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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: SelectTech Services Corporation

File: B-403986

Date: December 23, 2010

James J. McCullough, Esq., Michael J. Anstett, Esq., and Brian M. Stanford, Esq., Fried, Frank, Harris, Shriver & Jacobson LLP, for the protester.

Michael A. Hordell, Esq., Stanley R. Soya, Esq., and Heather Kilgore Weiner, Esq., Pepper Hamilton LLP, for Sierra Lobo, Inc., the intervenor.

Lisa A. Dall, Esq., General Services Administration, for the agency.

Katherine I. Riback, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency had reasonable basis for rating protester's proposal "minimally acceptable" under the non-price evaluation factors.
 2. Where both offerors have relevant past performance, an agency is not required to further differentiate between the past performance ratings based on a more refined assessment of the relative relevance of the offeror's prior contracts, unless required by the solicitation.
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DECISION

SelectTech Services Corporation, of Centerville, Ohio, protests the award of a contract by the General Services Administration (GSA) on behalf of the Air Force Research Laboratory, Air Vehicles Directorate, Structures Division (AFRL/RBS), to Sierra Lobo, Inc., of Fremont, Ohio, pursuant to request for proposals (RFP) No. 5TP57100250, for research and development structural test services for the AFRL/RBS at Wright Patterson Air Force Base, Ohio.¹ SelectTech argues that the agency improperly evaluated SelectTech's and Sierra Lobo's proposals.

¹ The AFRL/RBS mission is to manage and perform basic research, exploratory development, and advanced development in air vehicle structural design, structural technology integration, analytical structural mechanics, structural dynamics, sustainment, and extreme combined environment structures to solve critical structural problems on fixed-wing aerospace vehicles. Agency Report at 2.

We deny the protest.

BACKGROUND

The RFP was issued as a small business set-aside, and contemplated the award of a hybrid firm fixed-price labor and optional time and material labor hour contract for a base year with four 1-year options. The RFP stated that the award would be made on a best value basis, considering price and the following evaluation factors listed in descending order of importance: technical expertise/staffing plan, past performance/capabilities, and technical approach. RFP § M.2.1. The solicitation stated that the non-price factors, when combined, were significantly more important than price. *Id.* The RFP also stated that the agency intended to make award without holding discussions. RFP § M.1.

Under the technical expertise/staffing plan factor, the RFP required offerors to provide a complete staffing approach that identified the personnel resources and skill sets available to fulfill the RFP Performance Work Statement (PWS) requirements. RFP § M.2.1.1(a). The RFP included a planning estimate that identified the various labor categories, number of personnel, and number of labor hours that the agency estimated would be required to perform the PWS. RFP attach. 1- § J, app. 1, Workload Estimate. However, the RFP stated that the estimate was only a “guide” to assist potential offerors and provided the following direction for potential offerors:

Offerors may propose differing labor categories, number of personnel and number of labor hours from those provided in this planning estimate (Attachment 1-Section J, Appendix 1, Workload Estimate). The planning estimate is not intended to limit a potential offeror’s ability to offer alternative solutions to task performance. However, if an offeror quotes a labor mix (labor categories, number of personnel and labor hours) that differs significantly from those in this planning estimate; then, the offeror shall provide detailed description explaining their rationale for the deviation. Failure to provide detailed rational[e] explaining any significant variations, shall impact the Government’s evaluation of the offeror’s solution.

RFP § C.4.1.2.1. The offerors were also required to identify and describe under this evaluation factor any proposed/potential contractor agreements that may be required in the performance and completion of the contract requirements. RFP § M.2.1.1.f.

Under the past performance/capabilities factor, the RFP required offerors to describe three past projects with sufficient detail “to determine the relevance of the reference to the subject requirement.” RFP § M.2.1.2(a). The contractors were instructed to provide past performance questionnaires to all of the listed references

identified in the contractor's technical proposal regarding the three identified projects; the respondents from the references were requested to submit the questionnaires directly to the GSA. With regard to the evaluation of the questionnaires, the RFP added:

NOTE: An overall [past performance] rating will be calculated based on a mathematical average formula for all past performance questionnaires received.

RFP § M.2.1.2(c).

Under the technical approach factor, there was a methodology subfactor for which offerors were required to "include a description of how the technical approach (i.e. description of the tasks performed) and analytical techniques will be applied to accomplish each of the requirements identified in the PWS." RFP § M.2.1.3(b).

Three offerors, including SelectTech and Sierra Lobo, responded to the RFP by the proposal due date. Proposals were evaluated and the evaluation team assigned a technical rating (and score) for each evaluation factor. Ratings of outstanding (5), highly acceptable (4), acceptable (3), minimally acceptable (2), and unacceptable (1) were assigned to proposals for the non-price factors. Weight factors were assigned to each evaluation factor in the stated order of importance.² The highest possible technical score was 30. The evaluators identified an "overall scoring legend" as follows: outstanding--30, highly acceptable--24-29, acceptable--18-23, minimally acceptable--12-17, and unacceptable--6-11. Agency Report, Tab 4(A), Technical Evaluation, at 2. The proposals were rated as follows:

² The weight factors were 3, 2 and 1. To obtain the total possible points for each factor, the weight factor will be multiplied against the highest possible evaluation scale ranking of 5 (outstanding). Agency Report, Tab 4(A), Technical Evaluation, at 2.

	Sierra Lobo	Offeror B	SelectTech
TECHNICAL EVALUATION	28.0 / Highly Acceptable	16.0 / Minimally Acceptable	16.0 / Minimally Acceptable
Technical Experience/ Staffing	15 / Outstanding	7.5 / Minimally Acceptable	7.5 / Minimally Acceptable
Past Performance/ Capabilities	8 / Highly Acceptable	6 / Acceptable	6 / Acceptable
Technical Approach	5 / Outstanding	2.5 / Minimally Acceptable	2.5 / Minimally Acceptable
PRICE	\$54,560,533	\$53,688,554	\$47,964,851.91

Id. at 10-12, 14-18.

Sierra Lobo’s proposal received an outstanding rating under the technical expertise/staffing plan factor because the agency found that the proposal met and consistently exceeded the agency’s needs, and presented no risks. The specific benefits cited by the agency include Sierra Lobo’s [DELETED] beyond those required and identification of [DELETED] as a subcontractor. Sierra Lobo’s proposal also explained its proposed labor position changes for the professional and non-professional labor categories in a logical fashion; identified [DELETED]; and provided a reasonable plan to meet Government-approved, short-term staffing requirements during non-duty hours or emergency services. Id. at 14-15.

In contrast, SelectTech’s proposal was rated only minimally acceptable under the technical expertise/staffing plan factor. The agency found that SelectTech’s proposed labor mix of non-professional labor categories was not acceptable. Specifically, SelectTech proposed three changes to the agency’s workload labor mix estimate [DELETED].³ Id. at 10. While SelectTech provided an explanation for the differences from the staffing suggested in the RFP, the agency did not agree with the strategy proposed. The agency concluded that SelectTech’s failure to adhere to the planning estimate undervalued the purpose of including the position descriptions in the RFP, and its proposal otherwise suggested undue reliance on its knowledge of

³ [DELETED]

the incumbent contract, which is “barely applicable to the new requirement and had been significantly restructured.”⁴ Agency Report at 7.

Another reason that SelectTech’s proposal was considered minimally acceptable under this factor was because it did not demonstrate that the company could provide additional personnel at short notice for test programs. The RFP stated in this regard:

The Contractor is responsible for all test schedules, including quick-response or high priority programs. The Contractor’s support of test programs may be short notice and require utilizing other existing capability within the company or temporary increase in the size and skill level of the Contractor’s personnel supporting AFRL/RBS. Support of these short notice test programs may also require the Contractor to expedite material and/or equipment acquisitions.

RFP § C.1.1.4. Specifically, the agency found that SelectTech’s proposal failed to identify any in-house technical experts or fully vested industry partners to meet these requirements. Agency Report, Tab 4(C), Award Recommendation, at 10.

Under the past performance/capabilities factor, the agency received and considered three completed past performance questionnaires regarding Sierra Lobo, all of which were determined to be relevant. Using the mathematical average formula referenced in the RFP, the score for the past performance questionnaires received on behalf of Sierra Lobo and its subcontractor was calculated at 3.96 points, which the agency rounded to 4.0 points, a score that resulted in a rating of highly acceptable under the agency’s evaluation scheme.⁵ The score for the three past performance

⁴ SelectTech is the incumbent contractor providing research and development structural test services for AFRL/RBS. According to the agency, the services that SelectTech provided were similar, but more limited than the current requirements. The agency states that the current requirement was “significantly restructured,” so that 90 percent of the work consists of research and development and 10 percent logistic support. In contrast, the work performed by SelectTech was 80 percent test and evaluation and only 20 percent research and development. In addition, the agency states that SelectTech’s incumbent contract work orders were issued with specific task duties and the work was primarily Government driven. In contrast, under the present contract work orders are no longer relevant to the RFP’s requirement, and the contractor is required be independent and capable of performing without significant Government input. Agency Report at 3. While SelectTech asserts that the agency has overstated the differences between the incumbent contract’s and this RFP’s requirements, it has not shown that the agency’s judgment was erroneous.

⁵ One of the past performance questionnaires related to [DELETED], Sierra Lobo’s subcontractor. The RFP allowed for subcontractor references. RFP § M.2.1.2(a).

questionnaires received on behalf of SelectTech was 3.15 points, which was considered to be an acceptable rating.

Sierra Lobo's proposal also received an outstanding rating under the technical approach factor. The agency noted that Sierra Lobo provided a very precise and detailed description concerning how they would meet and "consistently exceed" the PWS requirements. The agency determined this confirmed and demonstrated Sierra Lobo's understanding of the PWS requirements. Agency Report, Tab 4(C), Award Recommendation, at 16.

In contrast, SelectTech's proposal received a rating of minimally acceptable for the technical approach factor. The agency concluded that SelectTech's proposal lacked sufficient details to demonstrate a solid understanding of the PWS requirements. While SelectTech responded to all PWS requirements, its responses were found to have simply "mirrored" the PWS and to not provide sufficient details of the task requirements. The agency also noted that while SelectTech stated in its proposal that it would rely on reach-back resources from "industry partners," its proposal failed to state how quickly reach-back resources could be provided to support the requirements or indicate that it had agreements in place to support these requirements. Id. at 11.

The agency found that Sierra Lobo's highly acceptable proposal represented superior value to SelectTech's minimally acceptable proposal, and that this outweighed SelectTech's 12-percent lower price. Id. at 34. This protest followed.

DISCUSSION

SelectTech challenges the agency's evaluation. The evaluation of an offeror's proposal is a matter largely within the agency's discretion. IPlus, Inc., B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 7, 13. In reviewing a protest that challenges an agency's evaluation of proposal, our Office will not reevaluate the proposals, but rather will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. A protester's mere disagreement with the agency's judgment in its determination of the relative merit of competing proposals does not establish that the evaluation was unreasonable. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4. Here, we have reviewed the agency's evaluation record and find no basis to question the agency's evaluation.

SelectTech protests that its minimally acceptable rating under the technical expertise/staffing plan evaluation factor was not reasonable. It first argues that the agency did not reasonably consider its proposed staffing plan, which included changes to the agency's suggested labor mix, which were invited by the RFP. As

noted above, offerors were required to describe the personnel that would perform the work and were advised that significant variations from the suggested labor mix that were not adequately explained could affect the evaluation. While SelectTech's proposal provided an explanation for its substitutions and variations from the suggested labor, the agency was not satisfied by these explanations, and concluded that SelectTech was placing over-qualified technical persons in clerical positions and that this demonstrated a lack of understanding of the requirement. In this regard, the agency noted that SelectTech's staffing approach seemed to be based upon its current program processes under the incumbent contract, which the agency states are not applicable to the present RFP. Based on our review, the agency has reasonably explained why SelectTech's variations from the suggested labor mix do not demonstrate a sound understanding of the PWS requirements. While SelectTech disagrees with the agency's judgment, it has not shown it to be unreasonable.

SelectTech also challenges the agency's conclusion that its proposal was significantly deficient under this factor because it did not adequately demonstrate how the company intended to provide increased labor on short notice. The agency explains that SelectTech could have demonstrated its ability to provide increased labor on short notice, either internally, or externally by the use of a teaming agreement, but noted that SelectTech did neither. While SelectTech did name "industry partners" in its proposal, the record shows that it failed to provide any information regarding formal partnering arrangements, and that its proposal lacked detail about the "working relationship" with industry partners that would ensure the provision of necessary labor at short notice. The agency determined that SelectTech's lack of internal reach-back capability would be disruptive, in that additional time would be required to subcontract and negotiate with a subcontractor; the agency noted in this regard that this problem arises from SelectTech's lack of existing subcontractor agreements and internal reach-back capability. Agency Report, Tab 4(A)(b), SelectTech's Technical Evaluation, at 5. Based on our review, we find that the agency's evaluation conclusions here were reasonably based.

The protester also contests its minimally acceptable rating under the technical approach factor. This rating was primarily based upon the agency's conclusion that SelectTech provided insufficient details in its proposal regarding its technical approach. Based on our review of the record, we find the agency could reasonably reach this conclusion.

Under this factor, the agency also downgraded SelectTech's proposal because it failed to identify reach-back capability within its own company's pool of resources and did not formally align itself with an industry partner. SelectTech contends that this issue had already been assessed as a weakness under the technical expertise/staffing plan factor, and that to assess it again under the technical approach factor amounts to improper "double counting." Protester's Comments at 14. However, an agency may properly downgrade an offeror more than once for a single deficiency so long as the deficiency reasonably relate to more than one

evaluation criterion. Space Applications Corp., B-233143.3, Sept. 21, 1989, 89-2 CPD ¶ 255 at 7. In our view, the identified weakness is reasonably relates to the technical expertise/staffing plan factor as well as the technical approach factor.

With regard to the past performance evaluation, the protester contends that the agency failed to distinguish between degrees of relevance within each offeror's past performance information in the mathematical average formula it used, and did not give adequate weight to SelectTech's prior performance as the incumbent contractor. However, the evaluation scheme did not state that relative relevance of past performance references would be considered in the evaluation. Where, as here, both offerors have relevant past performance, an agency is not required to further differentiate between the past performance ratings based on a more refined assessment of the relative relevance of the offeror's prior contracts, unless required by the RFP. S4, Inc., B-299817, B-299817.2, Aug. 23, 2007, 2007 CPD ¶ 164 at 9; University Research Co., LLC, B-294358.6, B-294358.7, Apr. 20, 2005, 2005 CPD ¶ 83 at 18. Based on our review, we find that the agency reasonably found Sierra Lobo's past performance references to be relevant, and that the agency's evaluation of past performance was reasonable and consistent with the RFP's evaluation scheme.

Finally, with regard to price evaluation, the protester argues that the agency failed to adequately consider whether Sierra Lobo's proposed prices were reasonable, given that they were significantly higher than those of the other offerors. However the record shows that the agency examined Sierra Lobo's individual labor rates and determined that the rates were high, but not unreasonable. Agency Report at 13. The protester has not shown that this judgment was unreasonable.

The protest is denied.⁶

Lynn H. Gibson
Acting General Counsel

⁶ In pursuing this protest, SelectTech has raised various additional arguments, or variations of the arguments addressed above. We have reviewed all of SelectTech's assertions and find no basis for sustaining the protest.