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Decision

Matter of: Veterans EZ Info, Inc.

File: B-422107; B-422107.2

Date: January 11, 2024

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Michael P. Price, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's technical evaluation and subsequent best-value decision is denied where the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Veterans EZ Info, Inc., a service-disabled veteran-owned small business (SDVOSB) of San Diego, California, protests the issuance of a task order to Clear Vantage Point Solutions, LLC, a SDVOSB of Annandale, Virginia, under request for task execution plans (RTEP) No. T4NG-0708, issued by the Department of Veterans Affairs (VA) for veterans health information systems and technology architecture (Vista) imaging (VI) sustainment and enhancement support. The protester primarily contends that the agency's evaluation of plans was unreasonable because the agency failed to conduct a comparative analysis of the offerors' respective levels of effort (LOE).

We deny the protest.

BACKGROUND

On August 30, 2023, the VA issued the RTEP to holders of the VA transformation twenty-one total technology next generation (T4NG) indefinite-delivery, indefinite-quantity (IDIQ) contract, seeking execution plans for maintenance and sustainment services for the agency’s VI applications. Contracting Officer’s Statement (COS) at 1. The RTEP was set aside for SDVOSB holders of the T4NG IDIQ contract, and contemplated the issuance of a fixed-price task order for a 6-month base period with up to four 12-month options. *Id.*

The RTEP advised that the VA intended to issue an order to the offeror with “the best overall (i.e., best value)” plan that is “determined to be the most beneficial to the [g]overnment,” considering price and two non-price factors. Agency Report (AR), Tab 6, RTEP at 3-4.¹ The non-price evaluation factors, in descending order of importance, were technical and past performance. *Id.* at 4. The RTEP informed vendors that when combined, the non-price factors were significantly more important than the price factor. *Id.* The solicitation further advised that “award may not necessarily be made to the lowest [p]rice offered or the highest rated [t]echnical [plan].” *Id.*

As relevant here, under the technical factor, the VA was to assign adjectival ratings to the offerors’ execution plans. An offeror could receive a rating of unacceptable, susceptible to being made acceptable, acceptable, good, or outstanding. AR, Tab 4, Task Order Evaluation Plan at 4. A technical rating of acceptable indicated a plan that “at least meets all of the [g]overnment’s requirements, demonstrates at least a minimal understanding of the problems, and is at least minimally feasible.” *Id.* A technical rating of good indicated a plan that “meets or exceeds all of the [g]overnment’s requirements, demonstrates at least an understanding of the problems and is at least feasible.” *Id.*

Two offerors, Veterans EZ Info and Clear Vantage Point Solutions, timely submitted execution plans to the VA by the RTEP’s September 6 due date. COS at 2. The agency’s evaluation of execution plans yielded the following results:

	Veterans EZ Info	Clear Vantage Point Solutions
Technical Factor	Good	Acceptable
Past Performance Factor²	19.4	17.2
Evaluated Price	\$38,117,095	\$24,194,059

AR, Tab 14, Selection Decision Document at 2. The agency’s selection authority concluded that Clear Vantage Point Solutions’s execution plan represented the best

¹ The solicitation was revised on September 5. All citations to the solicitation refer to the revised solicitation, unless otherwise indicated. All page number citations refer to the Adobe PDF page number of the document provided by the agency.

² Though not relevant to the protest, the RTEP advised that the past performance rating would be expressed as a numerical score, with a maximum possible score of 20 points.

overall value to the government. *Id.* at 3. In this regard, the selection authority explained that while Veterans EZ Info's plan would provide more technical value, the government would also gain value from the awardee's execution plan. *Id.* at 5. The selection authority further explained that it was not worth paying "the significant price premium" associated with the protester's plan, even taking into account and fully considering the protester's higher technical and past performance ratings. *Id.*

After the VA provided Veterans EZ Info with a notice of Clear Vantage Point Solutions's selection for the task order and a debriefing, this protest followed.³

DISCUSSION

Veterans EZ Info primarily argues that the VA's evaluation of execution plans was unreasonable. In this regard, the protester contends that the solicitation "plainly required [the] VA to conduct a comparative, qualitative assessment of offerors' proposed staffing plans, including proposed LOEs" and that "there is no question that [the] VA failed to conduct or document any evaluation" of LOEs or staffing plans, "let alone any comparative assessment."⁴ Comments & Supp. Protest at 17; Supp. Comments at 5, 8. The protester argues that had the agency performed the required analysis, it would have found that the awardee's level of effort--whether measured by the number of full-time equivalents (FTEs) or the total number of labor hours proposed for the effort--was insufficient to meet the agency's requirements. Comments & Supp. Protest at 20-21.

The VA contends that Veterans EZ Info misunderstands the RTEP, and that the agency was required to compare an offeror's proposed staffing and LOE only to that offeror's own technical approach. Supp. Memorandum of Law (MOL) at 3. In this regard, the agency argues that a comparison of offerors' staffing to each other would have been "worthless" because offerors were instructed to submit their own unique technical approaches to meet the requirements of the performance work statement (PWS), and the staffing for one approach may have been different from the staffing for another approach. MOL at 6-7; Supp. MOL at 2. Further, the agency argues that it properly evaluated the proposed LOEs in accordance with the solicitation "to determine the feasibility of performance for [an offeror's] respective technical approach to meeting the

³ Because the expected value of the task order exceeds \$10 million, this protest is within our jurisdiction to hear protests of orders placed under civilian IDIQ contracts. 41 U.S.C. § 4106(f)(1)(B); see *Wyle Labs., Inc.*, B-413989, Dec. 5, 2016, 2016 CPD ¶ 345 at 3.

⁴ The protester initially raised additional protest grounds, including challenges to the agency's evaluation of its own execution plan, and to the best-value decision. Comments & Supp. Protest at 23-29. However, the protester withdrew "all other outstanding protest grounds, with the exception of its derivative challenge to the VA's best-value tradeoff." Supp. Comments at 13.

PWS requirements,” and the resulting best-value decision reflected the agency’s considerations in this regard. MOL at 8.

In reviewing protests challenging the evaluation of proposals in a task order competition, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency’s judgment was reasonable and in accord with the evaluation criteria. *ZolonTech, Inc.*, B-418213, B-418213.2, Jan. 23, 2020, 2020 CPD ¶ 57 at 5. A protester’s disagreement with an agency’s judgment is not sufficient to establish that an agency acted unreasonably. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7. The Federal Acquisition Regulation (FAR) requires agencies to document the basis for award and rationale for any tradeoffs among cost or price and non-cost considerations in making the selection decision in a task order competition. FAR 16.505(b)(7). While there is no need for extensive documentation of every consideration factored into a selection decision, the documentation must be sufficient to establish that the agency was aware of the relative merits and prices of the competing proposals, and that the source selection was reasonably based. *CEdge Software Consultants, LLC*, B-418128.2 *et al.*, Mar. 19, 2020, 2020 CPD ¶ 127 at 7.

Here, the RTEP instructed offerors to submit detailed technical approaches that addressed multiple requirements, including an “estimated level of effort for the [o]fferor’s approach,” including labor categories, to perform certain sections of the PWS. RTEP at 3. As stated above, the RTEP advised that the agency’s evaluation would consider technical and past performance non-price factors. *Id.* at 4. As relevant here, under the technical factor, the RTEP provided only the following two evaluation criteria:

(1) Understanding of the Problem – The Technical Volume will be evaluated to determine the extent to which it demonstrates a clear understanding of all features involved in solving the problems and meeting and/or exceeding the requirements presented in the task and the extent to which uncertainties are identified and resolutions proposed.

(2) Feasibility of Approach – The Technical Volume will be evaluated to determine the extent to which the proposed approach is workable and the end results achievable. The Technical Volume will be evaluated to determine the level of confidence provided the Government with respect to the Offeror’s methods and approach in successfully meeting and/or exceeding the requirements in a timely manner.

Id. In evaluating the offerors’ execution plans, the VA’s technical evaluators completed forms documenting the agency’s evaluation of the protester’s and awardee’s plans. For both plans, the forms included statements noting that “the [plan] outlined the [o]fferor’s proposed level of effort and its management methodology.” AR, Tab 9, Veterans EZ Info Technical Evaluation Form at 1; AR, Tab 11, Clear Vantage Point Solutions Technical Evaluation Form at 1. The forms each also contained a statement explaining that “[i]f specific technical evaluation criteria and/or discriminators are not mentioned [on the form], the Agency has determined that the Offeror’s technical response(s) for those

respective criteria and/or discriminators met the Government's minimum requirements." *Id.* at 2.

With respect to Veterans EZ Info's execution plan, the VA noted certain positive aspects of the protester's technical approach. For example, the agency assessed a strength for providing "a highly detailed [DELETED]." AR, Tab 14, Selection Decision Document at 4. The protester also received a strength for "its approach to [DELETED] which provided [DELETED]." *Id.*

With respect to the awardee's execution plan, the VA also noted certain positive aspects. For example, the agency noted that the awardee's approach included [DELETED], which exceeded "the PWS requirements by proposing to provide [DELETED]," to help [DELETED]. *Id.* at 3. The agency further explained that the approach would result in "[DELETED]" and that the approach would ultimately increase "customer satisfaction with [VI] system used to provide Veteran healthcare." *Id.*

Finally, the VA's selection decision document compared the execution plans proposed by the protester and awardee. In this regard, the agency explained the positive components of the protester's plan (in part as described above), and then stated that while the protester's execution plan, which received a technical rating of good, "[w]ill provide the [g]overnment with more technical value, it is important to note that additional technical value" would be gained from the awardee's execution plan, which received a rating of acceptable. *Id.* at 5. Specifically, the agency highlighted the strength assigned to the awardee's execution plan explained above. *See id.* The agency then concluded that it was "not worth paying the significant price premium" for the protester's execution plan, and that the awardee's execution plan therefore represented the best value to the government.

On this record, we find no basis to object to the VA's evaluation of Veterans EZ Info's and Clear Vantage Point Solutions's execution plans. The record demonstrates that the agency's evaluation of the offerors' technical approaches was reasonable and otherwise consistent with the two technical evaluation criteria contained in the solicitation. While the protester argues that the awardee's LOE was too low to meet the technical requirements of the PWS (because the awardee proposed either too few FTEs, or too few total labor hours), and that a comparative evaluation of the awardee's LOE with the protester's LOE would have indicated as such, we find no basis to object to the agency's conduct of the evaluation with respect to the technical evaluation factor, the only factor under which the protester raises protest grounds.⁵ The record demonstrates the agency considered the relative merits of the offerors' execution plans under the relevant technical evaluation criteria, including the feasibility of approaches.

⁵ As stated above, the protester withdrew all other protest arguments. The protester's remaining challenge to the agency's best-value decision is a derivative challenge based on the allegations of a flawed evaluation under the technical factor.

The agency's review included a discussion of specific aspects of both offerors' technical approaches that provided the government confidence with respect to each offeror's methods and approach in successfully meeting and/or exceeding the requirements of the PWS, and further included a comparison of the merits of these technical approaches. While the agency's evaluation did not extensively document every consideration made, a task order competition does not mandate documentation requirements as strict as, for example, a negotiated procurement pursuant to FAR part 15. See *Accenture Federal Services, LLC*, B-421134.2 *et al.*, Apr. 12, 2023, 2023 CPD ¶ 90 at 13 (explaining that unlike a procurement conducted under FAR part 15 procedures, task order procurement procedures provide for a streamlined process requiring less rigorous documentation).

The agency's technical evaluation forms indicate that the offerors provided staffing approaches and levels of effort in accordance with the solicitation instructions.⁶ The selection decision document also explains the agency's consideration of the technical merit of the execution plans under the evaluation criteria, and determined that the "significant price premium" associated with Veterans EZ Info's plan did not represent the best value to the government, while fully acknowledging that the protester's plan was technically superior. AR, Tab 14, Selection Decision Document at 5-6. We find the agency's best-value determination was not unreasonable in this regard, especially where the solicitation advised offerors that the offeror selected for the task order may not necessarily have the highest rated technical proposal. See RTEP at 4.

In short, the comparative analysis performed by the VA in this task order competition was reasonable and consistent with the terms of this solicitation as written, considering the technical factor evaluation criteria, which required an evaluation of only offerors' understanding of the problem and feasibility of approach.

The protester's reliance on our Office's decisions in *CEdge Software Consultants*, B-418128.2 *et al.*, Mar. 19, 2020, 2020 CPD ¶ 127, and *M7 Aerospace, LLC*, B-411986, B-411986.2, Dec. 1, 2015, 2016 CPD ¶ 100 is misplaced. In *CEdge Software*, our Office sustained a protest concluding that the agency, in making its source selection decision, had not performed a meaningful, qualitative assessment or critical comparative analysis of quotations under the technical capability factor, and specifically under the staffing plan subfactor. *CEdge Software, supra* at 8. Both the protester and awardee in that decision received the same rating under the staffing plan technical subfactor, which was an evaluation subfactor specifically identified in the solicitation. In fact, all four technically acceptable quotations were technically equivalent under all technical subfactors. *Id.* at 4. The record in that case did not demonstrate that the agency meaningfully compared quotations under the technical capability factor and specifically the staffing plan subfactor in making its best-value determination. *Id.* at 8.

⁶ As our previous decisions have explained, an agency is not required to document all "determinations of adequacy" or explain why a proposal did not receive a strength, weakness, or deficiency for a particular item. *Allied Tech. Grp., Inc.*, B-412434, B-412434.2, Feb. 10, 2016, 2016 CPD ¶ 74 at 13.

Here, critically, the RTEP advised that execution plans would be evaluated on the basis of their demonstration of an understanding of the problem, and the feasibility of the proposed approach. RTEP at 4. As discussed above, the agency documented its comparison of execution plans in this regard, discussing the relative merits of each offeror's approach and the way in which the approaches increased the government's confidence in a respective offeror's ability to meet or exceed the requirement of the PWS. See AR, Tab 14, Selection Decision Document at 5-6.

Similarly, in *M7 Aerospace*, our Office sustained a protest of a FAR part 15 procurement because the record was "devoid of any meaningful analysis of the comparative merits of the proposals." *M7 Aerospace, supra* at 6. The agency's selection report in that protest contained "virtually identical" conclusions or even "word-for-word identical" conclusions regarding the merits of competing proposals, including with respect to offerors' proposed staffing plans, which was one of the evaluation criteria. *Id.* Similar to our analysis above, that is not case here. In this case, the agency made a comparative assessment of technical approaches under the relevant technical evaluation criteria, most notably the feasibility of offerors' respective approaches. We therefore find the agency's conduct of the evaluation to be reasonable and consistent with the terms of the solicitation.

The protest is denied.⁷

Edda Emmanuelli Perez
General Counsel

⁷ Because we deny the protester's challenge to the agency's technical evaluation, the protester's challenge to the agency's best-value decision, which is based on the same alleged technical evaluation arguments, is also denied. See *NetCentrics Corp.*, B-421172.2, B-421172.3, Oct. 23, 2023, 2023 CPD ¶ 247 at 22 (explaining that where other challenges to an agency's evaluation have been denied or otherwise dismissed, a derivative challenge to the best-value determination does not afford a basis to sustain the protest).