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Matter of: Advanced Data Concepts, Inc.

File: B-280967.8; B-280967.9

Date: June 14, 1999

Timothy B. Mills, Esq., and Lynn T. Burleson, Esq., Patton Boggs, for the protester. Carolyn Callaway, Esq., for ATM Service Company, an intervenor. Matilde L. Espinoza, Esq., Gena E. Cadieux, Esq., Charles S. Przbylek, Esq., and Wilfred E. Maez, Esq., Department of Energy, for the agency. Peter A. Iannicelli, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest of agency's evaluation of credentials of key management and technical personnel is denied where evaluation was consistent with solicitation's stated evaluation scheme and statement of work, discussion questions addressed this issue, and evaluation is supported by the record.
2. Contention that agency unreasonably evaluated proposals and improperly concluded that the awardee's higher-rated, higher-cost proposal offered the best value to the government is denied, where the record shows that evaluation was reasonable and consistent with the stated evaluation scheme; the request for proposals stated that technical/management and past performance evaluation areas were more important than price; and source selection official reasonably determined that the greater technical merit of the awardee's proposal was worth the additional cost.

DECISION

Advanced Data Concepts, Inc. (ADC) protests the award of a contract to ATM Service Company (ATM) by the Department of Energy (DOE) pursuant to request for proposals (RFP) No. DE-RP04-98AL78902. Basically, ADC alleges that the evaluation of proposals and award decision were fatally flawed.

We deny the protest.

Issued on June 5, 1998, as a total small business set-aside, the RFP solicited proposals for providing support services to the Safeguards and Security Division of the DOE Albuquerque Operations Office (DOE/AL). RFP Cover Letter at 1. DOE is the responsible steward for the nation's nuclear weapons. The Safeguards and Security Division is responsible for management, implementation, and oversight of safeguards and security programs at DOE/AL. RFP § J, attach. A, at 1. The programs are designed to protect the nuclear weapon complex, consisting of DOE nuclear laboratories and production plants. Among other things, the programs ensure the safe and secure staging of nuclear components and materials awaiting permanent disposition and dismantlement of nuclear weapons. Agency Report at 1. The contractor will provide a variety of technical support services to support the Safeguards and Security Division in accomplishing that mission.¹ The RFP envisioned award of a fixed-price time and materials contract for a base period of 1 year with options for 4 additional years; work will be performed upon the issuance of task orders issued by the agency. RFP § B.

The RFP stated that the contract would be awarded to the responsible offeror whose offer, conforming to the solicitation, was determined to be the best value, after consideration of technical, cost/price and other factors. RFP § M.01(a). The RFP listed the areas on which proposals would be evaluated, in descending order of importance, as (1) technical/management, (2) past performance, and (3) cost/price. RFP § M.01(c). The RFP stated that the technical/management and past performance areas were of greater importance than cost/price. RFP § M.02(a). Within the technical/management evaluation area, the subfactors were (1) understanding the statement of work (SOW) and tasks, (2) key management and technical personnel, (3) management control, and (4) management organization. RFP § M.02(b).

Five firms submitted initial proposals, which were evaluated. On September 2, 1998, without conducting discussions, DOE awarded the contract to ATM. Two firms, ADC and GEM Technology, filed protests in our Office. After DOE notified us that it would take corrective action in response to the protests (including reopening the procurement, conducting discussions, receiving and evaluating best and final offers (BAFOs), and making a new award decision), we dismissed both protests as academic.

Discussions were held with all five offerors, and BAFOs were received in January 1999. After evaluation by the source evaluation team (SET), ADC's BAFO

¹The RFP combined four related requirements in support of the Safeguards and Security Division that were previously acquired through four separate contracts. ATM and ADC each were incumbent contractors; ATM's contract was for personnel security services and ADC's contract was for physical and technical security services. Agency Report at 2.

received a total score of [deleted] points (out of 1,250 possible points) at an evaluated cost of \$[deleted] while ATM's BAFO received a total score of [deleted] points at an evaluated cost of \$14,461,400. Agency Report, Tab 5.b, Final SET Report, at 5-6. On February 10, representatives of the SET met with and reported to the source selection official (SSO) on the SET's evaluation of proposals. Agency Report, Tab 6, Decision Briefing to the SSO; Agency Report, Tab 7, Source Selection Statement, at 1. The SSO reviewed the final SET report and concurred in its giving ATM's BAFO the highest rating. Agency Report, Tab 7, Source Selection Statement, at 1. Even though ATM's evaluated cost was the second-highest of all proposals, the SSO determined that ATM's proposal represented the best value to the government based upon the technical superiority of the proposal. *Id.* at 2. Accordingly, the SSO selected ATM's proposal for award and the contracting officer notified all offerors of the selection.² ADC filed its protest before the contract was awarded to ATM, and award has been held in abeyance pending our resolution of the protest.³

The protester contends that its proposal improperly was downgraded on the "understanding the SOW and tasks" and the "key management and technical personnel" subfactors, because [deleted] employees proposed for [deleted] were not qualified when, in fact, those employees exceeded the RFP's minimum qualifications and had performed in the [deleted] under ADC's prior physical and technical security services contract with DOE/AL. Supplemental Protest at 4-18. ADC also contends that DOE's evaluation of key management and technical personnel was unfair and unequal, to the prejudice of ADC. Second Supplemental Protest at 3-9. Moreover, ADC asserts that ATM incorrectly received the highest rating in the technical/management area even though, ADC alleges, ATM's proposed project manager had no previous experience in DOE safeguards and security programs. Initial Protest at 3. The protester also contends that DOE gave ATM an unreasonably high rating in the past performance evaluation, even though DOE's evaluators knew that ATM had experienced staffing and performance problems under its prior DOE personnel security services contract. Second Supplemental Protest at 2, 9-10. Based upon the alleged flaws in the technical evaluation, the protester asserts that the SSO had no rational basis for his selection of ATM's proposal for award. Initial Protest at 4.

²ADC filed its initial protest on February 23, 1999, after receiving notification that ATM's proposal had again been selected. After a debriefing, ADC filed a supplemental protest on March 5. After receiving DOE's report on its initial and supplemental protests, ADC filed a second supplemental protest on April 12.

³The parties have raised a number of arguments, both procedural and on the merits, in support of their respective positions. While we have carefully considered every argument and examined the entire record in light of them, we will address only the most significant issues here.

Our Office will question an agency's evaluation of proposals only if it lacks a reasonable basis or is inconsistent with the RFP's stated evaluation criteria. DAE Corp., Ltd., B-257185, Sept. 6, 1994, 94-2 CPD ¶ 95 at 4. After reviewing ADC's and ATM's proposals, the evaluation documents, and the agency reports in light of ADC's allegations, we find that DOE's evaluation was reasonable and consistent with the RFP's evaluation scheme.

The record shows that DOE downgraded ADC's proposal in the technical/management area, finding that [deleted] of ADC's proposed [deleted] did not meet the technical security qualifications. Agency Report, Tab 5.b, Final SET Report, at 11-12. ADC contends that DOE improperly used unstated evaluation criteria when it determined that the proposed employees lacked experience in [deleted].⁴ ADC contends that experience in these three programs was not an RFP requirement.⁵ Supplemental Protest at 12-13.

While the agency is required to identify the significant evaluation factors and subfactors, it is not required to identify the various aspects of each factor which might be taken into account, provided that such aspects are reasonably related to or encompassed by the RFP's stated criteria. Global Plus, B-257431.9, Dec. 14, 1994, 95-1 CPD ¶ 77 at 4. We think that the RFP adequately informed offerors how proposals would be evaluated and that the evaluation was consistent with the stated evaluation scheme.

The RFP stated:

The proposed key management and technical personnel will be evaluated based on their experience, education, professional credentials, and demonstrated performance as it relates to their ability to accomplish the task as set forth in the SOW. The ability of the offeror's proposed personnel, of the key management and technical positions, set forth in Section J, Attachment D [Minimum Personnel Qualifications Requirements] will also be evaluated.

RFP § M.03(a)(2).

⁴[Deleted]. Letter from DOE Counsel to General Accounting Office attach. 1, at 1, 2 (Apr. 27, 1999).

⁵In its supplemental protest, ADC alleged that DOE improperly considered personnel other than the proposed project manager in its evaluation of the key management and technical personnel subfactor of the technical/management evaluation area. Supplemental Protest at 3-4. The agency's report responded to this allegation, but ADC did not reply to the agency's response. Agency Report at 9-10. We consider the allegation abandoned. Trijicon, Inc., B-244546, Oct. 25, 1991, 91-2 CPD ¶ 375 at 4 n.3.

For the senior technical security specialist position, the minimum personnel qualifications included, among other things, knowledge of DOE safeguards and security policy and programs. For the technical security specialist position, the minimum personnel qualifications included, among other things, experience in COMSEC and emanations security and knowledge of technical surveillance countermeasures (TSCM).⁶ RFP § J, attach. D, at 2, 3. The SOW indicated that the contractor would have to provide specialized technical expertise in support of the following DOE technical security programs, among others: computer security, TSCM, TEMPEST, PTS, and COMSEC. RFP § J, attach. A, at §§ 5.1.8, 5.1.9; Agency Report at 12. Thus, DOE's evaluation of proposed technical security specialist personnel for experience and familiarity with the PTS, TEMPEST, and COMSEC disciplines was reasonably related to the key management and technical personnel evaluation factor. Furthermore, the record shows that ADC's technical approach relied heavily upon [deleted], and its proposal included a [deleted]. Agency Report, Tab 5.b, Final SET Report, at 11; Agency Report, Tab 4.a, ADC Initial Proposal, vol. II, at 29; Agency Report, Tab 4.b, ADC BAFO, vol. II, at 12-20. Therefore, the SET reasonably considered the qualifications of ADC's technical support personnel in evaluating the "understanding the SOW and tasks" subfactor as well.⁷

ADC states that the [deleted] personnel that were downgraded as not having [deleted]. Supplemental Protest at 5-15. The protester points out that the members of the SET were officials of the Safeguards and Security Division and therefore should have been familiar with ADC's work under the prior contract and known that the proposed technical personnel had previously performed work in a satisfactory manner in the same or higher level labor categories. *Id.* at 5-6; Second Supplemental Protest at 10. ADC also points out that the proposed technical personnel were listed in the same positions in organizational charts included in monthly reports and in billing statements it provided to DOE under its prior contract. ADC contends that

⁶TSCM is a program that provides protection against hidden microphones, cameras, or other electronic surveillance devices that could be used for eavesdropping. Letter from DOE Counsel to General Accounting Office attach. 1, at 2 (Apr. 27, 1999).

⁷In any event, during discussions, the agency advised ADC as follows:

[Deleted]

Agency Report, Tab 4.b, ADC BAFO, vol., II, at 8.

Thus, during discussions, the agency advised ADC that it was considering the qualifications of its technical support personnel. In fact, in response to this question, ADC stated, among other things, "All the proposed personnel staffing this contract meet or exceed the Minimum Personnel Qualifications Requirements (MPQRs) outlined for various labor categories in Section J, Attachment D, of the RFP." *Id.* at 12.

the evaluators' personal knowledge of ADC's employees' qualifications should have been considered in their deliberations when evaluating ADC's proposal, but improperly was not. Second Supplemental Protest at 10-11.

The agency responds that, even though the proposed employees may have been "invoiced" by ADC in the same labor categories, the SET members had personal knowledge that the employees had not performed the duties and responsibilities for which they were proposed. Agency Supplemental Report at 9-10. The agency reports that a review of electronic correspondence generated by the proposed employees (conducted in response to the protest) confirmed that the proposed employees did not perform duties in support of the technical security programs of the Safeguards and Security Division. Id. at 10; Agency Report, Tab 13, Former Contractors' Duties, at 19.

Based upon our review of the record, we have no basis for finding unreasonable the evaluation of ADC's technical security specialists.

ADC's initial proposal included a matrix showing the credentials of employees working on the incumbent contract with DOE/AL; the proposal also briefly described the qualifications of representative employees for the labor categories of the present requirement. Agency Report, Tab 4.a, ADC Initial Proposal, vol. II, at 28-31. The [deleted]. Id. at 29. The SET downgraded the proposal because, among other things, it lacked [deleted]. However, the SET gave the proposal a [deleted] rating ([deleted] percent of the available points) for the "key management and technical personnel" subfactor, because the SET also believed that the education and experience of ADC's project manager were a strength of the proposal. Agency Report, Tab 5.e, SET Report Aug. 12, 1998, at 10, 12.

During discussions, the agency asked ADC to explain how its personnel met the RFP requirements. ADC's BAFO named four employees for the senior technical security specialist positions and one for the technical security specialist position, and included a brief description of their qualifications, which was to supplement the matrix and description contained in the initial proposal. Agency Report, Tab 4.b, ADC BAFO, vol. II, at 8, 12-20. This supplemental information showed that [deleted] of the [deleted] employees proposed as technical security specialists had experience or training relating to [deleted]. Id. at 14; Agency Report at 12. However, the brief descriptions included for the other technical security specialists [deleted]. As a result, the SET determined that [deleted] were, in fact, qualified, while [deleted] were not; and the SET considered this a weakness of the proposal. Nonetheless, the SET still rated ADC's BAFO as good for the "key management and technical personnel" subfactor and increased ADC's rating slightly (to [deleted] percent of the available points). Agency Report, Tab 5.b, Final SET Report, at 12. Moreover, because ADC's BAFO proposed specific employees to accomplish the tasks in the SOW and [deleted], the SET also reasonably considered the lack of [deleted] to be a weakness in the "understanding the SOW and tasks" subfactor. Id. at 11. ADC's [deleted] for which support services would be required. The SET members also had

personal knowledge that those particular ADC employees had not performed the duties and responsibilities for which they were proposed. Accordingly, we cannot find that the agency's evaluation was unreasonable.

The protester also contends that the agency's evaluation of key management and technical personnel was unequal and unfair. Essentially, the protester contends that, because it committed specific employees for each labor category and submitted an extensive matrix with detailed descriptions of those employees qualifications, while ATM did not, the SET's giving ATM's proposal a higher rating on the "key management and technical personnel" subfactor was unreasonable. Second Supplemental Protest at 3-9. We cannot agree. ATM's BAFO included a resource/qualifications table that showed the experience and educational credentials for a large number of its employees, but stated that the table was intended as a representative sample of the resources available to perform the work. Agency Report, Tab 3.b, ATM BAFO, vol. II, at 21-23. Admittedly, the resource/qualifications table in ATM's BAFO was not as detailed as ADC's employee qualifications matrix and supplemental statement (see Agency Report, Tab 4.a, ADC Initial Proposal, vol. II, at 29; Tab 4.b, ADC BAFO, vol. II, at 12-20). However, as discussed above, ADC's [deleted], while ATM's resource/qualifications table revealed no such lack of qualifications. The record shows that the SET considered ATM's failure to address security technical qualifications to be a major weakness when evaluating the "key management and technical personnel" subfactor and its technical security disciplines' descriptions to be a minor weakness when evaluating the "understanding the SOW and tasks" subfactor. Agency Report, Tab 5.b, SET Final Report, at 23, 24. Here, the SET reasonably found, based in part upon the SET members' personal knowledge of ADC's employees' work on the predecessor contract, that ADC committed itself to [deleted]. The SET determined that ADC had a major weakness under each subfactor, and that ADC's proposal contained [deleted] minor weaknesses related to understanding the SOW and tasks. Therefore, we cannot find that the SET's giving ATM's proposal slightly higher ratings than ADC's proposal on both subfactors, based on the weaknesses identified, was unreasonable or that its treatment of the offerors was disparate. *Id.* at 11, 12.

Concerning the evaluation of ATM's proposed project manager, the minimum qualifications for the project manager included: (1) a bachelor's degree or equivalent in business administration/management; (2) 3 years' experience in managing a safeguards and security program; (3) experience in directing an organization with a diverse mix of management, technical and administrative functions; and (4) experience working with senior government officials. RFP § J, attach. D, Minimum Personnel Qualifications Requirements, at 1-2.

There is ample information in ATM's proposed project manager's resume to show that he had the requisite education, experience, and credentials. The resume showed, among other things, that he had a master's degree in business administration and bachelor of science degrees in both industrial management and

computer information systems. Agency Report, Tab 3.a, ATM Initial Proposal, vol. II, at 27-28. Thus, the agency reasonably determined that the proposed project manager surpassed the minimum educational requirement. Agency Report at 7-8. The resume also showed that the project manager had more than 4 years' experience as project manager on the DOE/AL personnel security services contract (as noted above, the requirements of that contract have been combined with the requirements of three other contracts to make up the present requirement). *Id.*; Agency Report at 2, 7. Thus, the agency reasonably determined that, as the incumbent project manager from the DOE/AL personnel security contract, the proposed project manager exceeded the 3-year experience requirement. Agency Report at 7. In addition, the resume revealed that ATM's project manager had held key management positions in other government programs--including (1) Chief, Johnson Atoll Support Division, Field Command, Defense Nuclear Agency; and (2) Chief, Intercontinental Ballistic Missile Program Development, Joint Strategic Target Planning Staff (Joint Chiefs of Staff)--and that both of those positions involved a mix of management, technical and administrative functions, including security functions. Agency Report, Tab 3.a, ATM Initial Proposal, vol. II, at 27-28; Agency Report at 7. Based upon the above and other information, the SET opined that "[t]he proposed [project manager] has a good mix of education, along with experience in Personnel Security," and DOE reasonably determined that ATM proposed a "strong" project manager who represented one of the strengths of ATM's proposal.⁸ Agency Report, Tab 5.b, Final SET Report at 24. We think the record reasonably shows that the difference in the evaluation of the competing proposals was simply the result of different approaches taken by the firms proposing, rather than the result of unfair or improper treatment by the agency evaluators.

The protester contends that ATM should have received a lower rating in the past performance evaluation because ATM performed poorly and experienced workforce instability during its tenure as the incumbent contractor under the DOE/AL personnel security contract. More specifically, ADC alleges that ATM was cited for a security infraction when, under that prior contract, ATM allowed access to classified work areas to a person who did not possess the appropriate security clearance. The

⁸ADC also asserts that the project manager's resume does not show precisely how the prior projects on which he worked relate to, and that he personally had experience performing, the multitude of specific and varied tasks that may be required under the RFP's SOW. Protester's Comments, April 14, 1999, at 10-11. However, there was no requirement in the RFP for that degree of detail in the resumes of proposed personnel. All that was required was a showing that key personnel had the education, experience, and ability to accomplish the SOW tasks. Resumes are only a short account of a person's career and qualifications and do not generally contain the detailed explanations envisioned by ADC.

protester also alleges that ATM's employee turnover rate at DOE/AL's Badge and Visitor Control Office was unusually high resulting in replacement of practically all of the ATM employees at that office within a short time after ATM started performing. Second Supplemental Protest at 9-10.

The record fully supports the SET's giving ATM an excellent rating on past performance. ATM's proposal listed and described four prior contracts that it had performed, including the DOE/AL personnel security services contract under which it was the incumbent; the proposal also listed and described two prior contracts under which its subcontractor, DynCorp, had performed work for DOE. Agency Report, Tab 3.a, ATM Initial Proposal, vol. II, at 42-49. The SET reviewed five contractor performance reports (three for ATM and two for DynCorp) in which customers evaluated ATM's and DynCorp's performances on prior contracts. Those reports evaluated various areas of the firms' performances, including (1) quality of product/service, (2) cost control, (3) timeliness of performance, (4) business practices, and (5) customer satisfaction. While ATM's ratings on the DOE/AL personnel security services contract ranged from good to excellent (two good and three excellent), its ratings on all areas of the other two contracts ranged from excellent to outstanding; and DynCorp was rated as excellent on all areas of the two prior DOE contracts under which it had performed. Agency Report, Tab 11.a, Contractor Performance Reports (ATM). Based upon the contractor performance reports, the SET reasonably determined that ATM warranted an excellent past performance rating. Agency Supplemental Report at 9. We note that ADC also received an excellent past performance rating and that ADC actually received more points than ATM on this subfactor. Id.

The assertion that ATM was cited for a security infraction relates to ATM's management of DOE/AL's Badge and Visitor Control Office under the prior personnel security contract. The security infraction occurred in 1994 when an ATM employee, who had the appropriate security clearance, was issued a security badge without first obtaining authorized signatures. After investigation, DOE determined that the incident was not a significant concern. Agency Report, Tab 12.c, Security Infraction Report, at 1st and 5th unnumbered pages. The allegedly high employee turnover rate also involved employees working at the Badge and Visitor Control Office. DOE states that the level of employee turnover was reasonable. Agency Supplemental Report at 9. The record shows that, shortly after contract performance began, two of the three ATM employees at that office resigned within 10 days of each other in 1993. However, after that, employees worked in each of the three positions for a minimum period of approximately 2 years, or until the positions were terminated when federal employees began performing the work. Agency Report, Tab 12.a, at 1. The record shows that these events took place more than 5 years ago and were resolved expeditiously and to the satisfaction of DOE. The SET relied upon more recent favorable contractor performance reports from a variety of sources (including the contract under which the security infraction and employee

resignations occurred) in determining that ATM merited an excellent rating. In our view, the record provides no basis for questioning the SET's past performance evaluation.

Finally, the protester asserts that the SSO had no rational basis for his selection of ATM's higher-priced proposal for award. Initial Protest at 4. However, this protest ground is based upon the allegation that the technical/management and past performance evaluation was unreasonable or inconsistent with the stated evaluation scheme, and, as discussed above, the allegation is not supported by the record. Furthermore, ADC's offer received an overall technical rating of [deleted] points at an evaluated cost of \$[deleted], while ATM's BAFO received a total score of [deleted] points at an evaluated cost of \$14,461,400. Agency Report, Tab 5.b, Final SET Report, at 5-6. Thus, ATM's overall technical rating was approximately [deleted] percent higher than ADC's and ATM's evaluated price was approximately [deleted] percent higher than ADC's. The SSO determined that the extra measure of technical merit represented by ATM's proposal justified the additional cost, particularly because ATM's proposal received the highest rating in the technical/management area, which was the most important evaluation area. The SSO specifically determined that the strength of ATM's project manager, its management control, and its organizational approach were worth the difference in cost. Agency Report, Tab 7, Source Selection Statement, at 2. In these circumstances, and given that the technical/management and past performance evaluation areas were more important than cost/price, we have no basis to object to the selection decision. See Theisinger und Probst Bauunternehmung GmbH, B-275756, Mar. 25, 1997, 97-1 CPD ¶ 168, at 7-9.

The protest is denied.

Comptroller General
of the United States