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Decision

Matter of: QinetiQ Inc.

File: B-421698; B-421698.2

Date: August 9, 2023

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Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of proposals and source selection is denied where record shows that the agency's evaluation and selection decision were reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

DECISION

QinetiQ, Inc. (QI), of Lorton, Virginia, protests the issuance of a task order to Peraton Technology Services, Inc., of Chantilly, Virginia, under request for proposals (RFP) No. RS3-22-0035, issued by the Department of the Army for services in connection with the agency's Maturation of Ground Aided Target Acquisition program, which is described in the solicitation as aided target acquisition technology for ground combat vehicles. QI argues that the agency miscalculated proposals and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RFP contemplates the issuance, on a best-value tradeoff basis, of a cost-reimbursement type task order to provide the solicited services for a 24-month base period and one 24-month option period. Firms were advised that proposals would be evaluated considering cost and two non-cost factors, technical and small business

participation, with technical deemed more important than small business participation, and with the two non-cost factors collectively being deemed more important than cost. RFP at 17.¹

For purposes of evaluating proposals under the technical factor, the RFP advised that two “criteria”--understanding of the requirement and feasibility of approach--would be considered, and that four “elements” would be evaluating using the two criteria.² RFP at 18-19. The four elements were subcontracting, technical approach, schedule approach, and sustainment approach, and the RFP advised that the second element (technical approach) was deemed significantly more important than the remaining three elements, which were deemed equal in importance to one another. RFP at 17.

For the small business participation factor, the RFP advised that the agency would consider the extent to which small businesses would participate in performing the requirement.³ RFP at 21. The agency’s evaluation under the small business factor is not at issue in the protest.

Finally, the RFP provided that the agency would evaluate proposed cost for fairness, reasonableness and realism, and contemplates performance of a cost realism evaluation of proposed cost. RFP at 20-21. The RFP further provided that the agency would evaluate total proposed cost to include the estimated cost of performing under a 6-month extension of the contract, as contemplated by Federal Acquisition Regulation (FAR) clause 52.217-8, which was incorporated into the RFP.⁴ *Id.*

¹ References to the RFP’s evaluation scheme are to the version of the solicitation issued as amendment No. 0002, Agency Report (AR) Exh.22.

² The RFP provided that the agency would assign a single adjectival rating under the technical evaluation approach factor of outstanding, good, acceptable, marginal or unacceptable. RFP at 19.

³ The RFP advised that the small business participation factor would be assigned a single adjectival rating of outstanding, acceptable, or unacceptable. RFP at 21.

⁴ Shortly after the protest was filed, the agency requested dismissal on grounds that the task order awarded to Peraton was not valued at \$25 million or more and that, accordingly, our Office lacked jurisdiction to consider QI’s protest. We declined to dismiss the protest because the record showed that the agency made its selection decision based on its conclusion that the task order awarded to Peraton was valued at \$25,387,345, inclusive of the cost associated with the 6-month option to extend the contract under FAR clause 52.217-8. AR, Exh. 97, Source Selection Decision Document (SSDD), at 8, 40, 43, 47. The RFP also expressly provided that for evaluation purposes, the agency would consider the cost associated with exercise of the option. RFP at 20-21. See also AR, Exhs 65, 66, Cost Evaluation Reports. Under the circumstances, we conclude that we have jurisdiction to consider QI’s protest.

In response to the solicitation, the agency received a number of proposals, including those submitted by QI and Peraton. The agency evaluated the proposals, engaged in discussions with the offerors and solicited, obtained, and evaluated final proposal revisions. In performing its evaluation, the agency assigned the following ratings to the proposals and also determined the most probable cost for each firm:

| | Technical Approach | Small Business Participation | Evaluated Cost ⁵ |
|---------|--------------------|------------------------------|-----------------------------|
| QI | Acceptable | Acceptable | \$37,308,083 |
| Peraton | Acceptable | Acceptable | \$25,387,345 |

AR, Exh. 97, SSDD, at 8. On the basis of these evaluation results, the agency issued the task order to Peraton, concluding that its proposal offered the best overall value to the government. *Id.* At 49-50. After being advised of the agency’s selection decision and requesting and receiving a debriefing, QI filed the instant protest.

DISCUSSION

QI challenges the agency’s evaluation of both cost and technical proposals. We have reviewed all of QI allegations and find none of them have merit. We discuss QI’s principal allegations below.

Cost Realism Evaluation

QI challenges the agency’s evaluation of Peraton’s cost proposal. These challenges relate principally to the realism of Peraton’s and its subcontractors’ proposed labor rates. According to the protester, Peraton did not propose adequate rates of compensation and the agency thus should have found its proposed cost unrealistic.

We find no merit to QI’s challenges to the agency’s cost evaluation. When an agency evaluates proposals for the award of a cost-reimbursement contract, the agency is required to 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 15.404-1(d)(1); *Derative, LLC*, B-420687.3, B-420687.4, May 12, 2023, 2023 CPD ¶ 119 at 9. An agency’s realism analysis need not achieve scientific certainty; rather, the analysis must provide a reasonable measure of confidence that the proposed costs are realistic based on information available to the agency at the time of its evaluation. *Derative, LLC*,

10 U.S.C. § 3406(f)(1)(B); see *Serco, Inc.*, B-406061, B-406061.2, Feb. 1, 2012, 2012 CPD ¶ 61 at 608.

⁵ In evaluating the offerors’ respective most probable costs, the agency did not make any adjustments to the offerors’ respective proposed costs.

supra. Our review of an agency's cost realism evaluation is confined to determining whether the cost analysis was reasonable. *Id.*

By way of background, the RFP required that, in support of their proposed direct labor rates, offerors were to provide supporting documentation. That supporting documentation could be comprised of four possible types of information, and firms were required to provide at least one type of information: (1) an offeror's forward pricing rate agreement (FPRA) or forward pricing rate recommendation (FPRR) from the Defense Contract Audit Agency (DCAA) or Defense Contract Management Agency (DCMA), or DCAA/DCMA-approved compensation rate tables mapped to the proposed labor categories; (2) appropriately detailed and executed letters of intent for employees not working for the firm; (3) payroll records or paystubs showing the rates of pay for the labor categories proposed; or (4) salary survey data. RFP at 10-11.

The record shows that, with respect to Peraton's proposed direct labor rates,⁶ the agency used Peraton's DCMA FPRR for fiscal years 2022-2025 in performing its cost realism review. AR, Exh. 67a, Cost Realism Evaluation Report, Peraton, attach. 3, DCMA FPRR for Peraton. That document provides Peraton's current and projected direct labor rates for the labor categories applicable to the solicited requirement for fiscal years 2022 through 2025. The record further shows that Peraton's proposed direct labor rates corresponded completely with the rates included in the FPRR. *Compare Id. with* AR, Exh. 48, Peraton Cost Proposal Workbook, at LCAT (Labor Category) Labor Rate Worksheet. Based on this comparison, the agency concluded that Peraton's proposed labor rates were realistic. AR, Exh. 67, Cost Realism Evaluation Report, Peraton, at 6-7.

QI argues that this was an unreasonable basis for determining the realism of Peraton's direct labor rates because the rates included in its FPRR are nationwide averages rather than labor rates based on performing the requirement at Fort Belvoir, VA, where QI maintains performance will take place.

An examination of Peraton's FPRR shows that it was not issued on a geographically specific basis, but instead is applicable to certain specifically-identified business units or segments of Peraton. AR, Exh. 67a, Cost Realism Evaluation Report, Peraton, attach. 3, DCMA FPRR for Peraton, at 1. This is consistent with the general procedures for establishing FPRRs or FPRAs, which typically are applicable to a contractor or business unit, and not confined to a particular geographic locale. *See generally*, Defense Contract Management Agency Instruction No. 130, Forward Pricing Rates.

Moreover, the RFP specifically provided that, if an offeror was relying on its DCMA FPRR in support of its direct labor rates, it was required either to use the labor rates

⁶ The Peraton proposal shows that the firm intends to self-perform approximately 69 percent of the total level of effort. AR, Exh. 48, Peraton Amendment No 0002 Cost Workbook, Performance Work Statement Summary Worksheet.

stipulated in the FPRR, or to provide a detailed explanation for why the firm was deviating from those rates. The RFP stated as follows:

The rates reflected in the FPRA, FPRR, FPRP [forward pricing rate proposal], Approved Provisional Rates Proposal[,], or other statement of current rates should directly match the rates proposed by the offeror or subcontractor. **If the rates do not match, the offeror or subcontractor shall provide sufficient detail explaining how the proposed rates are realistic as well as the basis for the deviation.**

RFP at 11.

In other words, the RFP effectively provided that proposed direct labor rates based on a firm's FPRR would be deemed realistic, provided that the rates proposed matched the rates found in the FPRR.

To the extent QI thought this was not a reasonable basis for evaluating the realism of an offeror's proposed direct labor rates, its objection is untimely. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1), require protests based on challenges to the terms of a solicitation to be filed before the deadline for submitting proposals. Since the RFP here effectively provided that direct labor rates based on a firm's FPRR would be deemed realistic, and since QI did not timely challenge this aspect of the RFP, we have no basis at this juncture to object to the agency's realism evaluation of Peraton's proposed direct labor rates for the reasons advanced by QI.⁷

With respect to the agency's evaluation of Peraton's subcontractors' proposed labor rates, QI maintains that the agency unreasonably used what QI describes as "differing methodologies" to evaluate the realism of the subcontractors' rates. QI also objects generally to the agency's evaluation of each subcontractor's proposed labor rates for realism.

The record shows that the reason the agency took differing approaches to evaluating the proposed rates of the subcontractors (as well as Peraton) was because each firm presented different information to support its proposed rates; separately, the record also supports the reasonableness of the agency's individual evaluations of the subcontractors' proposed labor rates.

The record shows that one of Peraton's proposed subcontractors (Expedition Technology) provided its actual payroll information in support of its proposed labor

⁷ As a final matter, we point out that QI is incorrect in its assertion that the task order will be performed entirely at Fort Belvoir. The RFP specifically provides that performance will be at both the contractor's facilities, at Fort Belvoir, and various other locations throughout the continental United States. RFP, attach. 0001, Performance Work Statement, at 4-6. It therefore appears entirely reasonable to use labor rates based on a nation-wide average rather than labor rates for a particular geographic location.

rates, AR, Exhs. 83, Expedition Technology Cost Proposal, at 4-5, Exh. 84, Expedition Technology Cost Proposal Supporting Documentation. Peraton's second subcontractor (Scientific Systems Company, Inc. (SSCI)) based its proposed labor rates on a "bid rate memorandum" detailing its actual labor rates that had been approved by DCMA, AR, Exhs. 91, 92, SSCI Cost Proposal and Supporting Documentation. Peraton's third subcontractor, Fibertek, Inc., based its proposed rates based on Economic Research Institute salary data, as well as a Service Contract Act (SCA) wage determination applicable to the requirement. AR, Exh. 87, FiberTek Cost Proposal at 1-3.

Unsurprisingly, the record shows that the agency's cost evaluation of the subcontractors' labor rates was appropriately tailored to the different information provided by each subcontractor. The record also shows that the agency's underlying finding that each subcontractor's proposed rates were realistic was reasonable based on the information reviewed.

For example, in evaluating the realism of the labor rates proposed by Expedition Technology, the record shows that the agency specifically noted that its proposed labor rates were based on its actual payroll records, and that those rates compared favorably to the 75th percentile of labor rates detailed in a different labor rate estimating tool, Salary.com. AR, Exh. 67, Peraton Cost Evaluation Report, at 10. On the basis of that evaluation--a review of Expedition Technology's actual payroll data, coupled with a comparison of Expedition Technology's proposed rates to an outside source of information--the agency concluded that those rates were realistic. *Id.* On this record, we have no basis to object either to the agency's methodology for evaluating the realism of Expedition Technology's proposed rates, or to the agency's underlying finding that those rates were realistic.

As a second example, the record shows that, in evaluating the realism of the Fibertek proposed rates, the agency instead reviewed the Economic Research Institute data provided in support of Fibertek's proposed direct rates, and concluded that the rates proposed--in light of Fibertek's robust benefits package--were realistic.⁸ AR, Exh. 67, Peraton Cost Evaluation Report at 10-12. Again, on this record, we have no basis to object either to the agency's methodology for evaluating the realism of Fibertek's proposed rates, or to the agency's underlying finding that those rates were realistic.

The record thus shows that the agency's evaluation of Peraton's subcontractors' proposed rates was tailored to the differing data presented by each firm in support of its

⁸ The record shows that the agency determined--consistent with Fibertek's representations in its proposal submission--that Fibertek's proposed rates corresponded to approximately the 25th percentile of the Economic Research Institute data for positions not subject to the applicable SCA labor rates; and that, in those instances where the SCA wage rates were applicable, Fibertek proposed a labor rate that either corresponded to the 25th percentile of the Economic Research Institute data, or the applicable burdened SCA wage rate, whichever was higher. AR, Exh. 67, Peraton Cost Evaluation Report, at 12.

proposed labor rates, and in each instance, the agency reached a logical, reasoned conclusion based on the information provided. QI's challenge to the evaluation of Peraton's subcontractors thus provides no basis for our Office to question the reasonableness and adequacy of the agency's evaluation for the reasons it advanced.

In addition to these challenges, QI argues that the agency's evaluation failed to discern that there were differing labor rates for certain identical labor categories, depending on whether those employees were working for Peraton or one of its subcontractors. However, the fact that different team members proposed different labor rates does not necessarily show that the rates proposed by each team member were not independently realistic, as determined by the agency.

The record shows that the Peraton proposal was comprised of different submissions prepared by the prime and subcontractors, and that there was no effort to coordinate their respective labor rates. In fact, the subcontractors provided Peraton only "sanitized" versions of their respective cost proposals. "Unsanitized" versions of the subcontractor cost proposals were submitted directly to the government, and were not provided to Peraton or otherwise shared among the subcontractors.⁹

It is therefore neither surprising nor necessarily unreasonable that there were differing wage rates for the same labor categories among the different team members proposed by Peraton. As discussed, the agency performed an independent, thorough cost realism evaluation of both Peraton and each of its subcontractors and determined on that basis that the proposed rates were realistic.

Finally, QI argues that the agency failed to consider the labor mix proposed by Peraton, or the overall level of effort it proposed to perform the requirement in its cost evaluation. QI argues only generically that Peraton failed to propose a labor mix or level of effort adequate to perform the requirement, but the protester has not explained how Peraton's proposed labor mix or level of effort would be inadequate to perform in light of Peraton's particular technical approach.

The record shows that the agency's technical evaluators (rather than its cost evaluators) reviewed Peraton's proposed level of effort and labor mix and determined that it was

⁹ Peraton's cost proposal narrative provides:

To verify the integrity and completeness of the sanitized and unsanitized versions of the Subcontractor(s) proposal(s), the format of the two versions are identical, with the exception of sections within the sanitized version which the Subcontractors have modified or redacted to protect proprietary information. Each subcontractor will release and deliver the unsanitized version of this proposal to the U.S. Government as directed by Peraton.

AR, Exh. 43, Peraton Initial Cost Proposal, at 7.

adequate to perform the requirement. For example, the technical evaluators found, among other things, as follows:

The Offeror did not provide a staffing plan consisting of [a] labor map cross referencing proposed labor category titles with the LOE [level of effort] labor categories; however, the Offeror's proposed labor categories were the same as those provided in the LOE and therefore, no cross referencing is needed by the Government. The Offeror provided a mapping of proposed labor categories and hours to the appropriate PWS [performance work statement] paragraph for the base period and the option period (pgs. 11-12, Table 8), *including a basis of labor estimate with assumptions, risks, and efficiencies identified.*

AR, Exh. 64, Peraton Technical Evaluation Report, at 4 (emphasis supplied). The agency also points out that Peraton's proposed level of effort matched the sample level of effort provided to offerors with the RFP. Contracting Officer's Supplemental Statement of Facts and Supplemental Legal Memorandum, at 33; *compare*, AR, Exh. 24 Sample Labor Estimate, *with* AR, Exh. 46, Peraton amend. No. 0002 Technical Proposal, at 11-12. In sum, the record shows, contrary to QI's generalized assertions, that the agency did, in fact, consider the adequacy of Peraton's proposed labor mix and level of effort, and determined that it was adequate to perform the requirement.

In light of the foregoing discussion, we find no merit to any of QI's challenges to the agency's cost evaluation. We therefore deny this aspect of its protest.

Technical Evaluation

QI argues that the agency also misevaluated proposals under the technical evaluation factor. We have reviewed all of QI's challenges to the agency's evaluation of proposals under the technical evaluation factor and conclude that none of QI's allegations have merit. We discuss several examples for illustrative purposes. We note at the outset that, in reviewing allegations concerning an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. *Comprehensive Health Services, LLC*, B-421108.4, B-421108.5, May 17, 2023, 2023 ¶ 126 at 3.

QI argues that the agency unreasonably assigned two weaknesses to its proposal. For example, the record shows that the agency assigned the QI proposal a weakness because it provided for [DELETED] to refine the generation of synthetic data, but did not provide adequate information to demonstrate the feasibility of this approach in light of the time necessary to not only generate the synthetic data, but also to train an artificial intelligence/machine learning (AI/ML) network with the new data, evaluate the results of the trained network against a baseline, and provide a meaningful recommendation for the next cycle of synthetic data. AR, Exh. 65, QI Technical Evaluation Report, at 4. QI argues that it was unreasonable for the agency to have assigned this weakness

because its proposal did not actually state that the [DELETED] represented “data cycles,” or otherwise imply that data generation and training of an AI/ML network could be completed within [DELETED].

An examination of the QI proposal, however, bears out the reasonableness of the agency’s assignment of this weakness. Specifically, the QI proposal includes a table that describes “technical challenges and risks” in one column, and QI’s proposed “mitigations” in response to those challenges in an adjacent column.

In the first column, QI’s proposal states: “Traditional ‘waterfall’ methods risk delays and cost increases where cycles of synthetic data generation and AI/ML training take months. This means that significant algorithm development along an incorrect path may occur.” AR, Exh. 35, QI Technical Proposal, at 4. In the adjacent, “mitigations” column, QI’s proposal provides as follows: [DELETED]. AR, Exh. 35, QI Technical Proposal, at 4.

Thus, contrary to QI’s assertion in its protest, its proposal appears to reflect precisely the weakness identified by the agency. Nowhere does the QI proposal offer the explanation proffered in its protest, namely, that the [DELETED] described in its proposal somehow did not constitute “data cycles.” In a word, a reasonable reading of the protester’s proposal supports the weakness assigned by the agency.

QI also argues that the agency misapplied the relative weighting of the technical evaluation factor’s four elements. As noted, the second element, technical approach, was deemed more important than the other three elements. The record shows that the agency assigned the QI proposal three strengths under the technical approach element, but also assigned it one weakness under the third element, schedule approach, and a second weakness under the fourth element, sustainment approach. AR, Exh. 63, QI Technical Evaluation Report. According to QI, it was unreasonable for the agency to have assigned its proposal an overall rating of acceptable for the technical factor because the relative of the strengths assigned under the technical factor were not outweighed by the weaknesses assigned under the other two, less important elements.

This aspect of QI’s protest relies on a faulty premise, namely, that by some unstated calculus used by QI in its “counting” exercise, the agency erred in the assignment of the acceptable rating to its proposal under the technical evaluation factor. As we have consistently stated, evaluation scores, whether they be numeric or adjectival, are only guides to intelligent decision making. *Aptim-Amentum Decommissioning, LLC*, B-420993.3, B-420993.4, Apr. 26, 2023, 2023 CPD ¶ 107 at 6-7. The scores assigned are not dispositive metrics for an agency to express a proposal’s merit. What is important is the underlying substantive merits of the proposal as embodied in, or reflected by, the scores, along with the underlying narrative description that supports the assignment of those scores. *Id.*

As noted, QI takes issue with the agency’s assignment of the weaknesses identified in its proposal, but we find no merit to this aspect of QI’s protest. QI does not take issue

with the agency's assignment of the strengths to its proposal.¹⁰ It necessarily follows that, on balance, QI has not shown that the agency's underlying narrative findings with its proposal were in any way inaccurate. Since the record accurately reflects the underlying substantive findings of the agency's evaluation, QI's argument relating to the adjectival rating assigned to its proposal essentially amounts to no more than a disagreement relating to the scoring of its proposal. However, QI has failed to demonstrate that this resulted in a substantive miscalculation of its proposal. *Aptim-Amentum Decommissioning, LLC*, supra at 7-8. We therefore find no merit to this aspect of its protest.¹¹

Source Selection Decision

Finally, QI challenges the agency's source selection decision based on a variety of arguments, which essentially amount to QI's disagreement with the agency's evaluation of proposals and its decision to issue the task order to Peraton. QI challenges the level of detail included in the agency's tradeoff decision, as well as the agency's overall conclusion that the proposals were largely equal from a non-cost standpoint.

This aspect of QI's protest provides no basis for our Office to object to the agency's ultimate selection decision because it is largely derivative of its evaluation challenges discussed above. Our review of the agency's selection decision shows that it was based on a comparison of the proposals that found them relatively equal from a technical standpoint, and that selecting Peraton would result in significant cost savings

¹⁰ QI suggests that its proposal should have been assigned additional strengths based on evaluation findings made in connection with the "understanding of the requirement" criterion that met--but did not exceed--the RFP's requirements. (As noted, the RFP stipulated that proposals would be evaluated using two criteria, "understanding of the requirement" and "feasibility of approach.") We have no basis to agree with QI's assertion in this respect. As the agency explains, under the "understanding of the requirement" criterion, the evaluators identified elements in both QI's proposal and the Peraton proposal that met, but did not exceed the requirements of the RFP. *Compare* AR, Exh. 63, QI Technical Evaluation Report, at 2, *with* AR, Exh. 64, Peraton Technical Evaluation Report, at 2. These elements did not constitute strengths in either proposal because they did not exceed the requirement of the RFP.

¹¹ In a similar vein, QI argues that the agency failed to recognize the comparative value of the QI proposal in relation to the Peraton proposal because the agency assigned both proposals acceptable ratings, even though they were assigned differing numbers of strengths (the record shows that the Peraton proposal was assigned fewer strengths, but not assigned any weaknesses, AR, Exh. 64, Peraton Technical Evaluation Report). This essentially amounts to the same argument discussed above relating to the assignment of an acceptable rating to the QI proposal under the technical approach evaluation factor. Inasmuch as QI has failed to demonstrate any errors in the underlying substantive evaluation of the proposals, this allegation also provides no basis for our Office to object to the agency's evaluation.

to the agency. AR, Exh. 97, SSDD, at 42-50. Since we find no merit to any of QI's underlying allegations relating to the evaluation of proposals, and since agencies enjoy broad discretion in making source selection decisions--subject only to the test of rationality and consistency with the solicitation's evaluation criteria, *Comprehensive Health Services, LLC, supra* at 3--we have no basis to object to the propriety of the agency's selection for any of the reasons advanced by QI.

The protest is denied.

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General Counsel