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Decision

Matter of: Carahsoft Technology Corporation

File: B-401169; B-401169.2

Date: June 29, 2009

Richard J. Conway, Esq., and Michael J. Slattery, Esq., Dickstein Shapiro LLP, for the protester.

Robert Truitt for MicroLink, LLC, the intervenor.

Eric K. Croft, Esq., National Geospatial-Intelligence Agency, for the agency.

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DIGEST

Protest challenging an order under a Federal Supply Schedule contract for faceted search capability software pursuant to a competition conducted under Federal Acquisition Regulation subpart 8.4 is sustained where the agency unreasonably issued an order on the basis of a quotation that failed to meet one of the minimum technical specifications of the solicitation.

DECISION

Carahsoft Technology Corporation of Reston, Virginia protests an order to MicroLink, LLC of Vienna, Virginia by the National Geospatial-Intelligence Agency (NGA) under request for quotations (RFQ) No. 326545 for faceted search capability software.¹ Carahsoft argues that MicroLink's quotation failed to meet the RFQ's

¹ Faceted search capability software enables a user to navigate searches for information along multiple paths corresponding to different orderings of facets (metadata). Agency Report (AR), Tab 4, NGA Market Research, at 2. A facet (metadata) is a searchable attribute of data. For example, if someone took a picture of a house with a camera, the facets (metadata) associated with that picture could be: the date, time, coordinates, aspect ratio, type of camera, etc. Faceted search capability software would allow a user to search for the picture of the house using any of the facets listed above. AR at 2-3.

minimum technical specifications and should have been determined technically unacceptable.

We sustain the protest in part and deny it in part.

NGA posted the RFQ on the General Services Administration (GSA) e-Buy website on December 23, 2008. The RFQ solicited quotations pursuant to FAR subpart 8.4 from GSA Federal Supply Schedule (FSS) vendors for faceted search capability software, including licensing fees and annual software maintenance, for one unclassified system and two classified systems. The solicitation, which contained multiple contract line items (CLIN), contemplated the issuance of a fixed-priced order to the vendor with the lowest-priced, technically acceptable quotation.

The solicitation listed 19 minimum technical specifications. Vendors were required to submit technical proposals addressing how the vendor would meet each of these requirements. As relevant here, technical specification B-1 required that the “faceted search capability” software “[s]hall enable discovery, browse and search based on metadata values (facets); technical specification B-18 required that the “faceted search capability” software “[s]hall provide a wide variety of analytics for the visualization of faceted results”; and technical specification B-8 required that the “faceted search capability” software “[s]hall be able to scale to support half a billion records within one year of implementation, each with approximately 25 dimensions.”

The RFQ was modified six times prior to the closing date for receipt of quotations. The last modification, issued on January 6, 2009, revised technical specification B-8 by shortening the time period in which a vendor would “be able to scale to support half a billion records” from “within one year of implementation” to “any time after implementation.” RFQ mod. 6, at 1.

Carahsoft and MicroLink submitted quotations by the closing date of January 7. The technical evaluation of quotations, including “clarification” questions to vendors and responses from the vendors, was performed from January 8 to January 14.² Both quotations were determined to be technically acceptable because their proposed software was found to meet or exceed all of the RFQ’s technical specifications. AR, Tab 9, Technical Evaluation Memorandum-MicroLink; Tab 10, Technical Evaluation Memorandum-Carahsoft. NGA identified Carahsoft as having the lowest-priced, technically acceptable quotation, and on January 30 notified MicroLink that it was not the successful vendor and that the order would be placed with Carahsoft.

On February 2, MicroLink questioned the basis of the selection decision, indicating that depending upon which of the CLINs the agency decided to order its price would

² In requesting these clarifications, the agency advised vendors that they could not change their initially quoted software.

be significantly lower than Carahsoft's. In response to MicroLink's complaint, on February 5, NGA issued amendment No. 2 to the RFQ, which reopened the competition because the RFQ's initial price evaluation methodology--based upon the sum of all CLIN prices--did not represent a reasonable basis upon which to evaluate total price, given that the CLINs were for alternate scenarios. Amendment No. 2 provided for a revised price evaluation that calculated price on a weighted percentage of the CLIN prices, based upon the agency's good faith estimate as to the probability of each scenario. Final price quotations were requested of, and submitted by, Carahsoft and MicroLink on February 10; the agency did not request or allow the vendors to submit revised technical quotations.³ RFQ amend. 2. Based on the agency's evaluation of the revised price quotations, MicroLink's quotation was determined to offer the lowest total evaluated price and an order was placed with that firm on March 2.

Carahsoft filed the current protest on March 12 and supplemented it on April 23. In its protests, Carahsoft alleges that MicroLink's quotation failed to meet three of the minimum technical specifications of the RFQ and therefore should have been found to be technically unacceptable.⁴

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition (see FAR § 8.405), we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. See GC Servs. Ltd. P'ship, B-298102, B-298102.3, June 14, 2006, 2006 CPD ¶ 96 at 6; RVJ Int'l, Inc., B-292161, B-292161.2, July 2, 2003, 2003 CPD ¶ 124 at 5. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the 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 laws and regulations. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4.⁵

³ Prior to the time set for receipt of revised quotations, Carahsoft filed an agency-level protest of the proposed corrective action by the agency. AR, Tab 16, Carahsoft's Agency-level Protest (Feb. 10, 2009). The agency denied Carahsoft's protest on February 26. AR, Tab 17, Agency Denial of Agency-level Protest (Feb. 26, 2009). Carahsoft did not pursue this protest further.

⁴ While Carahsoft also argues that the agency failed to adequately document its evaluation, our review indicates that the documentation was sufficient to allow for a meaningful review of the challenged procurement actions.

⁵ Carahsoft asserts that our Office will evaluate FAR part 8.4 acquisitions using the standards applicable to FAR part 15 negotiated procurements, citing CourtSmart Digital Sys., Inc., B-292995.2, B-292995.3, Feb. 13, 2004, 2004 CPD ¶ 79 at 7. The protester is correct that, in cases where an agency has issued an RFQ and intends to use vendor responses as the basis for a detailed technical evaluation, we will review
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Carahsoft argues that MicroLink's quotation did not comply with technical specification B-8. MicroLink's quotation provided, for technical specification B-8, that its system [REDACTED].⁶ AR, Tab 7, MicroLink's Quotation, at 13. This failed to account for modification No. 6, which tightened the effective date for the implementation of the B-8 requirement from within 1 year of implementation to any time after implementation. Carahsoft argues that this failure rendered MicroLink's quotation unacceptable.

The agency responds that MicroLink's "mislabeling" of its response to technical specification B-8 did not render its quotation technically unacceptable because other information provided within MicroLink's quotation and its answers to questions asked after receipt of its quotation evidence that MicroLink's proposed system fully satisfied the requirement. Supplemental (Supp.) AR at 6. In this regard, NGA argues that when read together MicroLink's responses to technical specifications B-7 and B-8 show compliance with the B-8 specification. Id. For example, MicroLink's B-7 response stated, [REDACTED]. AR, Tab 7, MicroLink's Quotation, at 11. In response to technical specification B-8, MicroLink stated, [REDACTED]. Id. at 13. From these comments, the agency argues that MicroLink's quotation clearly demonstrates that it is [REDACTED] as required by B-8, since it can provide an [REDACTED]. Supp. AR at 6. NGA also references MicroLink's answer to the question posed by NGA during the evaluation of quotations about the hardware computing requirements required to process half a billion records. MicroLink responded to this question that the agency would need [REDACTED]. AR, Tab 9, MicroLink Response to Agency Clarification (Jan. 13, 2009). The agency argues that this demonstrates that MicroLink's software currently complies with the requirement of supporting half a billion records at any time after implementation since scalability is a function of hardware configuration. Supp. AR at 6. According to the agency, MicroLink's answer was also consistent with Carahsoft's answer, which identified [REDACTED]. Id.

However, while MicroLink may have the capacity to scale up to the required half a billion records, nowhere in its quotation does it agree to do so at any time after implementation as required by the RFQ's minimum technical specifications. The

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the agency's evaluation to ensure that it is consistent with the terms of the solicitation and standards generally applicable to negotiated procurements. In doing so, however, we are only applying the standards generally applicable to negotiated procurement by analogy; as specifically noted in the decision cited by the protester, the procedures governing FAR part 15 acquisitions do not apply to FSS program acquisitions. FAR § 8.404(a); OPTIMUS Corp., supra, at 9 n.5.

⁶ Scale or scalability, in this sense, means the faceted search capability software's ability to adapt to the demands of supporting an increase in the number of records required.

quoted language referenced by the agency describes the performance capability of the software and the means of implementing this capability, and does not address when this capability will be fully available. To the contrary, MicroLink's quotation only promised [REDACTED]. Clearly stated solicitation technical requirements are considered material to the needs of the government, and a quotation that fails to conform to such material terms is technically unacceptable and may not form the basis for award. 4D Sec. Solutions, Inc., B-400351.2, B-400351.3, Dec. 8, 2008, 2009 CPD ¶ 5 at 4. A vendor is responsible for affirmatively demonstrating the merits of its quotation and risks the rejection of its quotation if it fails to do so. Id. Thus, we find unreasonable the agency's finding that MicroLink's quotation satisfied the minimum requirement that the scalability be available any time after implementation. We sustain the protest on this basis.

Carahsoft also contends that MicroLink's quotation failed to meet technical specification B-18 that the system "shall provide a wide variety of analytics for the visualization of faceted results." Carahsoft argues that this requirement mandated the use of "deterministic aggregate calculations" and that MicroLink's software does not offer this capability.⁷ While the RFQ by its terms does not address the need for deterministic aggregate calculations, Carahsoft finds support for its argument in NGA's answer to a question posed by a vendor prior to the receipt of initial quotations:

Q: By "analytics for the visualization of faceted results" in B1[8] of the technical specification, do you mean deterministic aggregate calculations (such as the average acquisition date of imagery by country) against results sets displayed as charts and graphs?

A: Yes. The example given is one of many sorts of calculations that could potentially be done. However, the performance specification calls for a "wide vari[e]ty of analytics" which should be customizable to the data provided into the system.

RFQ mod. 4, at 1. Carahsoft asserts that this answer made expressly clear that what NGA meant by a "wide variety of analytics for the visualization of faceted results" stated in technical specification B-18 was only deterministic aggregate calculations and that MicroLink's quotation failed to satisfy this requirement.

⁷ As defined by the agency, aggregate calculations are summary calculations (such as total or average) on a set of values that return a single value; a deterministic aggregate calculation therefore is the result of a summary calculation that obtains the same result each time the calculation is performed using a specific input on the same database. Supp. AR, encl. 3, at 37.

NGA denies that deterministic aggregate calculations were a requirement of the RFQ, and argues that its answer in modification No. 4 could not reasonably be interpreted as Carahsoft posits. NGA asserts that Carahsoft is attempting to write into technical specification B-18 a requirement that simply did not exist in the solicitation. As NGA explains, the answer in modification No. 4 indicated that deterministic aggregate calculations were only but one of the many sort of calculations that could potentially be done and it did not limit other solutions to satisfying technical specification B-18.⁸ RFQ mod. 4, at 1.

Where a dispute exists as to the actual meaning of a solicitation requirement, we will resolve the issue by reading the solicitation as a whole. Romer Labs., Inc., B-243027, June 25, 1991, 91-1 CPD ¶ 602 at 3. To be reasonable, an interpretation must be consistent with the solicitation when read as a whole and in a manner that gives effect to all provisions of the solicitation. Id.

The RFQ requirement that a vendor “shall provide a wide variety of analytics for the visualization of faceted results” conveyed that an array of analytics should be offered; it did not limit the type of calculations to one type. Furthermore, NGA’s answer provided in modification No. 4 did not, as the protester argues, restrict this requirement to deterministic aggregate calculations. In fact, NGA’s answer only reinforces that a “wide variety” of analytics were required. Thus, when read as a whole, it is apparent that the solicitation sought to maximize competition by soliciting commercial off-the-shelf faceted search software available on the FSS and did not restrict competition to only those vendors who offered deterministic aggregate calculations for the visualization of faceted results. The protester’s contrary interpretation of the solicitation’s B-18 specification is overly restrictive and unreasonable.

Carahsoft also asserts that MicroLink’s quotation failed to meet minimum technical specification B-1 that the faceted search capability software “enable discovery, browse and search based upon metadata values (facets).” MicroLink’s quotation responded to the B-1 specification as follows:

[REDACTED]

AR, Tab 7, MicroLink’s Quotation, at 6-7. Based on its review of MicroLink’s quotation and answers to the agency’s questions, NGA determined that the Autonomy product satisfied the requirements of technical specification B-1. Furthermore, upon review of Carahsoft’s specific allegations that MicroLink’s proposed software did not satisfy this technical specification and was inherently inaccurate, NGA’s technical evaluator reviewed MicroLink’s product and could find

⁸ The agency also asserts that MicroLink’s proposed software provides for deterministic aggregate calculations in any case.

“no evidence that Autonomy’s search capability is inherently inaccurate.”⁹ Based on this record, we cannot find unreasonable the agency’s conclusion that MicroLink’s software met the browse and search capability requirements of technical specification B-1.¹⁰

We sustain the protest because the record shows that MicroLink’s quotation did not comply with technical specification B-8. We deny the remainder of Carahsoft’s protest.¹¹

We recommend that the agency either terminate MicroLink’s order and place the order with Carahsoft, or alternatively reopen the competition during which it could ascertain whether MicroLink will in fact satisfy the technical specification. We also recommend that the agency reimburse Carahsoft the costs of filing and pursuing the protest ground on which this protest was sustained, including reasonable attorneys’

⁹ Carahsoft asserts that we should not consider the agency’s “post hoc rationalizations.” In reviewing an agency’s evaluation, we do not limit our review to contemporaneous evidence, but consider all the information provided, including the parties’ arguments, explanations, and any hearing testimony. Remington Arms Co., Inc., B-297374, B 297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. While we generally give little weight to reevaluations and judgments prepared in the heat of the adversarial process, Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15, post-protest explanations that provide a detailed rationale for contemporaneous conclusions and simply fill in previously unrecorded details will generally be considered in our review of the rationality of selection decisions, so long as those explanations are credible and consistent with the contemporaneous record. NWT, Inc.; PharmChem Labs., Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16. We give weight to the technical evaluator’s post-protest comments in response to Carahsoft’s specific complaints about MicroLink’s software, since we find that they are credible and consistent with the contemporaneous record.

¹⁰ In its supplemental protest, Carahsoft argues that a screen shot, provided as part of MicroLink’s company overview to demonstrate the Autonomy user interface, illustrates MicroLink’s inability to meet technical specification B-1. The agency disputes this argument and explains why it believes that this screenshot does not indicate noncompliance. Because the record is not entirely clear on this point, the agency may want to address this matter during the corrective action we recommend below in order to verify MicroLink’s compliance with this technical specification in view of the concerns raised by Carahsoft.

¹¹ Carahsoft argues that the NGA failed to properly evaluate cost proposals in accordance with FAR § 8.405-2(d). However, this section is only applicable when ordering services priced at hourly rates from FSS contracts, which is not the case here. FAR § 8.405-2(a).

fees. 4 C.F.R. § 21.8(d)(1) (2009). Carahsoft's certified claim for costs, detailing the time spent and the costs incurred, must be submitted to the agency within 60 days of receiving this decision. 4 C.F.R. § 21.8(f)(1).

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Acting General Counsel