Prosperitus requested and received a debriefing, during which the agency explained that while the firm’s proposal was technically acceptable and its past performance references were recent, none of its references were relevant. AR, Tab 18, Written Debriefing at 2. In response to written questions, the agency stated generally that the past performance references were not relevant because “the performance efforts involved little or none of the scope and magnitude of effort and complexities in this solicitation.” AR, Tab 19, Agency Email to Protester (Feb. 9, 2023) at 2. The agency listed some of the positions that Prosperitus filled in its previous contracts, and noted that none were medical administrative technician positions. *Id.* This protest followed.

DISCUSSION

Prosperitus argues that the agency should have found its three past performance references relevant and assigned its proposal a higher confidence rating under the past

performance factor. Supp. Protest at 5. Although the protester concedes that none of its references required it to provide staffing for medical administrative technicians, Prosperitus asserts that the duties performed by the staff in its references were extremely similar to those required here. *Id.* at 5, 7. According to the protester, the agency's relevance evaluation focused too narrowly on whether its references involved specific experience with staffing medical administrative technicians, and in doing so, essentially required Prosperitus to provide references with requirements that were identical, rather than similar, to the requirements of the RFP.² Comments at 5. Had the agency properly evaluated its past performance references, Prosperitus contends that it would have received a rating of substantial confidence and thus received the award as the offeror with the lowest-priced proposal with that rating. Protest at 4.

In reviewing an agency's evaluation of past performance, our Office evaluates only whether the evaluation was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, as determining the relative merit of an offeror's past performance is primarily a matter within the agency's discretion. *Linchpin Solutions, Inc.*, B-419564, May 10, 2021, 2021 CPD ¶ 200 at 4. 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 the agency's evaluation, without more, does not demonstrate that those judgments are unreasonable. *Id.* Based on our review of the record, we have no reason to question the reasonableness of the agency's evaluation of the protester's proposal under the past performance factor.

The scope of the RFP's requirement was to obtain "medical administrative technicians and other administrative support services," a requirement repeated throughout the solicitation. All but two positions to be filled were for medical administrative technicians. RFP at 6-13; PWS at 77. The PPQ to be filled out by each offeror's references primarily focused on the offeror's performance related to staffing medical administrative technician positions. RFP, attach. 5, PPQ at 131. The PWS detailed the requirements for all positions, which included certain overarching duties, such as providing medical administration and program assistant services in a wide range of organizational, business, and financial operations. PWS at 95. These duties also included tasks such

² Prosperitus also argues that, because the solicitation noted that all positions conformed to the same Administrative Assistant Services Contract Act (SCA) code, which established the same minimum level of employee compensation for the positions, there was little difference between the skills and qualifications required for the medical administrative technicians and the other administrative support positions. Supp. Protest at 7. The agency responds that while all the positions except one had the same SCA code, this related solely to minimum employee compensation required by the solicitation and had nothing to do with determining the relevancy of past performance references. COS at 8. We agree with the agency and find the protester's argument to be without merit where the solicitation clearly established different skills and qualifications for the various required positions notwithstanding the fact that they shared a similar SCA code for purposes of establishing minimum levels of compensation.

as performing data collection, computation, interpretation, and presentation; front desk management; patient administration; completing third party insurance forms; managing expenses; and developing spreadsheets. *Id.* at 96.

The PWS then listed all of the requirements specific to each position. *Id.* at 95-115. The requirements for medical administrative technicians demonstrated that these positions would provide medical administrative support and assistance with the administrative aspects of the provision of medical care. For example, one of the medical administrative technician positions, mammography administrative assistant II, required research of the standards for various professional organizations that directly impact the mammography department, such as the Food and Drug Administration Mammography Quality Standards Act (FDA/MQSA), and the American College of Radiology (ACR). PWS at 107. This position also required use of the medical data system to assure the Breast Imaging Department met all FDA/MQSA and ACR requirements for data collection, scheduling, reporting, tracking, and analyzing data related to mammograms and other breast-related procedures. *Id.*

As another example, the requirements for several of the medical administrative technician positions, including dermatology administrative technician and family health administrative technician, included duties such as recording physician's orders involving patient activities, answering routine questions on the services of the clinic and procedures for obtaining services, and utilizing the defense eligibility enrollment reporting systems to verify patient identify and eligibility. *Id.* at 105.

Prosperitus submitted three past performance references for the agency's review. The first reference was a contract to provide 8 full-time sterile supply attendants, which required the attendants to perform services such as disassembling, sterilizing, decontaminating, and making minor repairs on surgical instruments. AR, Tab 7, Prosperitus Past Performance Proposal at 3. The second reference was for a contract to provide a variety of warehouse, procurement, quality assurance, and other personnel to assist with acquiring, accounting for, distributing, and managing all medical supply requirements. *Id.* at 5. The third reference was for a contract performed by one of the protester's subcontractors for the provision of registered nurses. *Id.* at 8. The agency also searched CPARS for any additional recent and relevant contracts, but identified none. AR, Tab 13, Prosperitus Past Performance Evaluation Report. The agency determined that none of the past performance references were relevant because none included experience with staffing medical administrative technicians. AR, Tab 9, Source Selection Evaluation Report at 104. Because the agency determined that no relevant past performance information was available, the agency assigned Prosperitus's proposal a neutral confidence rating. *Id.*

We find that Prosperitus has not demonstrated that the agency's evaluation was unreasonable. As noted above, the RFP provided that a past performance reference would be considered relevant if it "involved [a] similar scope and magnitude of effort and complexities [required by the present] solicitation." RFP, attach. 3, FAR provision 52.212-2 Addendum at 73. The solicitation required that the majority of positions to be

filled were for medical administrative technicians. These individuals would provide medical administrative support and assist with the administrative aspects of the provision of medical care. Therefore, it was not unreasonable or inconsistent with the solicitation for the agency to consider in its evaluation of relevance the degree to which an offeror demonstrated performance with providing medical administrative technician staff.

As discussed above, the duties required of these technicians show that they provide administrative medical support and assist with the administrative aspects of the provision of medical care. Again, for example, the mammography administrative assistant is required to conduct sophisticated research in accordance with professional requirements to ensure they are met and use specific tools to track the performance of medical procedures. Further, the dermatology administrative technician and family health administrative technicians, among others, are required to record physician's orders and provide basic information about the medical services offered to patients, as well as utilize specific databases to perform other duties. These duties are considerably different from the duties carried out by the staff in Prosperitus's references.

While Prosperitus's references may have had some similarities to the present solicitation, none of the references included staffing medical administrative technicians, and Prosperitus concedes this point. Prosperitus's first two references include tasks such as cleaning, warehouse management, and procurement. Prosperitus's third reference involves the provision of direct medical care by nurses, not the supportive and administrative tasks provided by medical administrative technicians.

Accordingly, we are not persuaded by Prosperitus's argument that the agency essentially required it to provide past performance references that were identical to the solicitation requirements in order to meet the relevant standard. There is nothing to suggest that the agency required past performance references to include the exact same number of positions with the exact same specialties to be filled in the exact same locations, and so on, as the present solicitation. Rather, the agency simply concluded that the contracts submitted by Prosperitus, which did not require providing any medical administrative technician staff of any kind, were not relevant. The evaluation of past performance is necessarily subjective and the agency has discretion to broaden or narrow its focus in determining relevance so long as its focus is reasonable and consistent with the terms of the solicitation. *Linchpin, supra* at 6; see *ActionNet, Inc.*, B-417173, B-417173.2, Mar. 5, 2019, 2019 CPD ¶ 100. As a result we find no basis to sustain the protest.

The protest is denied.

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General Counsel