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Decision

Matter of: KesselRun Corporate Travel Solutions, LLC

File: B-423311

Date: April 10, 2025

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DIGEST

Protest challenging the exclusion of the protester's quotation from the competition is denied where the agency reasonably found the protester was ineligible for award where its Federal Supply Schedule contract included an insufficient period of performance to cover the potential duration of the anticipated blanket purchase agreement.

DECISION

KesselRun Corporate Travel Solutions, LLC (KesselRun), a small business of Roswell, Georgia, protests the non-selection of its quotation for the establishment of a blanket purchase agreement (BPA), under request for quotations (RFQ) No. 47QMCB25Q0006, issued by the General Services Administration (GSA), for travel and expense consulting services. The protester contends the agency's decision to reject KesselRun's quotation was unreasonable and contrary to regulation.

We deny the protest.

BACKGROUND

The agency issued the solicitation on December 30, 2024, under GSA's Federal Supply Schedule (FSS), and pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 8.4 (Federal Supply Schedules), seeking consulting support in the areas of corporate travel management practices, architectures, and technologies. Agency

Report (AR), exh. 6, RFQ, amend. 001 at 2.¹ The RFQ anticipated the establishment of a single BPA, with a 1-year base period of performance and four 1-year option periods. *Id.* at 11. The agency would establish a BPA with the vendor “whose quote, in conforming to the RFQ” provided the overall best value to the agency. *Id.* at 26. GSA would utilize a tradeoff process, considering the following factors: (1) technical approach and oral presentation; (2) key personnel; (3) past performance; and (4) price. *Id.* The RFQ provided that the non-price factors were of equal importance, and when combined, were more important than price. *Id.* The solicitation specifically provided that in making award, GSA would utilize the procedures in FAR section 8.405-3 (Blanket Purchase Agreements). *Id.*

KesselRun timely submitted its quotation by the established due date of January 21, 2025. Contracting Officer’s Statement (COS) at 2. Prior to evaluation, the contracting officer explains he undertook a preliminary review of all submitted quotations to determine if they met the RFQ’s submission requirements. *Id.*; see RFQ at 21 (“[Q]uotes must include all information required in Section 5.2 to be considered for award[.]”). The contracting officer explains KesselRun’s “quote did not meet the RFQ requirements for consideration of award and I reasonably determined KesselRun’s quote was not technically acceptable and thus, ineligible for award.” COS at 3; see *also* AR, exh. 11, Quotation Review Spreadsheet at 1.

Specifically, the agency determined KesselRun’s quotation failed to satisfy the RFQ’s requirements in three areas. First, GSA found that KesselRun’s underlying FSS contract expired before the end date of the BPA’s total potential ordering period. COS at 3. Second, the agency concluded that KesselRun failed to submit the requisite number of past performance references (and related supporting materials) as established in the RFQ. *Id.* Third, GSA determined KesselRun’s quotation offered labor rate pricing that exceeded the rates established in the firm’s FSS contract. *Id.* On January 22, GSA notified KesselRun that its quotation was ineligible for award. *Id.* KesselRun filed the instant protest on February 3.

DISCUSSION

KesselRun challenges the agency’s ineligibility finding. First, the protester contends the agency’s conclusions regarding KesselRun’s proposed pricing, the firm’s submitted past performance information, and the period of performance for the BPA, run contrary to the terms of the solicitation. As alternative arguments, the protester suggests the RFQ was ambiguous, or that GSA had an obligation to seek clarification regarding the identified issues, rather than outright rejecting the firm’s quotation. Finally, KesselRun avers that prior to rejecting its quotation as ineligible for award, GSA was required to seek a certificate of competency (COC) determination from the Small Business Administration

¹ All citations to the agency’s report are to the Adobe PDF document page numbers, and citations to the RFQ are to amendment 001, unless otherwise noted.

(SBA). Protest at 7-19; Comments at 2-10. For the reasons that follow, we find no basis to sustain the protest.²

As noted above, there were three independent bases for GSA's determination that KesselRun's quotation was ineligible for award, one of which was that KesselRun's FSS contract expired before the last day of the ordering period of the contemplated BPA. COS at 5; see *also* AR, exh. 11, Quotation Review Spreadsheet at 1. Regarding the BPA's ordering period, the solicitation explained that the "Ordering Period for this single award BPA is one year beginning with the date of award[.]" and that "Optional periods are included in accordance with FAR 52.217-9 Option to Extend the Term of the Contract." RFQ at 11. The solicitation went on to provide that "[t]he ultimate completion date of the BPA is five (5) years from date of award if all options are exercised by the Government[.]" and that "BPA Calls may extend beyond the BPA period of performance." *Id.* The RFQ also provided an estimated period of performance, with the base period running from February 7, 2025, to February 6, 2026, and the last option period running from February 7, 2029, to February 6, 2030. *Id.*

The contracting officer, in conducting his preliminary review of quotations, determined that KesselRun's FSS contract did not cover the entirety of the contemplated ordering period under the BPA, and thus deemed the quotation not eligible for award. In this regard, the contracting officer first noted that under FAR section 8.405-3(d)(3), "[c]ontractors may be awarded BPAs that extend beyond the current term of their GSA Schedule contract, so long as there are option periods in their GSA Schedule contract that, if exercised, will cover the BPA's period of performance." Here, KesselRun's FSS contract, through the exercise of the last option period, expires on January 10, 2030. AR, exh. 19, Exercise of Option for KesselRun's FSS Contract, at 3. Accordingly, given that KesselRun's FSS contract would expire approximately 20 days prior to the last day of the contemplated ordering period under the BPA, the contracting officer, in reliance on FAR section 8.405-3(d)(3), concluded the firm's quotation was not eligible for award. See AR, exh. 12, Rejection Notification at 1.

In response, the protester contends the BPA's period of performance was only one year (*i.e.*, the base period). In this regard, KesselRun asserts that "an option is not an obligation" and asserts only the base period of the contract was an obligation. Comments at 7. The protester goes on to posit that though the solicitation explained that the "ultimate completion date of the BPA is five (5) years from date of award if all options are exercised by the Government[.]" (RFQ at 11), this language only advised that the contract *could* be for five years, but did not require five years of performance. Comments at 7.

We find no basis to conclude that GSA's decision to exclude the protester's quotation from the competition--because its underlying FSS contract could not cover the

² KesselRun 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.

anticipated period of performance of the BPA--was unreasonable or inconsistent with applicable procurement law or regulation.

Where a protester and agency disagree over 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. *Alluviam LLC*, B-297280, Dec. 15, 2005, 2005 CPD ¶ 223 at 2. Our Office has recognized that a FSS BPA is not established with the contractor directly, but rather, is established under the contractor's FSS contract, such that the FSS BPA orders ultimately are to be placed against the successful vendor's FSS contract. *Panacea Consulting, Inc.*, B-29937.4, B-299308.4, July 27, 2007, 2007 CPD ¶ 141 at 1-2 n.1. Moreover, when an agency intends to place an order under an FSS BPA, the vendor must have a valid FSS contract in place because that contract is the means by which the agency satisfies the competition requirements of the Competition in Contracting Act in connection with any orders issued under the BPA. *Canon USA, Inc.*, B-311254.2, June 10, 2008, 2008 CPD ¶ 113 at 3-4.

GAO recently examined a similar factual situation to that which is presented by KesselRun's protest. In *GBK P'ship, LLC--Constant Assocs., Inc.*, B-417039, Jan. 24, 2019, 2019 CPD ¶ 30, the protester argued the Environmental Protection Agency (EPA) improperly excluded the firm's quotation, on the basis that its FSS contract had insufficient potential options to cover the BPA's entire potential period of performance. At issue in the protest was a solicitation provision that stated, "[t]he period of performance of this [BPA] shall be from the date of award or 10/01/2018 (whichever is later) through 09/30/2019 unless the optional periods are exercised in accordance with [Federal Acquisition Regulation (FAR) clause] 52.217-9." *Id.* at 2. The protester contended that the BPA's period of performance should be interpreted as only the base period of performance, *unless and until* any of the four potential option periods were exercised. Under such a reading, the protester argued its quotation should not have been excluded, as its FSS contract would cover the entirety of the base period of the BPA.

During the development of that protest, our Office solicited the views of GSA, the agency which administers the FSS program. GSA explained that the FSS contract against which the BPA would be issued must have sufficient options to cover the entirety of the period of performance of the BPA, inclusive of all potential options. GSA stated that such an interpretation was necessary because, unlike an order, a BPA cannot survive the expiration of the underlying FSS contract, *citing Canon USA, Inc., supra*. Additionally, GSA explained that such an interpretation was necessary to ensure that all vendors are competing and being evaluated on a common basis, where some vendors were capable of performing the entire potential period of performance of the BPA, versus those that would be unable to do so because their respective FSS contracts do not have a sufficient period of performance commensurate to the BPA's potential period of performance. *GBK P'ship, LLC, supra* at 4.

In denying the protest, our Office concluded that the rationale advanced by the agencies was persuasive. Indeed, we explained that the protester's position--that the BPA's period of performance only included the base period--was unreasonable because such an interpretation read out the language qualifying the period of performance (the base period is the period of performance "unless the optional periods are exercised."). *Id.* at 4. That is, "when read in reasonable context, [the RFQ] conveys that the BPA's period of performance anticipates a base and four optional periods." *Id.* Moreover, we explained that the protester's interpretation "would also frustrate EPA's efforts to acquire a BPA with a potential five-year period of performance" because the agency would be unable to place orders in the option years for which the protester's FSS contract was expired. *Id.* at 5.

Our analysis and conclusions in *GBK P'ship, LLC*, apply equally to the protest at hand. Indeed, as was the case in *GBK P'ship, LLC*, the solicitation clearly manifests an intended period of performance of up to five years. RFQ at 11 ("Optional periods are included in accordance with FAR 52.217-9" and the "ultimate completion date of the BPA is five (5) years from date of award if all options are exercised by the Government."). Moreover, like in *GBK P'ship, LLC*, a reading of the solicitation that caps the period of performance to only the base period would inhibit GSA from acquiring services in the option years, if the awardee's underlying FSS contract expired. Such a situation would necessitate GSA issuing a new solicitation to establish a new BPA, rendering the option periods established in the instant RFQ illusory.

We do not find the protester's invitation to disregard *GBK P'ship, LLC*, or its other arguments in rebuttal persuasive. KesselRun cites no authority, in law or regulation, that supports its assertion that "[a] period of performance can only be that which is obligated." Comments at 7. Indeed, the Court of Federal Claims decisions cited by KesselRun do not state, suggest, or otherwise imply, that the protester's asserted position is a correct statement of law. See e.g., *Horn & Assocs., Inc. v. U.S.*, 140 Fed. Cl. 142 (2017) (explaining that "[e]ach option year extended the period of performance by one year[.]"); see also *B&D Consulting, Inc.*, B-413310 *et al.*, Sept. 30, 2016, 2016 CPD ¶ at 4 (noting the contract's "total period of performance" included the base and option years). Here, the solicitation clearly provides for option periods--to be exercised at the discretion of the government--and KesselRun's quotation included pricing for those periods. See AR, exh. 10, vol. III, KesselRun's Price Proposal at 1. We simply do not agree with the protester's mere assertion that a contract's period of performance cannot include the option periods. As such, we find reasonable GSA's exclusion of KesselRun's quotation from the competition, on the basis that its FSS contract would not cover the period of performance of the BPA.³

³ Given this conclusion, we need not address the other two bases upon which GSA excluded KesselRun's quotation, concerning submitted past performance and pricing because even if we agreed with the protester's arguments, KesselRun would remain ineligible for award for the reason discussed above.

We are similarly unpersuaded by KesselRun's remaining arguments. For example, the protester argues "GSA should have clarified any of the identified issues above with KesselRun prior to excluding" its quotation because "the Solicitation itself does create a duty to clarify minor issues with offerors." Comments at 8. However, the protester cites no provision of the RFQ that would require GSA to seek clarification regarding the duration of the firm's FSS contract, nor is it readily apparent that engaging in such clarifications would permit KesselRun to remedy the agency's underlying concern. In this regard, the protester has advanced no credible argument that its FSS contract will not expire before the end of the BPA's ordering period, in the event that all options are exercised.

The protester also argues GSA was required to obtain a COC from the SBA prior to eliminating KesselRun's quotation from the competition. Protest at 7-8; Comments at 9-10. Under the Small Business Act, agencies may not find a small business non-responsible without referring the matter to the SBA, which has the ultimate authority to determine the responsibility of small businesses under its COC procedures. 15 U.S.C. § 637(b)(7); FAR subpart 19.6; *FitNet Purchasing Alliance*, B-410263, Nov. 26, 2014, 2014 CPD ¶ 344 at 6-7. The SBA's regulations specifically require a contracting officer to refer a small business concern to the SBA for a COC determination when the contracting officer has refused to consider a small business concern for award of a contract or order "after evaluating the concern's offer on a non-comparative basis (e.g., pass/fail, go/no go, or acceptable/unacceptable) under one or more responsibility-type evaluation factors (such as experience of the company or key personnel or past performance)." 13 C.F.R. § 125.5(a)(2)(ii); see *AttainX, Inc.*; *FreeAlliance.com, LLC*, B-413104.5, B-413104.6, Nov. 10, 2016, 2016 CPD ¶ 330 at 4; *Coastal Env'tl. Grp., Inc.*, B-407563 *et al.*, Jan. 14, 2013, 2013 CPD ¶ 30 at 4-5.

As applied, we agree with GSA that it was not required to obtain a COC in this instance. The contracting officer's rejection of KesselRun's quotation was not based on an evaluation under responsibility-type criteria, but instead, was rendered, at least partially, on the protester's technical unacceptability (e.g., the expiration date of its FSS contract). Even assuming, as the protester contends, that GSA's rejection of KesselRun's quotation on the basis that the firm failed to supply the requisite past performance could be construed as tantamount to a non-responsibility finding (Comments at 9), there remains two alternative additional bases for GSA's rejection of KesselRun's quotation. Indeed, our Office has concluded that where an agency rejects a quotation as technically unacceptable on the basis of factors not related to responsibility, as well as responsibility-related ones, referral to the SBA is not required. *Tyonek Worldwide Servs., Inc.*; *DigiFlight, Inc.*, B-409326 *et al.*, March 11, 2014, 2014 CPD ¶ 97 at 12;

Paragon Dynamics, Inc., B-251280, Mar. 19, 1993, 93-1 CPD ¶ 248 at 4. Accordingly, we find no basis to object to the agency's conduct.

The protest is denied.

Edda Emmanuelli Perez
General Counsel