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Decision

Matter of: Systems and Proposal Engineering Company

File: B-421494

Date: June 7, 2023

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DIGEST

1. Protest challenging the agency's technical and cost realism evaluation of the awardee's proposal is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement law and regulation.

2. Protest challenging the agency's best-value tradeoff decision to select a lower technically rated proposal at a lower cost is denied where the record shows that the agency's decision was reasonable and consistent with the terms of the solicitation.

DECISION

Systems and Proposal Engineering Company (SPEC) of Manassas, Virginia, protests the issuance of a task order to Risk Mitigation Consulting (RMC) of Destin, Florida, under task order request for proposals (RFP) N00178-22-R-3019, issued by the Department of the Navy, Naval Surface Warfare Center Dahlgren Division, for technical support services for systems engineering and program analysis. The protester challenges the technical and cost evaluation of the awardee's proposal, and the best-value tradeoff decision.

We deny the protest.

BACKGROUND

The agency issued the RFP on March 9, 2022, to small business holders of the Navy's SeaPort Next-Generation (SeaPort-NxG) multiple-award, indefinite-delivery, indefinite-

quantity (IDIQ) contracts. The procurement was conducted pursuant to Federal Acquisition Regulation (FAR) section 16.505 procedures. The RFP sought a contractor to support the agency's Cyber Analysis and Mission Assurance Branch, which provides technical analysis and engineering support for mission assurance, defense and commercial critical infrastructure, and their cyber and physical dependencies. Agency Report (AR), exh. 2, RFP at 8.¹ The contractor would be responsible for providing defense critical infrastructure technical support services primarily focused on telecommunications, energy security, and control systems analysis, as well as for systems engineering and program analysis. *Id.* at 8-9. The RFP explained that its requirement consolidates two previous task orders--SPEC is the incumbent contractor for one of those task orders, and RMC's subcontractor, ICF Incorporated, LLC, is the incumbent contractor for the other task order. *Id.* at 3; AR, exh. 5, Technical Evaluation Team (TET) Report at 6.

The RFP contemplated the issuance of a single, cost-plus-fixed-fee² task order to be performed over a base year period and four option years. *Id.* The RFP stated that award would be made on a best-value tradeoff basis, based primarily on five factors, listed in descending order of importance: technical understanding/capability/approach (technical), workforce, management capability, past performance, and total evaluated cost.³ *Id.* at 115. The RFP provided that "[a]lthough total evaluated cost will not be part of the technical evaluation, it will not be ignored[,]” and further specified that “the government may select a lower-priced, lower-rated proposal if the government determines that the premium associated with the higher-rated proposal is not justified.” *Id.* at 117.

The technical factor included two elements: statement of work (SOW) and scenarios. Under the SOW element, the RFP provided that the government would evaluate “the degree to which the proposal demonstrates the knowledge, capability, and experience to perform the tasks outlined in the SOW, with emphasis on how adequately the offeror addresses their technical approach and capabilities to support sections of the SOW.” *Id.* Under the scenarios element, the RFP provided that the agency would evaluate the offeror's responses and capability to produce feasible technical solutions to various scenarios described in the RFP. *Id.* Proposals would be assigned a combined technical/risk adjectival rating of outstanding, good, acceptable, marginal, or unacceptable. *Id.*

¹ The agency amended the RFP twice. References to the RFP are to the final conformed solicitation. All citations are to the Adobe PDF page numbers of the documents referenced in this decision, unless otherwise paginated.

² The RFP included primarily cost-plus-fixed-fee, level of effort contract line item numbers (CLINs), as well as cost-only, other direct cost CLINs, and not separately priced, contract data requirement list CLINs. *Id.* at 5-6.

³ The RFP also provided for the evaluation of several mandatory requirements on a pass/fail basis and, if applicable, an organizational conflict of interest mitigation plan, neither of which are at issue in this protest. *Id.* at 115, 118.

For the cost factor, the RFP provided that “the government will perform an analysis of the realism and completeness of the cost data, the traceability of the cost to the offeror’s capability data, the proposed allocation of labor hours and labor mix, and compliance with the maximum limitations in the offeror’s basic SeaPort-NxG contract for cost savings initiatives.” *Id.* at 118. The RFP warned that “[s]ubjective judgment on the part of the government evaluators is implicit in the entire process.” *Id.*

On or before the October 20 closing date for receipt of proposals, the agency received proposals from two offerors: RMC and SPEC. The agency evaluated the proposals as follows:

	RMC	SPEC
Technical	Marginal	Outstanding
Workforce	Acceptable	Outstanding
Management Capability	Good	Good
Past Performance	Satisfactory Confidence	Satisfactory Confidence
Proposed Cost	\$33,523,972	\$51,065,303
Evaluated Cost	\$34,661,535	\$51,376,209

AR, exh. 7, Source Selection Decision Document (SSDD) at 3, 6.

The contracting officer, who also served as the source selection authority (SSA), considered the evaluation results and concluded that RMC’s proposal represented the best overall value to the agency. In reaching that determination, the contracting officer noted that SPEC provided a “technically superior proposal” compared to RMC under the technical and workforce factors and “equivalent proposed approaches” under the management capability and past performance factors. *Id.* at 12. The contracting officer also noted the cost premium of 48.22 percent for SPEC’s proposal and that, according to the RFP, the non-cost factors were “significantly more important” than the cost factor but also “cost would not be ignored.” *Id.* at 13. The contracting officer concluded that, “in accordance with the solicitation, the lower-priced, lower-rated proposal from RMC represents a better value to the government as the premium associated with the higher-rated proposal is not justifiable.” *Id.*

On February 14, 2023, the agency notified SPEC of its decision to issue the task order to RMC. After a debriefing, this protest followed.⁴

⁴ The task order at issue is valued in excess of \$25 million, and was placed under an IDIQ contract established by the Navy. Accordingly, our Office has jurisdiction to consider SPEC’s protest. 10 U.S.C. § 3406(f)(1)(B).

DISCUSSION

SPEC primarily raises three challenges: First, SPEC argues that the agency should have found RMC's proposal to be technically unacceptable instead of assigning it a rating of marginal under the technical factor. Second, SPEC argues that the agency conducted an unreasonable cost realism evaluation of RMC's proposal. Third, SPEC argues that the agency's best-value tradeoff decision was unreasonable and inconsistent with the terms of the solicitation. We have reviewed all of SPEC's allegations and discuss below several representative examples of SPEC's assertions, the agency's responses, and our conclusions. Based on our review, we find no basis to sustain SPEC's protest.⁵

Technical Evaluation

SPEC challenges the agency's assignment of a technical rating of marginal to RMC's proposal and argues that the agency should have instead rejected it as technically unacceptable. Specifically, SPEC alleges that RMC "completely failed to demonstrate experience and knowledge with one of the most critical aspects of this SOW";--in this regard, systems engineering work. Protest at 8. SPEC's allegation primarily relies on a single sentence from the SSDD, which reads as follows: "RMC's proposed approach presented a high risk of unsuccessful performance as a result of the lack of knowledge and experience within the systems engineering portion of activities required by the task order." Protest at 7, *citing* SSDD at 9.

As noted above, for the technical factor, SOW element, the RFP provided that the government would evaluate "the degree to which the proposal demonstrates the knowledge, capability, and experience to perform the tasks outlined in the SOW, with emphasis on how adequately the offeror addresses their technical approach and capabilities to support sections of the SOW." RFP at 117. Of note, the SOW included a number of tasks related to systems engineering, including just one task on model-based systems engineering. See, e.g., *id.* at 17-18. For the technical factor, scenarios element, the RFP provided that the agency would evaluate the offeror's responses and capability to produce feasible technical solutions to various scenarios described in the RFP. *Id.* at 117.

Also, technical proposals would be assigned a combined technical/risk adjectival rating of outstanding, good, acceptable, marginal, or unacceptable. The RFP defined a rating of marginal as: "Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high." *Id.* at 116. The RFP defined a rating of unacceptable as: "Proposal does not meet requirements of the solicitation, and thus, contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Proposal is unawardable." *Id.*

⁵ SPEC also raised, but subsequently withdrew, other arguments concerning the agency's past performance and cost evaluation. Comments at 1 n.1.

The record shows that the evaluators assessed six strengths, one weakness, and two significant weaknesses in RMC's proposal under the technical factor, and assigned a rating of marginal, noting that RMC's proposal "has not demonstrated an adequate approach and understanding of the requirements[.]" AR, exh. 5, TET Report at 7. The evaluators first noted that "RMC displayed a solid and thorough understanding of and demonstrated capabilities with mission assurance activities, analysis and characterization, site assessments, and exercise support." *Id.* With regard to systems engineering, the evaluators noted that RMC's proposal "displayed a clear lack of understanding of model based systems engineering processes and activities which comprise an important portion of the government's work requirements described specifically in [the SOW]," and that this concern was also demonstrated in RMC's response to one of the scenarios. *Id.* Consistent with the record, the evaluators further explain that, although RMC's proposal "presented high risk of unsuccessful performance in very specific areas of systems engineering support, we did not consider this risk unacceptable (separately or in combination), nor did we consider the proposal to be unacceptable overall." AR, exh. 5.1, Declaration of TET Chairperson at 2.

Overall, the agency argues that the assigning of a rating of marginal to RMC's proposal was consistent with the terms of the solicitation "and based upon the evaluator's reasonable judgment that RMC's proposal presented high risk in particular areas, vice unacceptable risk." Memorandum of Law (MOL) at 4; Contracting Officer's Statement (COS) at 16.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. *Wyle Labs., Inc.*, B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6. 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 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.

On this record, we find no basis to question the agency's evaluation of RMC's proposal. As discussed above, the agency had concerns about RMC's proposal in the area of model based system engineering, but this was not the entirety of the system engineering work in the SOW, nor did those concerns rise to an unacceptable level in the agency's view. We find unpersuasive SPEC's continued contention that unsuccessful performance would be "a virtual guarantee" and that "[i]t strains credulity to believe" that RMC "could present anything other than an unacceptable risk of performance." Comments at 11.

Ultimately, the agency found that RMC's proposal "has not demonstrated an adequate approach and understanding of the requirements" and "the risk of unsuccessful performance is high"--which is consistent with the RFP's definition of a marginal rating and not, in the agency's view, unacceptable. AR, exh. 5, TET Report at 7. While SPEC disagrees with the agency's evaluation, it has not demonstrated that the agency's evaluation was unreasonable or inconsistent with the terms of the solicitation and applicable procurement law and regulation. Accordingly, this protest ground is denied.

Cost Evaluation

SPEC also challenges the agency's cost realism evaluation of RMC's proposal. SPEC acknowledges that "it may be true that RMC's costs were 'consistent' with its approach," which, as discussed above, received a rating of marginal for the technical factor. Protest at 11-12. Yet, SPEC details the methods it used to prepare its own costs proposal and asserts that: "SPEC, as the incumbent, understands the tasks at hand and the experience necessary to perform. The agency's evaluation of RMC's proposed cost as realistic is unreasonable." *Id.*

As noted above, for the cost factor, the RFP provided that "the government will perform an analysis of the realism and completeness of the cost data, the traceability of the cost to the offeror's capability data, the proposed allocation of labor hours and labor mix, and compliance with the maximum limitations in the offeror's basic SeaPort-NxG contract for cost savings initiatives." RFP at 118. Specifically, the RFP provided that the agency would consider, among other things, pertinent cost information and historical information and, if the agency considered the proposed costs to be unrealistic, the offeror's proposed costs would be adjusted upward. *Id.* The RFP provided that the agency would then calculate the offeror's total evaluated cost, and also warned that "[s]ubjective judgment on the part of the government evaluators is implicit in the entire process." *Id.*

The record shows that, with respect to direct labor rates, the evaluators considered a hierarchical methodology based on whether they were for named personnel or contingent hires, pending or to be determined hires, or other. Among other things, the evaluators also considered escalation as part of the direct labor evaluation, and a hierarchical methodology for indirect labor rates. See AR, exh. 6, Cost Realism and Price Analysis Report at 9. With respect to RMC's proposal, the agency explains the following, in sum:

The evaluation of RMC's direct labor rates noted that RMC proposed twenty named personnel, and the evaluation confirmed that payroll data for all named personnel matched the current labor rates that were used as a basis to develop proposed labor costs. However, the evaluation determined that the proposed escalation rate applied to RMC's direct labor rates was unrealistic. As a result, the evaluation applied an upward adjustment to the proposed escalation rate, which resulted in an upward adjustment of RMC's direct labor cost by \$123,667.00. The cost realism analysis also determined that two of RMC's proposed indirect rates were

unrealistic, fringe and overhead, based upon comparison to historical data. The evaluation applied upward adjustments to fringe and overhead resulting in a total increase of \$599,884.00 across all indirect costs. The evaluation also applied upward adjustments to RMC's proposed sub-contractor's cost proposal resulting in increased costs for all of its cost elements.

MOL at 12 (internal citations omitted); see also AR, exh. 6, Cost Realism and Price Analysis Report at 8-9, 11-27; SSDD at 6-7. The agency notes that the upward adjustments made to RMC's proposal resulted in a total evaluated cost of \$34,661,535; the agency then argues that "SPEC's argument that the Navy unreasonably accepted RMC's proposed rates is flatly contradicted by the record." MOL at 12.

The record further shows that the contract specialist, who was involved in conducting the cost realism evaluation, also participated in the review of the TET's evaluation "to ensure each offeror's cost proposal was consistent with its technical approach." SSDD at 5. In this regard, the agency explains that its cost evaluation also properly considered whether RMC's cost was consistent with its proposed technical approach--which, as noted above, received a rating of marginal--and the experience of proposed personnel. MOL at 13.

When an agency evaluates proposals for award of a cost-reimbursement contract (or, as here, a task order), it must perform a cost realism analysis to determine the extent to which an offeror's proposed costs are realistic for the work to be performed. FAR 15.305(a)(1), 15.404-1(d); *Nat'l Gov't Servs., Inc.*, B-412142, Dec. 30, 2015, 2016 CPD ¶ 8 at 8. Nonetheless, an agency's realism analysis need not achieve scientific certainty; rather, the analysis must provide a reasonable measure of confidence that the costs proposed are realistic based on information reasonably available to the agency at the time of its evaluation. *SGT, Inc.*, B-294722.4, July 28, 2005, 2005 CPD ¶ 151 at 7. An agency is not required to conduct an in-depth cost analysis, see FAR 15.404-1(d)(1), or to verify each and every item in assessing cost realism; rather, the evaluation requires the exercise of informed judgment by the contracting agency. *AdvanceMed Corp.; TrustSolutions, LLC*, B-404910.4 *et al.*, Jan. 17, 2012, 2012 CPD ¶ 25 at 13. Agencies are given broad discretion to make cost realism evaluations. *Tridentis, LLC*, B-410202.2, B-410202.3, Feb. 24, 2015, 2015 CPD ¶ 99 at 7. Consequently, our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. *Id.*

On this record, we find no basis to question the agency's evaluation of RMC's proposal. Consistent with the terms of the solicitation, the evaluators considered RMC's proposed costs; made comparisons between, for example, direct labor rates to payroll data rates; and made upward adjustments where appropriate and as a result of the agency's subjective judgment. See AR, exh. 6, Cost Realism and Price Analysis Report at 8-9, 11-27.

Indeed, SPEC does not dispute the agency's methodology. Rather, SPEC essentially argues that the agency should have conducted a more in-depth cost analysis, but has not established that the agency was required to do so. In our view, SPEC overstates what it views as the TET's "repeated concerns about the likelihood of increased costs," Comments at 6, and also concedes that "it may be true that RMC's costs were 'consistent' with its approach[.]" Protest at 11. The agency has reasonably explained, as the record shows, that the cost realism evaluation included consideration of whether RMC's proposed costs were consistent with its technical approach. MOL at 13; SSDD at 5.

Ultimately, in its disagreement with the agency's evaluation of RMC's cost proposal, SPEC repeatedly draws comparisons between the offerors' costs and argues that, based on its incumbency, it "understands the tasks at hand and the experience necessary to perform." Protest at 12. In response, the agency asserts that "neither GAO nor this RFP requires the cost realism analysis to make upward adjustments to a lower-priced proposal based on comparison to another offeror's proposed costs." MOL at 14. The agency points out, "it is indisputable that the offerors proposed distinctly different technical approaches to perform the work" and "[a]s such, it would not be reasonable to upwardly adjust RMC's proposed costs based on SPEC's approach or its costs to perform its technical approach." *Id.* We agree with the agency, and we note that an agency is not required to adjust an offeror's proposed labor rate simply because it does not mirror the government cost estimate or the incumbent's rates. *Science Applications Int'l Corp.*, B-419961.3, B-419961.4, Feb. 10, 2022, 2022 CPD ¶ 59 at 19.

In sum, SPEC has not established that the evaluation was inconsistent with the terms of the solicitation and applicable procurement law and regulation. This protest ground is denied.

Best-Value Tradeoff Decision

Finally, SPEC challenges the agency's decision to issue the task order to RMC, which received lower ratings and had a lower total evaluated cost. SPEC contends that the agency "ignore[d] the considerable value and cost savings" presented in its proposal and thus "fail[ed] to reasonably conduct a best-value tradeoff analysis[.]" Protest at 13, 15.

As noted above, the contracting officer, who also served as the SSA, considered the evaluation results and concluded that RMC's proposal represented the best overall value to the agency. In reaching that determination, the contracting officer noted that SPEC provided a "technically superior proposal" compared to RMC under the technical and workforce factors and "equivalent proposed approaches" under the management capability and past performance factors. SSDD at 12. The contracting officer also noted the cost premium of 48.22 percent for SPEC's proposal and that, according to the RFP, the non-cost factors were "significantly more important" than the cost factor but also "cost would not be ignored." *Id.* at 13.

The record also shows that the contracting officer considered specific aspects of the proposals and observed, for example, that “a noted difference in proposals is related to SPEC’s demonstration of an exceptional understanding and innovative approach to performing systems engineering duties of this effort, which is further apparent and supported by the identification of extremely qualified individuals proposed to fulfill key positions on this effort.” *Id.* at 12. The contracting officer concluded that:

the higher priced proposal of SPEC offers the superior technical approach when compared to the lower priced proposal of RMC, which offers a lower rated technical approach. Compared to both SPEC’s proposed and evaluated cost, RMC’s proposal has a significantly lower proposed and evaluated cost. Beyond the adjectival ratings assigned for each technical factor, while SPEC’s proposal presented more exceptional features and lower risk than RMC’s, the merits of SPEC’s technical proposal do not justify the significantly higher cost estimated to perform the Government’s identified requirement. Specifically, while the technical merits of the proposal are exceptional, the technical merits far exceed the minimum requirements of the solicitation and result in an extensive cost premium of 48.22 [percent] that is not worth the additional cost to the program. Conversely, in accordance with the solicitation, the lower-priced, lower-rated proposal from RMC represents a better value to the government as the premium associated with the higher-rated proposal is not justifiable.

Id.

Thus, the agency asserts that its best-value tradeoff decision was reasonable and consistent with the terms of the solicitation. The agency asserts that, contrary to SPEC’s contention and as acknowledged in SPEC’s protest, “[t]he contemporaneous record[] is brimming with recognition that SPEC’s technical approach presented multiple technical advantages, efficiencies in terms of time savings, and less rework.” MOL at 18, *citing* Protest at 14 *and* SSDD at 4. In the agency’s view, this is “a classic situation calling for tradeoff analysis between a higher-rated, higher-priced proposal and a lower-rated, lower-priced proposal,” and SPEC presents “mere disagreement with the Navy’s judgment in the best-value determination.” MOL at 19.

Where, as here, a solicitation provides for issuance of a task order on a best-value tradeoff basis, it is the function of the SSA to perform a price/technical tradeoff, that is, to determine whether one proposal’s technical superiority is worth its higher price. *Alliant Enter. JV, LLC*, B-410352.5, B-410352.6, July 1, 2015, 2015 CPD ¶ 209 at 13. An agency has broad discretion in making a tradeoff between price and non-price (or, as here, cost and non-cost) 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. *Id.* at 14. Generally, in a negotiated procurement—including task order procurements subject to the provisions of FAR subpart 16.5 that use negotiated procurement techniques—an agency may properly select a lower-rated, lower-priced proposal where it reasonably concludes that the price

premium involved in selecting a higher-rated proposal is not justified in light of the acceptable level of technical competence available at a lower price. *DynCorp Int'l, LLC*, B-412451, B-412451.2, Feb. 16, 2016, 2016 CPD ¶ 75 at 22; see also *Smartronix, Inc.*; *ManTech Advanced Sys. Int'l, Inc.*, B-411970.9 *et al.*, Dec. 9, 2016, 2016 CPD ¶ 362 at 10. Our Office has found that when SSAs have performed this analysis, it is within their discretion to choose a lower-rated, lower-priced proposal in a best-value procurement. *Strategic Operational Sols.*, B-420159, B-420159.2, Dec. 17, 2021, 2021 CPD ¶ 391 at 7, *citing Research & Dev. Sols., Inc.*, B-410581, B-410581.2, Jan. 14, 2015, 2015 CPD ¶ 38 at 11. In reviewing such a decision, we will not substitute our judgment for that of the selection official, even where we might otherwise question the wisdom of that official's choice. See, e.g., *Wyle Laboratories, Inc.*; *Latecoere Int'l, Inc.*, B-239113, B-239113.2, Aug. 6, 1990, 69 CPD ¶ 648 at 6.

On this record, the contracting officer concluded that the technical advantages identified in SPEC's proposal were not great enough to justify paying the significant cost premium involved in selecting SPEC's proposal. Given the discretion afforded to the agency, we find nothing unreasonable in the agency's assessments and conclusions here; accordingly, we find no merit in SPEC's challenge to the agency's best-value tradeoff decision.

The protest is denied.

Edda Emmanuelli Perez
General Counsel