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Decision

Matter of: American Tech Solutions, LLC

File: B-422212; B-422212.2

Date: February 27, 2024

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Joseph M. Goldstein, Esq., Shutts & Bowen LLP, for Knight Federal Solutions, Inc., the intervenor.
Margaret M. Talbot-Bedard, Esq., and Debra J. Talley, Esq., Department of the Army, for the agency.
Charmaine A. Stevenson, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency’s evaluation of quotations and best-value tradeoff decision is denied where the record reflects that the evaluation and decision were reasonable, consistent with the terms of the solicitation, and adequately documented.

DECISION

American Tech Solutions, LLC (ATS), a small business of Reston, Virginia, protests the issuance of a task order to Knight Federal Solutions, Inc. (KFS), a small business of Orlando, Florida, by the Department of the Army, Army Materiel Command, under request for quotations (RFQ) No. W900KK-22-R-0050, for information technology support services. The protester challenges the agency’s conclusion that the quotations submitted by ATS and KFS were technically equal, and argues the agency failed to adequately document the basis for its award decision.

We deny the protest.

BACKGROUND

The mission of the Joint Readiness Training Center (JRTC) is to provide U.S. military forces with the “relevant, rigorous, multi-echelon training . . . to develop adaptive leaders, confident units, and robust capabilities across the range of military operations achieving Army readiness,” and conducts up to 11 training unit rotations annually. Agency Report (AR), Tab 3a, Performance Work Statement (PWS) at 1. To achieve

this, the JRTC must provide a mobile satellite communications capability to replicate the communications infrastructure found in expected areas of operation. *Id.* For this procurement, the agency seeks a contractor to provide all personnel, equipment, supplies, transportation, tools, materials, and supervision necessary to operate, maintain, and sustain JRTC's integrated training networks. *Id.*

The RFQ, issued on August 22, 2023, using Federal Acquisition Regulation (FAR) subpart 8.4 procedures, was set aside for small businesses holding General Services Administration (GSA) Multiple Award Schedule (MAS) contracts under special item number 54151S, information technology professional services. AR, Tab 3, RFQ at 1.¹ The RFQ stated that the contract would be fixed-price, with a period of performance consisting of a 7-month base period, four 12-month option periods, and a 6-month option to extend services pursuant to FAR clause 52.217-8. *Id.* at 30, 32, 43.

The RFQ stated that quotations would be evaluated under two factors, technical and price. *Id.* at 41. Under the technical factor, the following ratings would be assigned: good, acceptable, and unacceptable.² *Id.* at 42. Price would be evaluated for reasonableness. *Id.* at 43. The RFQ further stated that a best-value tradeoff source selection process would be used, the technical factor was significantly more important than price, and "award may not necessarily be made to the lowest priced offered, or the highest technically rated offeror." *Id.* at 41.

The agency received seven quotations, including from ATS and KFS. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 11. Following evaluation, both ATS and KFS received ratings of good under the technical factor. AR, Tab 7, Award Decision at 4. ATS quoted a price of \$22,248,201, and KFS quoted a price of \$21,393,822. *Id.* at 19. The source selection authority (SSA) selected KFS for award. *Id.* at 29. The agency provided ATS with a debriefing, and this protest followed.

¹ The agency amended the RFQ five times. In this decision, we cite to the conformed RFQ provided by the agency as Tab 3. In addition, all citations in this decision are to Adobe Acrobat PDF page numbers.

² The RFQ provided the following definitions for the technical ratings:

Good -- Proposal meets requirements and indicates a superior approach. Risk of unsuccessful performance is low.

Acceptable -- Proposal meets requirements and indicates an adequate approach. Risk of unsuccessful performance is no worse than moderate.

Unacceptable -- Proposal does not meet requirements.

RFQ at 42.

DISCUSSION

The protester challenges the evaluation of quotations and the award decision and argues that the agency unreasonably considered the quotations submitted by ATS and KFS to be technically equal. Protest at 13-15, 19. The protester further asserts that the agency failed to consider the price for contractor acquired property (CAP) in its evaluation of the price factor; improperly considered past performance as an evaluation factor; and inadequately documented the source selection decision because the SSA did not consider all of the requirements of the PWS. *Id.* at 15-18, 20. The agency argues that it reasonably evaluated quotations consistent with the RFQ, and the award decision adequately documents the SSA's rationale for selecting KFS for award. COS/MOL at 37-39. For the reasons discussed below, we deny the protest.³

Where, as here, an agency issues a solicitation to GSA MAS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the evaluation was reasonable and consistent with the terms of the solicitation. *Deloitte Consulting, LLP*, B-416882.4, Jan. 6, 2020, 2020 CPD ¶ 21 at 4. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement law and regulation. *ASI Gov't, Inc.*, B-419080.2, B-419080.3,

³ ATS raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each argument and find that none provides a basis on which to sustain the protest.

In addition, on January 8, 2024, the protester filed a supplemental protest, and argued for the first time that the agency's evaluation violated Army FAR Supplement evaluation procedures and failed to include a comparative analysis of quoted labor rates. Supp. Protest at 2-5. Although the protester asserts the supplemental protest was based on the agency's production on December 28, 2023, of KFS's technical and price proposals (AR Tabs 16 and 17), neither of its supplemental allegations rely on new information from those documents. As a result, nothing precluded the protester from raising these arguments in its initial protest.

Our Office will dismiss a protester's piecemeal presentation of arguments that could have been raised earlier in the protest process. *Metasoft, LLC--Recon.*, B-402800.2, Feb. 17, 2011, 2011 CPD ¶ 47 at 3. Moreover, these allegations constitute untimely challenges to the terms of the RFQ. The RFQ was clear that the procurement would be conducted using FAR section 8.405 ordering procedures, and that vendors' prices would be assessed for reasonableness using a price analysis. RFQ at 1, 43. To the extent the protester argues that the agency should have used different evaluation procedures or conducted a comparative analysis of the labor rates, our Bid Protest Regulations require that challenges to alleged improprieties in a solicitation be filed prior to the time set for receipt of quotations. 4 C.F.R. § 21.2(a)(1). Accordingly, we dismiss the supplemental protest.

June 24, 2021, 2021 CPD ¶ 246 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *Electrosoft Servs., Inc.*, B-413661, B-413661.2, Dec. 8, 2016, 2017 CPD ¶ 7 at 4-5.

For the technical factor, the RFQ required that offerors submit the following information in their quotations:

Offerors shall submit a technical staffing plan to fulfill the requirements specified in [the PWS]. The offeror's staffing plan shall provide adequate detail to allow the Government to assess the technical feasibility of the plan to successfully accomplish transition and mission requirements, in accordance with [the] PWS.

Offerors are not required to strictly adhere to Attachment 04, Government Estimated Labor (category/type and mix), in preparation of its submissions. However, offerors shall provide a narrative description or justification of how its proposed labor type and mix will accomplish service requirements detailed in the PWS, regardless of whether using the Government's estimated labor or one devised by the offeror.

RFQ at 40. For the price factor, the RFQ required that offerors complete the cost/price workbook provided as RFQ attachment 6 and stated that labor categories and rates should conform to those published in the vendors' GSA contracts, and that rates may be lower than, but should not exceed, the published rates. *Id.* at 40-41.

With respect to the evaluation of quotations, the RFQ stated that the "overarching evaluation approach" for all factors was as follows:

a. Adequacy of Response. The submission will be evaluated to determine whether the offeror's methods and approach have adequately and completely considered, defined, and satisfied the requirements specified in the RFQ. The submission will be evaluated to determine the extent to which each requirement has been addressed in the submission in accordance with the submission section of the RFQ.

b. Feasibility of Approach. The submission will be evaluated to determine the extent to which the proposed approach is workable and the end results achievable. The submission will be evaluated to determine the extent to which successful performance is contingent upon proven devices and techniques. The submission will be evaluated to determine the extent to which the offeror is expected to be able to successfully complete the proposed tasks and technical requirements within the required schedule.

RFQ at 42.

For the technical factor, the RFQ stated that the agency would identify “merits” and “risks” associated with the quotations to assign a technical rating.⁴ *Id.* The RFQ stated that the agency would evaluate the contractor’s proposed plan to fulfill the requirements and that the proposed plan and execution schedule must provide adequate detail to permit a determination as to whether the offeror has an effective plan to accomplish transition and mission requirements in accordance with the PWS. *Id.* In addition, the RFQ stated the agency would evaluate the staffing plan, with an emphasis on flexibility and efficiency. *Id.* For the price factor, the RFQ stated that the agency would evaluate the reasonableness of proposed prices by conducting a price analysis. *Id.* at 43.

In its evaluation of ATS’s quotation, the agency identified four merits and no risks, and assigned a rating of good. AR, Tab 15, ATS Consensus Technical Evaluation. In its evaluation of KFS’s quotation, the agency identified three merits and no risks, and assigned a rating of good. AR, Tab 14, KFS Consensus Technical Evaluation. In performing its price analysis, the agency concluded that sufficient price competition had been achieved with the receipt of seven quotations. The agency also reviewed and confirmed that the vendors’ proposed labor rates were at or below the published rates in their GSA MAS contracts and compared proposed prices to the independent government estimate. AR, Tab 8, Price Evaluation Report at 2, 8. Based on its consideration of this information, the agency concluded that the pricing submitted by ATS and KFS was fair, reasonable, and balanced. *Id.* at 8.

The SSA reviewed the consensus evaluation reports for all offerors and the price evaluation report and performed a comparative analysis of quotations. AR, Tab 7, Award Decision at 3, 18. The SSA found that ATS and KFS both submitted technical quotations that met the PWS requirements and included merits that indicated a superior approach with a low risk of unsuccessful contract performance. *Id.* at 24. The SSA selected KFS for award, concluding that ATS’s quotation “would come at a sizeable premium of \$854,379, for a closely similar solution, which cannot be justified.” *Id.*

On this record, we find the agency’s evaluation and award decision to be reasonable. Contrary to the protester’s contention that the agency improperly found the two vendors equal under the technical factor, the record shows that although ATS and KFS received the same rating of good, the SSA did not consider the quotations to be equal. See COS/MOL at 31 (“Nothing in the contemporaneous documentation or here indicate that the SSA determined that the Offers ‘were equal’. . . . Being assigned the same rating is not the same as being ‘equal.’”). Rather, when performing the best-value tradeoff the SSA acknowledged that both ATS and KFS received a technical rating of good but stated that “the assignment of that rating was derived taking into account the individual proposed technical solution and respective merits and risks identified” in the quotations. AR, Tab 7, Award Decision at 26; see *id.* at 28 (“Both [vendors] provided a superior

⁴ The RFQ defined a merit as “[an offeror’s] approach that provides the Government additional benefits that exceed the Government requirement,” and defined a risk as “[an offeror’s] approach that increases the probability of contract performance failure.” RFQ at 42.

Staffing Plan, although, each approach varies slightly.”); see *also id.* at 29 (“Both [vendors] provided a superior staffing approach, with [ATS] providing slightly better recruitment and retention solution than that of [KFS].”). Thus, the record demonstrates that the agency identified and considered the distinctions and differences between each vendor’s approach and did not find that the two approaches or quotations were equal. Simply, the record does not support the protester’s contention. This allegation is therefore denied.

The protester also argues that the agency did not evaluate CAP as part of its evaluation of price quotations, and that the protester is the only vendor that properly complied with the RFQ instructions to include CAP in its quoted price. Protest at 12 n.21, 17-19; see *also* Comments at 4-5 n.5. The agency argues that the RFQ did not require a separate evaluation of CAP prices, and ATS apparently misunderstood the RFQ instructions. Specifically, the agency states the CAP was one of multiple contract line item numbers (CLINs) identified by the RFQ that were not to be separately priced but instead included in the quoted prices for program management. COS/MOL at 24, 28-29, 36.

As relates to these allegations, the RFQ included CLINs 0009, 1009, 2009, 3009, and 4009 for CAP that indicated as follows: “Deliver all [CAP] for use in the execution and management of all services [in accordance with the PWS]. All costs associated with CAP shall be included in the Program Management section. Not Separately Priced (NSP).”⁵ RFQ at 4, 8, 11, 14, 18. In contrast, the RFQ included CLINs 0001, 1001, 2001, 3001, and 4001 for program management that permitted vendors to propose a unit price per month and stated as follows: “The contractor shall successfully integrate and coordinate all activity needed to execute the requirements [in accordance with the PWS]. The contractor shall manage the timeliness, completeness, and quality of problem identification.”⁶ *Id.* at 2, 5, 8, 12, 15. As noted above, the RFQ stated that the agency would evaluate the reasonableness of proposed prices by conducting a price analysis. *Id.* at 43.

Where a dispute exists as to a solicitation’s actual requirements, we will first examine the plain language of the solicitation. *Point Blank Enters., Inc.*, B-411839, B-411839.2, Nov. 4, 2015, 2015 CPD ¶ 345 at 4. Where a protester and agency disagree about the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Crew Training Int’l, Inc.*, B-414126, Feb. 7, 2017, 2017 CPD ¶ 53 at 4.

⁵ Similar to CAP, the RFQ indicated that CLINs for technical reports and contractor manpower reporting were also not separately priced, and instructed that prices associated with these items “shall be included in the Program Management section. Not Separately Priced (NSP).” See RFQ at 3-18.

⁶ The five different CLINs for the CAP and program management represented the base year and four subsequent option periods. See RFQ at 2-18.

We have considered the parties' arguments and find that ATS's interpretation of the solicitation is not reasonable. As discussed, the RFQ did not require vendors to separately propose, or the agency to evaluate, CAP prices. To the contrary, the RFQ made clear that CAP was not to be separately priced and instead included under the program management CLINs. Because the type of evaluation asserted by the protester was not required by the solicitation, we deny this allegation.

In addition, the protester argues that the agency improperly considered past performance when it evaluated quotations, although the RFQ did not include past performance as a factor that would be evaluated for the purpose of making the award decision. Protest at 15-16. In support of this argument, the protester cites language in the award decision document regarding the third merit identified in KFS's quotation that referenced KFS's "extensive [federal] experience." *Id.* at 15 n.26.

Relevant to this argument, the record shows that in describing its staffing plan to perform specific tasks identified in the PWS, KFS presented the same four steps in its approach to perform each task as follows: (1) mission understanding; (2) functional area responsibilities; (3) justification for labor mapping; and (4) "Team Knight Federal Experience." AR, Tab 16, KFS Technical Proposal at 11-35. In discussing its federal experience, KFS explained how it would draw on that experience and the strategies used, and lessons learned, to implement its approach. *See id.* at 31.

The agency evaluators identified a merit in KFS's staffing approach, stating in pertinent part:

[KFS's] detailed staffing approach, identifying functional area responsibilities, demonstrating mission understanding, justifying labor mapping, as well as its extensive federal experience, provides the Government with confidence in the [vendor's] ability to effectively transition into the new contract and provide stability throughout contract execution, reducing the risk of unsuccessful contract performance.

AR, Tab 14, KFS Consensus Technical Evaluation at 4. The evaluators concluded that KFS "demonstrates an approach to meeting every performance requirement from the PWS section 3 tasks." *Id.* In the award decision, the SSA restates the evaluators' identification of this merit as one basis for KFS's rating of good, and the selection of KFS to perform the order. AR, Tab 7, Award Decision at 27-28.

Here, there is no dispute that the RFQ did not include past performance as an evaluation factor; rather, it clearly stated that the evaluation factors were technical and price. RFQ at 41; *see also* AR, Tab 3d, Question & Answer Spreadsheet, Row 81 (stating that references to past performance questionnaires would be removed "as they are not applicable to this RFQ."). Our review of the record shows that, consistent with the evaluation criteria and contrary to the protester's argument, the agency did not include past performance as an evaluation factor. In this regard, the record shows that

references to KFS's federal experience in the technical evaluation and award decision were derived directly from the substantive content of KFS's quotation. As explained above, KFS's quotation did not present its federal experience to demonstrate how well it had previously performed similar efforts, but rather to provide a basis for how it would implement its approach to staffing and performing this contract. There is nothing in the record that discusses KFS's past performance; indeed, the term "past performance" does not appear anywhere in the KFS's evaluation or the award decision. The protester therefore has not demonstrated that the agency improperly evaluated KFS's past performance; accordingly, we deny this allegation.

Regarding the protester's contention that the agency failed to adequately document the award decision, the protester specifically argues that the SSA should have addressed the compliance of the quotations with all of the specific requirements identified in the PWS and examined in greater detail the benefits of the quotations submitted. Protest at 13-14 ("[T]he SSA considered only four technical requirements out of approximately 164 [g]eneral and [t]echnical PWS requirements as the basis for his conclusion that the ATS and KFS proposals were essentially technically equal."). The protester also argues that it received more merits in its evaluation than KFS (four versus three), and that its merits are better articulated than the merits identified for KFS. *Id.* at 14 n.25.

The agency argues that the evaluation and award decision were reasonable and in accordance with the terms of the solicitation. The agency maintains the SSA properly performed a comparative analysis of quotations and adequately documented the award decision after full consideration of the consensus evaluations under the technical factor and the price evaluation report. COS/MOL at 30-36.

Where, as here, a procurement is conducted pursuant to FAR subpart 8.4 and provides for source selection on a best-value tradeoff basis, it is the function of the selection official to perform a price/technical tradeoff. *RIVA Sols., Inc.*, B-418952, B-418952.2, Oct. 27, 2020, 2020 CPD ¶ 353 at 9. The purpose of the tradeoff is to determine whether the technical qualities of a quotation are worth the price as compared to the technical qualities and prices of competing quotations. This process is used to identify the quotation which represents the best value to the government. *Deloitte Consulting LLP; ManTech Advanced Sys. Int'l, Inc.*, B-420137.7 *et al.*, July 25, 2022, 2022 CPD ¶ 200 at 24. There is no need for extensive documentation of every consideration factored into a tradeoff decision; rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits and costs of the competing quotations and that the source selection was reasonably based. *See Ironclad Tech. Servs., LLC*, B-419976.2, May 2, 2022, 2022 CPD ¶ 104 at 5.

As already discussed, the SSA found that both ATS and KFS submitted technical quotations that met the PWS requirements, discussed the merits of each quotation, and concluded that both quotations indicated a superior approach with a low risk of unsuccessful contract performance. AR, Tab 7, Award Decision at 3, 18. The SSA also stated that both vendors provided superior staffing approaches that, although slightly different, warranted ratings of good under the technical factor, and concluded that the

ATS quotation was not worth the price premium. Based on our review of the record, we conclude that the SSA adequately documented the rationale for the award decision and the record otherwise demonstrates that the decision is reasonable. In this regard, the agency was not required to document a comparative analysis of all 164 of the PWS requirements in order to meaningfully compare the two quotations. Accordingly, this allegation is denied.

The protest is denied.

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General Counsel